

## WATER WELL AGREEMENT

This agreement is made and entered into this 20<sup>th</sup> day of November, 2015, by and between FRED A. SMOLKA and MARILYN M. SMOLKA, Trustees of the Fred A. and Marilyn M. Smolka Living Trust, hereinafter referred to as SMOLKAS, and ~~DAN~~ and LESLIE KNAPP, hereinafter referred to as BUYERS:

WHEREAS, SMOLKAS are the owners of the property located at 5010 East Trails End Way in Emigration Canyon, Salt Lake City, Utah, described as follows:

Part of the RESERVE in Block 3, PIONEER ADDITION, lying in the Northeast Quarter of Section 6, Township 1 South, Range 2 East, Salt lake Base and Meridian, more particularly described as Beginning at a point which lies North 89°16'00" West 35.00 feet from the Northwest Corner of Lot 12, Block 3, PIONEER ADDITION and running thence South 7°41'37" East 136.47 feet; thence South 89°16'00" East 15.00 feet to the West line of said Block 3; thence South 0°44'00" West 165 feet along said West line; thence North 89°16'00" West 165 feet to the East Line of Bear Lane; thence North 0°44'00" East 297.64 feet along said East Line; thence North 79°36'00" East 12.23 feet; thence South 89°16'00" East 118.00 feet to the point of beginning.

Parcel No. 17-06-229-004;

AND WHEREAS, BUYERS have purchased from the SMOLKAS and are now the owners of the property located at 4990 East Trails End Way in Emigration Canyon, Salt Lake City, Utah, described as follows:

The North half of Lot 30 and all of Lots 31 thru 41, Block 4, PIONEER ADDITION.

Parcel No. 17-06-228-016;

This document filed for record as an accommodation only. It has not been examined as to its execution or as to its effect upon the title.

AND WHEREAS, the above properties have a common boundary with a 33 foot right-of-way identified as Bear Lane on the Salt Lake County Plat between them and there is a developed well providing irrigation water for the above properties which is located South 81 feet and West 681 feet from the Northeast corner of Section 6, Township 1 South, Range 2 East, Salt Lake Base and Meridian;

AND WHEREAS, SMOLKAS own a water right described as Water Right No. 57-7933 recorded with the Utah Division of Water Rights with an approved surface point of diversion South 152 feet and 664 feet from the Northeast corner of Section 6, Township 1 South, Range 2 East, Salt Lake Base and Meridian;

NOW, THEREFORE, the parties hereto agree to share the water from the foregoing well and set forth the rights and obligations of each of the parties as follows:

1. Conveyance of Interest in Well and Water Rights. SMOLKAS have conveyed to BUYERS a one-half interest in the well and .85 acre-feet from the water right and the parties shall share all rights to the use of the well equally.
2. Development Expenses. SMOLKAS have previously paid all expenses incurred in the development of the well and paid electricity expenses incurred in operating the pump at the well since 1992.
3. Cost of Electricity. The cost of power to the pump at the well shall be paid by BUYERS as billed by the power company. SMOLKAS shall pay to BUYERS \$50 per year as reimbursement for their share of the power costs.
4. Use of Water. The parties hereto shall each have the right to use water from the well for irrigation and yard use around their respective residences and agree to maintain their respective water rights at the well as the point of diversion. It is understood that culinary water for each property will be supplied by the Emigration Improvement District and will be supplied and billed separately to each property.

5. Maintenance of the Well. The parties hereto shall share equally all costs of maintaining the well, the pump, well pressure tank and supply lines and all expenses incurred to preserve the well in good operating condition in order to adequately provide water to both properties.
6. Maintenance of Pipes to Each Property. Each party shall be responsible for and pay the expenses of installing and maintaining the pipes which convey water from the well to their respective properties.
7. No Representation or Warranties. BUYERS understand and agree that SMOLKAS have made no representations or warranties with respect to the well, its condition and suitability for the uses provided herein nor as to the cost of maintenance thereof and they accept the well and its associated pipes, pump and tank in "as is" condition.
8. Cooperation. Each party hereto agrees to cooperate in the maintenance of the well, pump, tank and pipes and also agrees to cooperate in the execution of any other agreement reasonably required or requested to carry out the terms and intentions of this agreement. Each party also agrees that neither shall be liable to the other for any damages, loss or claims that may arise in connection with the use, maintenance, repairs or improvements of the well.
9. Right of Access. SMOLKAS shall retain, and BUYERS recognize and consent to, an easement in favor of SMOLKAS, as described on Exhibit "A" attached hereto, for necessary service and inspection of the well and its components and the pipes to SMOLKA's property. Such easement shall be recorded in the Salt Lake County Recorder's Office.
10. Liens. Whenever, under the terms of this agreement, it may be necessary for a party to enter upon the property of the other, it is agreed that such party shall not allow any mechanic's or materialmen's

or other liens to be filed and, if any such lien is filed or claimed, it shall be removed immediately and the party causing or allowing such lien to be filed or claimed shall pay all costs and attorney's fees incurred in the removal thereof.

11. Notices. All notices, statements and other communications to be given under this agreement shall be delivered in person or by certified or registered mail to each party at the following addresses:

SMOLKAS  
5010 East Trails End Way  
Salt Lake City, Utah 84108

BUYERS  
4990 East Trails End Way  
Salt Lake City, Utah 84108

12. This agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns and all parties claiming by, through or under them, and shall be the sole agreement between them rendering all prior oral or written agreements null and void.
13. Recording. This agreement may be recorded against both properties and shall be binding upon all who now or later claim an interest in these properties.

IN WITNESS WHEREOF, the parties hereto have signed their names hereunder.

*Fred A. Smolka* TRUSTEE

FRED A. SMOLKA

DAN KNAPP

*Marilyn M. Smolka*

MARILYN M. SMOLKA,  
Trustees of the Fred A. and  
Marilyn M. Smolka Living Trust

LESLIE KNAPP

State of Utah )

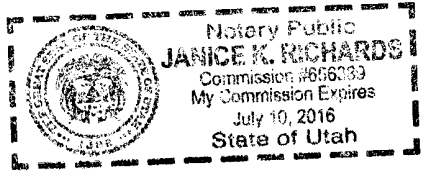
) ss.

County of Salt Lake )

On the 20<sup>th</sup> day of November, 2015, personally appeared before me, FRED A. SMOLKA and MARILYN M. SMOLKA, Trustees of the Fred A. and Marilyn M. Smolka Living Trust, and ~~DON KNAPP and LESLIE KNAPP~~, signers of the foregoing agreement, who duly acknowledged <sup>to me</sup> that they executed the same.

*Janice Richards*

Notary Public



IN WITNESS WHEREOF, the parties hereto have signed their names hereunder.

\_\_\_\_\_  
FRED A. SMOLKA

  
\_\_\_\_\_  
DAN KNAPP

\_\_\_\_\_  
MARILYN M. SMOLKA,  
Trustees of the Fred A. and  
Marilyn M. Smolka Living Trust

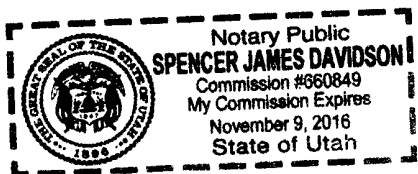
  
\_\_\_\_\_  
LESLIE KNAPP

State of Utah                    )  
                                          ) ss.  
County of Salt Lake         )

On the 20th day of November, 2015, personally appeared before me, ~~FRED A. SMOLKA and MARILYN M. SMOLKA, Trustees of the Fred A. and Marilyn M. Smolka Living Trust~~ and <sup>DM</sup> DAN KNAPP and LESLIE KNAPP, signers of the foregoing agreement, who duly acknowledged to me that they executed the same.

  
\_\_\_\_\_

Notary Public



WELL EASEMENT DESCRIPTION  
FOR INGRESS AND EGRESS ACCESS TO THE  
EXISTING WELL, PUMP HOUSE,  
AND ELECTRICAL PANELS TO FRED SMOLKA  
FROM PREVIOUS RESIDENCE  
OCTOBER 9, 2015

BEGINNING AT A POINT WHICH LIES SOUTH 0°44'00" WEST 44.72 FEET ALONG THE WEST RIGHT OF WAY LINE OF BEAR LANE FROM THE NORTHEAST CORNER OF "LOT 35, BLOCK IV OF PIONEER ADDITION" BEING A PART OF SECTION 6, TOWNSHIP 1 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE SOUTH 0°44'00" WEST 17.70 FEET ALONG SAID WEST RIGHT OF WAY LINE ; THENCE SOUTH 65°39'00" WEST 20.58 FEET TO A POINT ON THE EAST WALL OF SAID EXISTING RESIDENCE; THENCE NORTH 24°30'58" WEST 16.03 FEET ALONG SAID EXISTING WALL; THENCE NORTH 65°39'00" EAST 28.13 FEET TO THE POINT OF BEGINNING.