

WHEN RECORDED, RETURN TO:

Wohali Partners LLC
5499 South Woodcrest Drive
Holladay, Utah 84117
Attn: David P. Boyden

ENTRY NO. 01136111

07/07/2020 02:25:27 PM B: 2581 P: 1168

Agreement PAGE 1/9

RHONDA FRANCIS, SUMMIT COUNTY RECORDER
FEE 40.00 BY WOHALI PARTNERS LLC



Parcel Nos. NS-349-D, NS-349-A,
NS-450, NS-349-B

Space Above Line for Recorder's Use

RIGHT OF FIRST REFUSAL AGREEMENT

THIS RIGHT OF FIRST REFUSAL AGREEMENT ("Agreement") is made and entered into JULY 1ST, 2020 ("**Effective Date**") by and between THOMAS D. REES and EVA MILLER (f/k/a Eva. W. Rees) (collectively, "**Rees**"), and WOHALI PARTNERS LLC, a Utah limited liability company ("**Wohali**"). Rees and Wohali are sometimes referred to individually as a "**Party**" and collectively as the "**Parties**."

RECITALS:

A. Rees is the owner of those certain parcels of real property located in Summit County, Utah (collectively, the "**Rees Property**"), more particularly described on the attached **Exhibit A**.

B. Rees has agreed to grant to Wohali a right of first refusal ("**ROFR**") to the Rees Property, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the terms and conditions set forth in this Agreement, Rees and Wohali hereby covenant and agree as follows:

1. **Recitals**. The recitals set forth in paragraphs A through B above are incorporated herein by this reference and made a part of this Agreement.

2. **Right of First Refusal**. Rees hereby grants to Wohali a ROFR to purchase the Rees Property upon the terms and conditions set forth in this Agreement.

2.1 **Purchase Offer and ROFR Notice**. In the event Rees shall receive a bona fide written offer for the purchase of all or any portion of the Rees Property to a third party prospective Purchaser (each a "**Purchaser**") who is financially capable of closing on a purchase of the Rees Property on the terms sets forth in its written offer or contract (each a "**Purchase Offer**"), Rees shall give written notice ("**ROFR Notice**") to Wohali within three calendar days of receipt of each Purchase Offer. Each ROFR Notice shall include a true, complete and correct copy of the Purchase Offer. The effective date of Rees's delivery of the ROFR Notice to Wohali is referred to as the "**Notice Date**."

2.2 Exercise of Right of First Refusal. Wohali shall have the right, at Wohali's option, to purchase the Rees Property, for the purchase price (and on the terms of payment) to be paid by the Purchaser pursuant to the provisions of the respective Purchase Offer (the "**ROFR Price**"), which ROFR Price shall be payable by Wohali in accordance with the provisions of the Purchase Offer, by giving written notice (a "**Notice of Election to Purchase**") to Rees within forty-five (45) days after the Notice Date. If a Notice of Election to Purchase is timely and properly delivered to Rees in accordance with the provisions of this Agreement, then Rees and Wohali shall consummate the sale of the Rees Property (or portion thereof described in the Purchase Offer) to Wohali on a date not later than ninety (90) days after the delivery to Rees of the Notice of Election to Purchase.

2.3 Sale to Third Party. If Wohali does not give a written Notice of Election to Purchase to Rees within forty-five (45) days after the Notice Date, Rees shall be free to complete the sale of the portion of the Rees Property identified in the Purchase Offer to a Purchaser so long as the sale is completed within ninety (90) days after the Notice Date on the terms and provisions set forth in the Purchase Offer.

2.4 Continuance of Right of First Refusal. If Wohali does not give a written Notice of Election to Purchase within forty-five (45) days after the Notice Date, and the proposed sale is not completed within ninety (90) days after the Notice Date on the terms and provisions set forth in the Purchase Offer, then Wohali's ROFR shall be fully restored and reinstated as though the ROFR Notice had never been given to Wohali. Additionally, in the event that less than all of the Rees Property is sold pursuant to a completed sale to a Purchaser, then Wohali's rights under this Section 2 shall continue as to the unsold portion of the Rees Property.

3. Sale and Payment Provisions. The terms for the purchase of the Rees Property by Wohali pursuant to this Agreement shall be as follows: Wohali shall pay the ROFR Price to Rees at the time and in the manner provided in the Purchase Offer. Wohali shall have the same period set forth in the Purchase Offer (but not less than thirty (30) days) to conduct due diligence and inspections and pursue entitlements upon the Rees Property (or portion thereof) and, if unacceptable to Wohali in any way, to terminate the obligation of Wohali to purchase the Rees Property pursuant to this Agreement. In the event Wohali terminates the purchase under this Agreement, Wohali's ROFR terminates in its entirety as to the portion of the Rees Property in the Purchase Offer. Any sale of the Rees Property to Wohali pursuant to this Agreement shall include all appurtenant rights, entitlements, and water rights (if any).

4. Agricultural Agreement. The ROFR does not prohibit any agreement entered into by Rees as it relates to the leasing or utilization of any portion or all of the Rees Property for agricultural use by any third parties pursuant to a lease or other agreement not to exceed ten (10) years in duration. Any such agreement shall explicitly recognize Wohali's rights under this Agreement and other agreements between the Parties, and shall not interfere with Wohali's use of the Rees Property.

5. Exceptions. Rees reserves the right to sell any or all portions of the Rees Property to any of their direct descendants (i.e., children, grandchildren, great grandchildren, etc.), which sale or transfer shall be exempt from the provisions of Section 2; provided, however, the Rees Property shall continue to be bound by the terms of this Agreement after such sale or transfer.

mail or courier in the form specified in this section, notices and other communications under this Agreement shall be deemed to have been given and received and shall be effective when received; provided, that if delivery is not on a business day in the State of Utah, then the delivery shall be effective on the next business day after delivery. If delivery is refused by the addressee on a business day, then delivery of such notice shall be effective on the date of such refusal by the addressee.

8.2 Costs. Except as otherwise specifically provided in this Agreement, Rees and Wohali each shall pay their own costs and expenses incurred in the preparation and execution of and performance under this Agreement.

8.3 Interpretation. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Utah. Whenever the context requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, any gender shall include both other genders, the term "person" shall include an individual, partnership (general or limited), corporation, trust, limited liability company, or other entity or association or combination thereof, and the term "Wohali" shall include Wohali herein named and any permitted assignee of Wohali. Time is of the essence. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against the drafting Party. The provisions of this Agreement shall be construed both as covenants and conditions in the same manner as though the words importing such covenants and conditions were used in each separate provision hereof.

8.4 No Waiver. Acceptance by either Party of any performance less than required hereby shall not be deemed to be a waiver of the rights of such Party to enforce all of the terms and conditions hereof. Except as otherwise expressly provided herein, no waiver of any such right hereunder shall be binding unless reduced to writing and signed by the Party to be charged therewith.

8.5 Attorneys' Fees. If any action is brought because of any breach of or to enforce or interpret any of the provisions of this Agreement, the Party prevailing in such action shall be entitled to recover from the other Party reasonable attorneys' fees and court costs incurred in connection with such action, the amount of which shall be fixed by the court and made a part of any judgment rendered.

8.6 Binding Effect. This Agreement shall be binding on the heirs, successors, and assigns of each of the Parties, and may not be assigned by either Party without the written consent of the other; provided, however, Wohali may assign its rights under this Agreement to a related party of Wohali or party under common control of Wohali without the approval of Rees. It is the intention of the Parties that the provisions of this Agreement shall be deemed to be covenants running with the title to the Rees Property, or equitable servitudes, as the case may be, and, accordingly, shall bind each and every portion of the Rees Property and shall not constitute merely personal covenants.

8.7 Entire Agreement. This Agreement constitutes the entire agreement between the Parties relative to the subject matter hereof. Any prior negotiations, correspondence, or understandings relative to the subject matter hereof shall be deemed to be merged in this

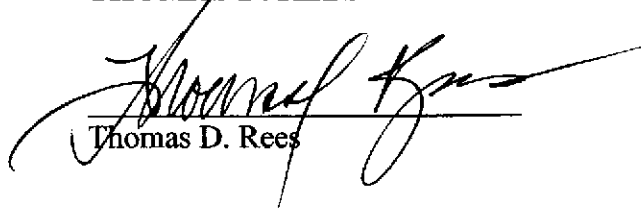
Agreement and shall be of no force or effect. This Agreement may not be amended or modified except in writing executed by both of the Parties.

[signatures on following pages]

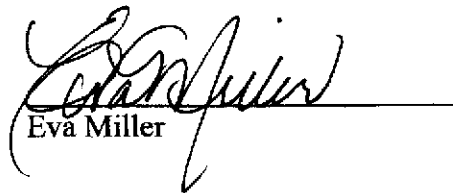
IN WITNESS WHEREOF, Rees and Wohali have executed this Agreement as of the day and year first above written.

REES:

THOMAS D. REES


Thomas D. Rees

EVA MILLER

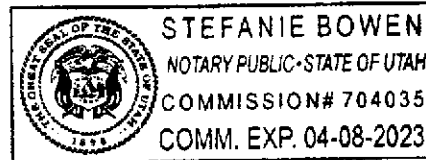

Eva Miller

STATE OF UTAH)
) : SS.
COUNTY OF Summit)

On July 1, 2020, before me, the undersigned, a Notary Public in and for said State, personally appeared Thomas D. Rees, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument.

WITNESS my hand and official seal.

Signature Stefanie Bowen

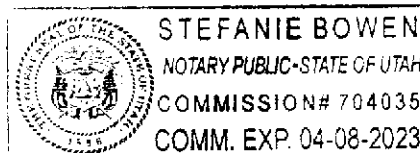


STATE OF UTAH)
) : SS.
COUNTY OF Salt Lake)

On July 2, 2020, before me, the undersigned, a Notary Public in and for said State, personally appeared Eva Miller, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument.


WITNESS my hand and official seal.

Signature Stefanie Bowen



WOHALI:

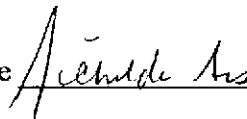
WOHALI PARTNERS LLC,
a Utah limited liability company

By: 
Name: DAVID BOYDEN
Its: MANAGING PARTNER

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On July 1, 2020, before me, the undersigned, a Notary Public in and for said State, personally appeared David Boyden, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as Managing Partner of Wohali Partners LLC, a Utah limited liability company, and acknowledged to me that the within instrument was executed by authority of the limited liability company.

WITNESS my hand and official seal.

Signature 

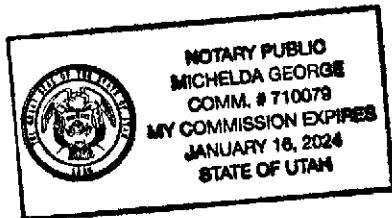


EXHIBIT A

LEGAL DESCRIPTION OF THE REES PROPERTY

NS-349-D

BEGINNING AT THE EAST 1/4 CORNER OF SECTION 7, TOWNSHIP 2 NORTH RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE N 89°49'13" W 3091.96 FEET, ALONG THE 1/4 SECTION LINE TO AN EXISTING FENCE LINE, THENCE N 41° 37'20" E 1703.98 FEET, ALONG SAID FENCE LINE, THENCE N 61° 24'25" E 34.41 FEET, MORE OR LESS ALONG SAID FENCE LINE TO THE 40 ACRE LINE; THENCE S 89° 21'32" E 496.65 FEET, ALONG SAID 40 ACRE LINE; THENCE S 41° 29'16" E 604.96 FEET, TO AN EXISTING FENCE LINE; THENCE 17° 24'42" E 423.92 FEET ALONG SAID FENCE LINE; THENCE S 64° 15'24" E 1005.49 FEET TO THE POINT OF BEGINNING.

SUBJECT TO THE RESERVATIONS AND CONDITIONS SET OUT IN THE DEED FROM UNION PACIFIC RAILWAY COMPANY TO THOMAS REES, DATED JUNE 1, 1897.

NS-349-A

Parcel 4:

Southeast 1/4, Section 7 T2N R5E SLBM

Less and excepting to Coalville City: Beginning at a point west along the section line 2265.33 feet and north 340.12 feet from the Southeast corner of Section 7, T2N R5E, and running thence north 36°09'17" east 243.36 feet; thence north 58°01'16" east 405.40 feet; thence north 88°04'34" east 236.30 feet; thence north 40°54'44" east 166.355 feet; thence north 27°43'35" west 281.37 feet to a fence corner; thence north 36°05'25" west along an old fence line 127.42 feet to a fence corner; thence south 63°30' west along an old fence line 655.00 feet; thence south 36°09'17" west 512.03 feet; thence south 53°50'43" east 324.07 feet to the point of beginning. Contains 9.557 acres.

Also Less and Excepting: Beginning at a point which is west 1126.42 feet and north 2431.28 feet from the Southeast corner Section 7 T2N R5E SLBM, and running thence west 208.72 feet; thence north 208.72 feet more or less to the northerly line of the Southeast 1/4, thence east 208.72 feet along said line; thence south 208.72 feet to the point of beginning. Contains 1 acre.

NS-450

Parcel 1:

Beginning at a point 138 feet west from the northeast corner of section 18 T2N R5E SLBM, and running west 1182 feet; thence south 47 feet; thence south 51°24' east 228 feet; thence south 17°36' east 390 feet; thence south 51°00' east 780 feet; thence north 17°45' east 788 feet; thence north 4° east 128 feet; thence north 9°10' east 168 feet to the point of beginning.

NS-349-B

Parcel 2:

Southwest ¼. Section 7 T2N R5E SLBM