

When Recorded, Mail To:

City of Saratoga Springs  
Attn: City Recorder  
1307 N. Commerce Drive, Suite 200  
Saratoga Springs, UT 84045



ENT 112716:2022 PG 1 of 10  
ANDREA ALLEN  
UTAH COUNTY RECORDER  
2022 Oct 25 10:13 am FEE 0.00 BY KR  
RECORDED FOR SARATOGA SPRINGS

(Space Above for Recorder’s Use Only)

**UTILITY EASEMENT AND AGREEMENT**

This UTILITY EASEMENT AND AGREEMENT (this “**Agreement**”) is made and entered into effective as of the 24 day of OCTOBER, 2022 (the “**Effective Date**”), by and between TOLL SOUTHWEST, LLC, a Delaware corporation/limited liability company (“**Grantor**”), EDGE HOMES UTAH, LLC, a Utah corporation/limited liability company (“**Developer**”), and the CITY OF SARATOGA SPRINGS, a Utah municipal corporation (“**Grantee**”).

**RECITALS**

A. Grantor is the owner of that certain real property located in the City of Saratoga Springs, Utah County, Utah (the “**Grantor Property**”).

B. Developer is constructing the Wildflower Village 4 Plat K-1 project in the City and desires the right to construct utilities on Grantor’s Property as necessary to meet the utility needs of Developer’s project and the construction standards of Grantee.

C. Grantee and Developer desire to obtain and Grantor is willing to convey a perpetual utility easement over the Grantor Property subject to the terms and conditions of this Agreement.

D. “Utilities” or “utility” are defined herein to include all utility facilities, lines, conduits, pipes, channels, ponds, ditches, valves, structures, boxes, and other similar transmission and distribution structures and facilities, and all related appurtenances owned and operated by Grantee for the provision of services such as water, secondary water, irrigation water, drinking water, culinary water, storm drainage, storm sewer, sanitary sewer, and sewer.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**TERMS AND CONDITIONS**

1. **Grant of Easement.** Grantor does hereby convey, without warranty, unto Grantee a perpetual easement and unto Developer a construction easement (the “**Utility Easement**”) under and across that portion of the Grantor Property more particularly described and depicted on Exhibit

A, attached hereto and incorporated herein by this reference (the “**Utility Easement Area**”). Grantor shall ensure, guarantee, and warrant that no other easements or licenses shall be granted to any other person or entity on, over, or under the Utility Easement Area and that no above or below ground improvements, buildings, or facilities of any kind shall be constructed or maintained on the Utility Easement Area, except as otherwise approved by Grantee in writing. Grantor acknowledges and agrees that the Facilities will be constructed by Developer, and then dedicated to Grantee upon acceptance in writing by Grantee

**2. Access.** Developer and Grantee and their agents, servants, employees, consultants, contractors, and subcontractors shall have the right to enter upon the Utility Easement Area solely for the purposes permitted by this Agreement. Developer shall enter upon the Utility Easement Area at its sole risk and hazard, and Developer hereby releases Grantor from any and all claims relating to the condition of the Utility Easement Area and the entry upon the Utility Easement Area by Developer. Grantee shall enter upon the Utility Easement Area at its sole risk and hazard, and Grantee hereby releases Grantor from any and all claims relating to the condition of the Utility Easement Area and the entry upon the Utility Easement Area by Grantee.

**3. Purposes of the Utility Easement.** The purpose of this Utility Easement is to allow the construction of the Utilities by Developer and its successors, assigns, and agents in order to meet Grantee’s development standards for the subdivision and development and to allow Grantee the ability to maintain, repair, and replace the Utilities after Grantee’s acceptance in writing. Developer or its successors, associates, assigns, and agents shall be responsible for the proper and timely construction and installation of the Utility Improvements per Grantee’s standards. Upon the proper and timely construction of the Utilities by Developer and acceptance in writing by Grantee per Grantee’s development standards, Grantee, at its sole cost and expense, shall maintain the Utility Improvements in good order and condition, except for repair of the Utilities during the 1-year warranty period per Grantee’s development standards, during which time the Utilities shall be maintained and repaired by the Developer. Grantee shall also have the right to repair, replace, restore, and relocate the Utilities within the Utility Easement Area.

In performing the work permitted by this Agreement, Developer and Grantee respectively shall restore the Grantor Property to the same condition prior to Developer or Grantee’s entry respectively. Notwithstanding the obligations of this Section 5, Grantor recognizes that the nature of the utility improvements may result in the inability of Developer and Grantee to fully restore the Grantor Property. So long as Developer or Grantee respectively uses its best efforts to fully restore Grantor Property, Grantor waives the right to require strict performance of Grantee’s or Developer’s respective restoration requirements under this paragraph.

**4. Replacement of Utility Easement with Subdivision Plat Recordation.** Upon the recordation of a subdivision plat with the Utah County Recorder’s Office per Grantee’s development standards, which shall provide for the equivalent replacement of the easements in this Agreement in the favor of Grantee, the Utility Easement shall automatically be deemed superseded and replaced, but only with respect to such portion of the Property over which a subdivision plat is recorded. Upon such subdivision plat recordation, the rights and obligations in this Agreement shall be of no force or effect so long as the equivalent rights of Grantee are granted in such recorded subdivision plat. For

the remainder of Grantor's Property that is not subdivided pursuant to a recorded subdivision plat, this Agreement shall continue in full force and effect.

**5. Notices.** All notices, demands, statements, and requests (collectively, the "Notice") required or permitted to be given under this Agreement must be in writing and shall be deemed to have been properly given or served as of the date hereinafter specified: (i) on the date of personal service upon the Party to whom the notice is addressed or if such Party is not available the date such notice is left at the address of the Party to whom it is directed, (ii) two business days after the date the notice is postmarked by the United States Post Office, provided it is sent prepaid, registered or certified mail, return receipt requested, (iii) on the date the notice is delivered by a courier service (including Federal Express, Express Mail, Lone Star or similar operation) to the address of the Party to whom it is directed, provided it is sent prepaid, return receipt requested, or (iv) on the date the notice is sent by electronic mail with both a delivery and read receipt received by the sender. The addresses of the signatories to this Agreement are set forth below:

If to Grantor: TOLL SOUTHWEST, LLC  
ATTN: Dylan Young  
38 E Scenic Pointe Dr. Suite 100  
Draper, UT 84020  
[dyoung@tollbrothers.com](mailto:dyoung@tollbrothers.com)

With a copy to: Edge Homes Utah, LLC  
ATTN: Paxton Guymon  
13702 S 200 W #B12  
Draper, UT 84020  
[pguymon@edgehomes.com](mailto:pguymon@edgehomes.com)

If to Grantee: Jeremey Lapin  
Public Works Director  
1307 N. Commerce Drive, Suite 200  
Saratoga Springs, UT 84045  
[jlapin@saratogaspringscity.com](mailto:jlapin@saratogaspringscity.com)

With a copy to: Kevin Thurman  
City Attorney  
1307 N. Commerce Drive, Suite 200  
Saratoga Springs, UT 84045  
[kthurman@saratogaspringscity.com](mailto:kthurman@saratogaspringscity.com)

**6. Miscellaneous.**

**6.1. Binding Effect.** Except as expressly stated herein, the provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto, as well as the successors and assigns of such Persons.

**6.2. Partial Invalidity.** If any term, covenant or condition of this Agreement or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the

remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and shall be enforced to the extent permitted by law.

**6.3. Captions.** The captions and headings in this Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants or conditions contained herein.

**6.4. Gender.** In construing the provisions of this Agreement and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

**6.5. Relationship of the Parties.** Nothing contained herein shall be construed to make the parties hereto partners or joint venturers, or render any of such parties liable for the debts or obligations of the other party hereto.

**6.6. Amendment.** This Agreement may be canceled, changed, modified or amended in whole or in part only by the written and recorded agreement of the Parties or their successor and assigns (as determined by the provisions herein).

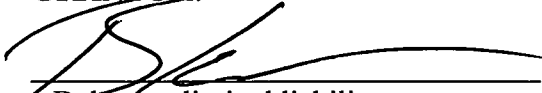
**6.7. Counterparts.** This Agreement may be executed in any number of counterparts and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute but one Agreement.

**6.8. Attorney Fees.** In the event any legal action or proceeding for the enforcement of any right or obligations herein contained is commenced, the prevailing party in such action or proceeding shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

**6.9. Assignment.** Grantee may not at any time during this Agreement assign its rights and obligations under this Agreement without the prior written consent of Grantor, which consent may be granted or withheld in Grantors sole and absolute discretion and for any reason or no reason at all.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

~~GRANTOR:~~

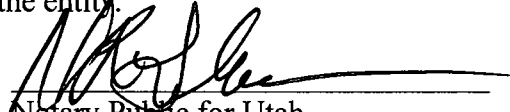
  
a Delaware limited liability company

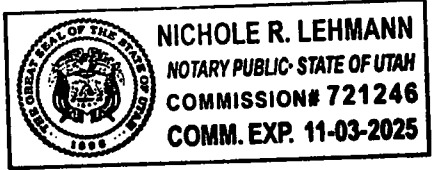
By: BENJAMIN MILLER U.P.  
Name: BENJAMIN MILLER  
Title: UP TOLL SOUTH WEST LLC

STATE OF UTAH                    )  
  :SS  
COUNTY OF SALT LAKE    )

Before me, Nichole Lehmann, of the state and county aforesaid personally appeared Benjamin Miller, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself/herself to be the VICE PRESIDENT of TollSouthwest a Utah corporation/limited liability company/partnership, and that he/she as such, being authorized so to do, executed the foregoing instrument on behalf of the entity.

My Commission Expires: 11/3/2022

  
Notary Public for Utah



[Signature and acknowledgment to follow]

**DEVELOPER:**

Steve Maddox

**Edge Homes Utah, LLC**

a Utah corporation/limited liability company

By: Steve Maddox

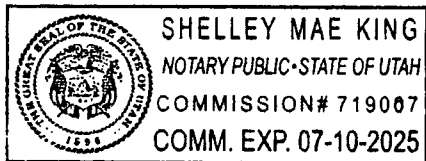
Title: Manager

STATE OF UTAH )  
 :SS  
COUNTY OF SALT LAKE )

Before me, Steve Maddox, of the state and county aforesaid personally appeared before me, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself/herself to be the Manager of Edge Homes Utah a Utah corporation/limited liability company/partnership, and that he/she as such, being authorized so to do, executed the foregoing instrument on behalf of the entity.

My Commission Expires:

Shelley Mae King  
Notary Public for Utah



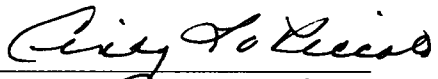
[Signature and acknowledgment to follow]

**GRANTEE:**

City of Saratoga Springs, a Utah municipal corporation

  
City Manager MARK J. CHRISTENSEN

**ATTEST:**

  
City Recorder CINDY LOPEZ



**EXHIBIT A****UTILITY EASEMENT #4**

A portion of the Northwest Quarter of Section 10, Township 5 South, Range 1 West, Salt Lake Base and Meridian, described as follows:

Beginning at a point located N89°32'24"W along the Section Line 1010.58 feet and North 548.44 feet from the South Quarter Corner of Section 3, Township 5 South, Range 1 West, Salt Lake Base and Meridian; thence N05°05'22"W 20.31 feet; thence N74°54'38"E 72.75 feet; thence along the arc of a curve to the left 191.52 feet with a radius of 190.00 feet through a central angle of 57°45'14", chord: N46°02'01"E 183.51 feet; thence along the arc of a curve to the left 1020.84 feet with a radius of 1621.50 feet through a central angle of 36°04'18", chord: N00°52'44"W 1004.07 feet to a point of reverse curve; thence along the arc of a curve to the right 102.02 feet with a radius of 90.00 feet through a central angle of 64°56'55", chord: N13°33'34"E 96.65 feet to a point of cusp; thence along the arc of a non-tangent curve to the left 20.72 feet with a radius of 529.50 feet through a central angle of 02°14'33", chord: S30°37'02"E 20.72 feet; thence along the arc of a non-tangent curve to the left 74.56 feet with a radius of 70.00 feet through a central angle of 61°01'46", chord: S11°36'00"W 71.09 feet to a point of reverse curve; thence along the arc of a curve to the right 1033.43 feet with a radius of 1641.50 feet through a central angle of 36°04'18", chord: S00°52'44"E 1016.45 feet; thence along the arc of a curve to the right 211.68 feet with a radius of 210.00 feet through a central angle of 57°45'14", chord: S46°02'01"W 202.83 feet; thence S74°54'38"W 76.28 feet to the point of beginning.

Contains: ±0.64 Acres

27,830 Sq. Ft.

**UTILITY EASEMENT #5**

A portion of the Northwest Quarter of Section 10, Township 5 South, Range 1 West, Salt Lake Base and Meridian, described as follows:

Beginning at a point located N89°32'24"W along the Section Line 1692.96 feet and South 531.12 feet from the South Quarter Corner of Section 3, Township 5 South, Range 1 West, Salt Lake Base and Meridian; thence S05°03'04"W 30.00 feet; thence N84°56'56"W 156.37 feet; thence N05°03'04"E 30.00 feet; thence S84°56'56"E 156.37 feet to the point of beginning.

Contains: ±0.11 Acres

4,691 Sq. Ft.

**UTILITY EASEMENT #6**

A portion of the Northwest Quarter of Section 10, Township 5 South, Range 1 West, Salt Lake Base and Meridian, described as follows:

Beginning at a point located N89°32'24"W along the Section Line 1400.00 feet and South 705.87 feet from the South Quarter Corner of Section 3, Township 5 South, Range 1 West, Salt Lake Base and Meridian; thence S00°22'04"E 277.30 feet to the Northerly line of the Wildflower Village 3A, Plat C-2, according to the official plat thereof under Entry Number 156639:2021 on file in the office of the Utah County Recorder; thence along said Northerly line; thence



S89°37'56"W along said Northerly line 35.00 feet; thence N00°22'04"W 256.46 feet; thence along the arc of a non-tangent curve to the left 40.80 feet with a radius of 206.00 feet through a central angle of 11°20'56", chord: N58°51'25"E 40.74 feet to the point of beginning.

Contains:±0.21 Acres

9,313 Sq. Ft.

DEPICTION OF EASEMENT:

