

12262944
4/20/2016 10:04:00 AM \$28.00
Book - 10422 Pg - 7525-7533
Gary W. Ott
Recorder, Salt Lake County, UT
FABIAN & CLENDENIN
BY: eCASH, DEPUTY - EF 9 P.

When recorded, return to:
Andrew B. Sellers
Fabian VanCott
215 South State Street, Suite 1200
Salt Lake City, Utah 84111

Parcel Nos. 26-11-151-002-0000
26-11-151-004-0000

AGREEMENT AND GRANT OF ACCESS EASEMENT

This **AGREEMENT AND GRANT OF ACCESS EASEMENT** (the “**Agreement**”) is made and entered into as of the 18 day of April, 2016, by ACJ PROPERTY, LLC, a Utah limited liability company (the “**Grantor**”) and Verizon Wireless (VAW) LLC d/b/a Verizon Wireless (the “**Grantee**”).

RECITALS:

A. This instrument affects Lots No. 31B and 30 of the Bingham Business Park Phase 1 located in the northwest quarter of Section 11 Township 3 South, Range 2 West Salt Lake Base and Meridian (together the “**Lots**” or separately, “**Lot 31B**” and “**Lot 30**”) which are more particularly described on Exhibit A attached hereto and incorporated by this reference.

B. Grantor owns the real property Lot 31B and plans to develop the property, which in part will consist of a driveway access over a portion of Lot 31B to the public road named Prosperity Road. Grantor desires that the driveway be for the common use of the owners of the Lots, their successor and assigns for access purposes such that Grantee has the access easement as described herein.

C. Grantee owns the real property Lot 30.

D. The driveway if and when constructed will consist of a paved area in the northeast corner of Lot 31B consisting of a two lane driveway and streetscape approximately 35 feet wide by some 120 feet with access points from Lot 31B to Prosperity Road and from Lot 31B to Lot 30 with legal description set forth on Exhibit A (the “**Driveway**”). The Driveway is also depicted on the site plan excerpt attached as Exhibit B, which is incorporated by this reference.

NOW, THEREFORE, the Grantor and Grantee, intending that the Lots shall hereafter be held and conveyed subject to this Agreement, and that the same are hereby declared to be binding upon the Lots and their owners, successors and assigns, hereby declares as follows:

1. Agreement of Easement. Grantor hereby GRANTS AND CONVEYS to Grantee, for the sum of Ten Dollars and other good and valuable consideration, for the benefit of Lot 30 only, a non-exclusive, perpetual easement for the purposes of pedestrian and vehicular ingress and egress to or from Prosperity Road on and through the Driveway, if and when such Driveway is constructed. If Grantor should elect to construct the Driveway, this grant shall be

limited to the reasonable amount of traffic and frequency of access by Grantee and Grantee's agents, employees, and licensees as is reasonably required to service a single light manufacturing or light commercial use building.

2. Rules and Regulations. Grantor hereby reserves the right for the owner of Lot 31B to make reasonable rules and regulations regarding the access granted with respect to the Driveway, including rules relating to reasonable hours of access or security protocols; and to take such other action as may be necessary and reasonable to establish safe and efficient means of ingress and egress to, through and from the Driveway, including, but not limited to, gated access. Grantee shall at all times have 24/7 access to Lot 30.

3. Maintenance; Indemnification; Insurance.

A. Grantor shall maintain the Driveway in a level, smooth and evenly covered condition with the type of surfacing material or landscaping originally installed or such substitute as shall in all respects be equal in quality, use and durability. The cost of materials and labor to maintain the Driveway shall be split between Grantor and Grantee based upon each party's (including the invitees, licensees, and agents of a party) relative use of the Driveway. The maintenance cost split shall be reasonably agreed upon and based upon the frequency of use and weight of vehicles. In the event that the portion of Grantee's parcel contiguous to the Driveway remains undeveloped, Grantor shall pay all maintenance costs. Following maintenance costs actually and reasonably incurred by Grantor in performing hereunder, and if Grantee's share is greater than zero, Grantor shall send an invoice to Grantee that includes a breakdown and description of maintenance costs. Grantee must pay its share of such costs within thirty (30) days after receipt of invoice. If Grantee fails to reimburse the Grantor within such thirty (30) day period, the Grantor may, at its discretion, place a lien for unpaid costs, which shall bear interest at an annual rate of fifteen percent (15%), upon the title to the Parcel of the Grantee by recording a lien claim and notice.

B. If Grantor fails to carry out its obligations with respect to the maintenance of the Driveway (the "Defaulting Owner"), and such failure shall continue for a period of thirty (30) days after written notice thereof, the other owner (the "Non-Defaulting Owner") may maintain and repair the Driveway and invoice the Defaulting Owner for the Defaulting Owner's share of such costs. The Defaulting Owner shall reimburse the Non-Defaulting Owner for such costs within thirty (30) days from the date of the invoice. If the Defaulting Owner fails to reimburse the Non-Defaulting Owner within such thirty (30) day period, the Non-Defaulting Owner may, at its discretion, place a lien for unpaid costs, which shall bear interest at an annual rate of fifteen percent (15%), upon the title to the Parcel of the Defaulting Owner by recording a lien claim and notice.

C. Grantee agrees to indemnify, defend and hold Grantor harmless from and against any direct injury, loss, damage or liability, costs or expenses (including reasonable attorneys' fees and court costs) resulting from its use of the Driveway, except to the extent attributable to the negligent or intentional act or omission of Grantor or its servants or agents. Grantor agrees to indemnify, defend and hold Grantee harmless from and against any and all direct injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising from the breach of Grantor's duties and obligations under this Agreement, except to the extent attributable to the negligent or intentional act or omission of Grantee or its servants or agents.

D. Grantee will carry, at its own cost and expense, the following insurance: (i) commercial general liability insurance with a minimum limit of liability of \$1,000,000 combined single limit for bodily injury or death/property damage arising out of any one occurrence; and (ii) Workers' Compensation Insurance as required by law. Grantee will name the Grantor as an additional insured under its commercial general liability policy. Notwithstanding anything in this Agreement, with respect to all loss, damage, or destruction to a party's property (including rental value and business interruption) occurring during the term of this Agreement, Grantor and Grantee hereby release and waive all claims (except for willful misconduct) against the other party and its employees, agents, officers, and directors. With respect to property damage, each party hereby waives all rights of subrogation against the other party, but only to the extent that collectible commercial insurance is available for said damage.

4. Run with Land. All of the provisions in this Agreement, including the benefits and burdens, shall run with the land and are binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided that no third party shall have any rights or obligations by reason of, and shall not be deemed to be a beneficiary of or party to, this Agreement.

5. Amendment. This Agreement and every covenant, restriction or undertaking herein shall not be amended, modified, revoked, rescinded or terminated except by mutual written consent or agreement of all owners of all of the Lots. Any such agreement of the owners shall be duly recorded in the office of the County Recorder of Salt Lake County, Utah.

6. Alteration. Subject to all the terms of this Agreement, the owner of Lot 31B is permitted to alter, relocate or change the configuration of the Driveway, roadways, and walkways initially constructed on Lot 31B at any time and from time to time; provided, however, that such owner shall pay the cost of such alteration or relocation.

7. Duration. This Agreement shall be for a term commencing on the date hereof and continuing perpetually. The easements hereby created shall run with the land and shall be binding upon all parties having or acquiring any right or title in the Lots or any part thereof, shall inure to the benefit of each owner thereof, and are imposed upon Lot 31B as a servient estate in favor the dominant estate of Lot 30, subject to the restrictions, terms, and covenants set forth herein.

8. Not a Public Dedication. Nothing contained in this Agreement will be deemed to be a gift or dedication of any portion of the Lot 31B to the general public or for the general public or for any public purpose whatsoever, it being the intention of the parties that this Agreement will be strictly limited to and for the private purposes expressed herein

9. Miscellaneous.

A. The current and subsequent owners of any of the Lots do not by this Agreement in any way or for any purpose become partners or joint venturers of the owner of any other Lot in the conduct of their respective businesses or otherwise.

B. Failure of any owner of any Lot to insist on the strict performance of any provision of this instrument to exercise any right granted hereunder shall not be construed as a waiver for the future of any such right or provision, and no right or provision of this instrument

shall be deemed to have been waived unless such waiver is in writing and is signed by the owner of the affected Lot.

C. Except as otherwise provided herein, all provisions herein shall be binding upon and shall inure to the benefit of the parties, their legal representatives, heirs, successors and assigns. Grantor and each successor owner may designate the party entitled to exercise any or all of the discretions and powers set forth for its benefit herein.

D. This instrument shall be construed in accordance with the laws of the State of Utah.

E. If any one or more of the provisions of this Agreement or the applicability of any such provision to a specific situation shall be held invalid or enforceable by a court of competent jurisdiction, the validity and enforceability of all other provisions of this Agreement shall not be affected.

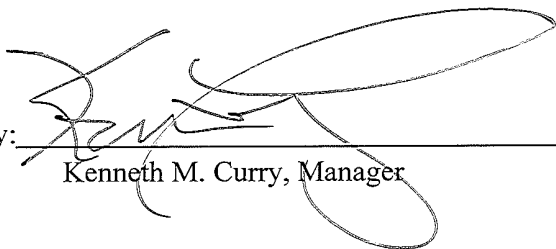
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this grant on the date first set forth above.

GRANTOR:

ACJ PROPERTY, LLC

a Utah limited liability company

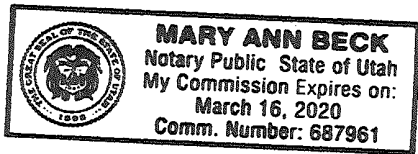
By: 
Kenneth M. Curry, Manager

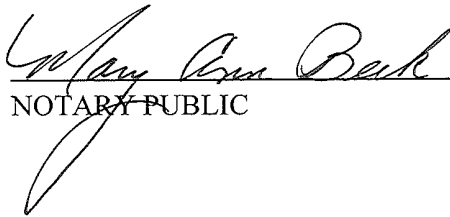
STATE OF UTAH)

: ss.

COUNTY OF SALT LAKE)

On this 4th day of April, 2016, personally appeared before me Kenneth M. Curry, personally known to me or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn, did say that he is the Manager of ACJ Property, LLC (the "Company"), and that said document was signed by him in behalf of the Company, and acknowledged to me that the Company executed the same.




NOTARY PUBLIC

GRANTEE:

Verizon Wireless (VAW) LLC
d/b/a Verizon Wireless

By: *Diana Scudder*
Name: ~~Rick Goldschmidt~~ *Diana Scudder*
Title: Executive Director - Network
Date: 4/18/16

STATE OF COLORADO

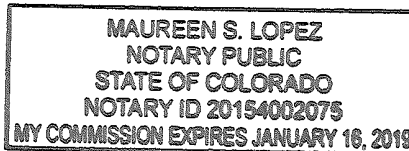
COUNTY OF ARAPAHOE

The foregoing instrument was acknowledged before me this April 18 2016 (date) by Rick Goldschmidt, Executive Director – Network of Verizon Wireless (VAW) LLC d/b/a Verizon Wireless, a Delaware limited liability company, on behalf of the company.

Maureen Lopez
Notary Public

Print Name: Maureen Lopez

My commission expires:
1-16-2019



Notary Seal

EXHIBIT A

Description of Lot 31B

LOT 31B, BINGHAM BUSINESS PARK PHASE 1, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SALT LAKE COUNTY RECORDER'S OFFICE.

Parcel No. 26-11-151-004-0000

Description of Lot 30

LOT 30, BINGHAM BUSINESS PARK PHASE 1, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SALT LAKE COUNTY RECORDER'S OFFICE.

Parcel No. 26-11-151-002-0000

Description of Driveway

BEGINNING AT A POINT WHICH IS ON THE WESTERLY RIGHT-OF-WAY LINE OF PROSPERITY ROAD AND IS THE NORTHEAST CORNER OF AMENDED LOT 31B BINGHAM BUSINESS PARK PHASE 1 LOCATED IN THE NORTHWEST QUARTER OF SECTION 11 TOWNSHIP 3 SOUTH, RANGE 2 WEST SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE N89°48'00"W 145.16' ALONG THE NORTH PROPERTY LINE OF SAID LOT 31B; THENCE S00°12'00"W 33.00'; THENCE S89°48'00"E 123.89' TO THE WESTERLY RIGHT-OF-WAY LINE OF PROSPERITY ROAD; THENCE N33°00'00"E 39.26' ALONG SAID WESTERLY RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING.

EXHIBIT B

Site Plan

(attached)

NOTE 'A': THE PROPOSED SITE IMPROVEMENTS AND FACILITIES SHALL COMPLY WITH THE WEST JORDAN CITY DESIGN AND CONSTRUCTION STANDARDS AND THE CITY MASTER STORM DRAIN PLAN.

NOTE 'B': ADA REQUIREMENTS SHALL BE MET.

A NEW SHARED DRIVE ACCESS EASEMENT IN FAVOR OF THE ADJACENT PROPERTY TO THE NORTH BEGINNING AT A POINT WHICH IS ON THE WESTERLY RIGHT-OF-WAY LINE OF PROSPERITY ROAD AND IS THE NORTHEAST CORNER OF AMENDED LOT 31B BINGHAM BUSINESS PARK PHASE 1 LOCATED IN THE NORTHWEST QUARTER OF SECTION 11 TOWNSHIP 3 SOUTH, RANGE 2 WEST SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE N89°48'00"W 145.16' ALONG THE NORTH PROPERTY LINE OF SAID LOT 31B; THENCE S00°12'00"W 33.00'; THENCE S89°48'00"E 123.89' TO THE WESTERLY RIGHT-OF-WAY LINE OF PROSPERITY ROAD; THENCE N33°00'00"E 39.26' ALONG SAID WESTERLY RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING. CONTAINING 4,439.32 SF

2	PACES
2	PACES
2	PACES
2	PACES
3	SPACES

