

12507515
3/31/2017 3:47:00 PM \$40.00
Book - 10543 Pg - 8897-8909
Gary W. Ott
Recorder, Salt Lake County, UT
COTTONWOOD TITLE
BY: eCASH, DEPUTY - EF 13 P.

WHEN RECORDED, RETURN TO:

Sterrett Properties, L.C.
10421 S. Jordan Gateway, Suite 600
South Jordan, Utah 84095

APNs: 27-13-126-002
27-13-126-004
27-13-126-005

ACCESS EASEMENT AGREEMENT

THIS ACCESS EASEMENT AGREEMENT (this "**Agreement**") is made and entered into as of the 31st day of March 2017 by and among SoJo Station South, LLC, a Utah limited liability company ("**SoJo South**"); 106th South Business Park, a Utah Limited Partnership, a Utah limited partnership ("**106th South**"); and Utah Transit Authority, a transit district organized under the Utah Public Transit District Act ("**UTA**"). SoJo South, 106th South, and UTA are sometimes referred to herein collectively as the "**Owners**" and each individually as an "**Owner**."

RECITALS

A. SoJo South is the owner of Lot 3, SoJo Subdivision Phase 2, according to the official plat thereof on file and of record in the Salt Lake County Recorder's Office ("**Lot 3**").

B. 106th South is the owner of Lot 4, SoJo Subdivision Phase 2, according to the official plat thereof on file and of record in the Salt Lake County Recorder's Office ("**Lot 4**").

C. UTA is the owner of Parcel "A", SoJo Subdivision Phase 2, according to the official plat thereof on file and of record in the Salt Lake County Recorder's Office ("**Parcel A**")

D. The Owners anticipate that an access road (the "**Access Road**") shall be constructed along the common boundary of Lot 3 and Lot 4 and extending to a portion of the common boundary between Lot 4 and Parcel A.

E. The Access Road is key component of the SoJo Station development, and the Owners intend that the Access Road shall be used for the benefit of the parcels of property described on the attached Exhibit A (collectively the "**Benefited Parcels**").

F. Upon and subject to the terms and conditions set forth herein, the parties desire to enter into this Agreement to create ingress and egress easement rights applicable to the Access Road for the benefit of the Benefitted Parcels.

NOW, THEREFORE, in consideration of the above recitals (which are contractual in nature and an integral part of the agreement and understanding of the Owners and are incorporated herein by this reference), the mutual covenants contained below, and other good

and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Owners agree as follows:

ARTICLE I
GRANT OF ACCESS EASEMENT

1.1 Grant of Access Easement for Access Road. The Owners, as their interests in the Easement Area (as defined below) may appear, hereby create, grant, and impose upon those portions of Lot 3, Lot 4, and Parcel A (collectively the “**Property**”) that are included within the area legally described and depicted on the attached Exhibit B (the “**Easement Area**”) for the benefit of the Benefitted Parcels and the owners, tenants, and subtenants of the Benefitted Parcels and their respective representatives, employees, contractors, guests, and other invitees (collectively the “**Benefited Parties**”), a non-exclusive easement upon, over, and across the Easement Area for the purpose of pedestrian and vehicular ingress and egress (the “**Easement**”). The Easement shall include ingress and egress reasonably required for present and future uses of the Benefitted Parcels.

ARTICLE II
RESTRICTIONS AND RESERVATIONS AFFECTING THE EASEMENT

2.1 Alterations to the Access Road. The Owners acknowledge that the Access Road shall be constructed consistent with the site plan attached hereto as Exhibit C (the “**Site Plan**”), which improvements shall be the responsibility of SoJo South. Once the Access Road has been constructed consistent with the Site Plan, no Owner shall make any substantive alterations to the Access Road that is inconsistent with the purposes of the Easement as set forth herein.

2.2 Use of Easement. The Benefited Parties shall use the Easement and the curb cuts, driveways, drive aisles, and walkways of the within the Easement Area in accordance with their intended use and with due regard for the rights of others.

ARTICLE III
MAINTENANCE

3.1 Maintenance. After completion of construction of the Access Road, each Owner shall have the responsibility of maintaining in good working condition, including snow removal, that portion of the Easement Area that is within such Owner’s property; *provided, however*, that the Owners acknowledge that SoJo Station Parking, Inc., a Utah corporation (“**SoJo Parking**”), has agreed with the owners of certain Benefitted Parcels to manage and maintain the Access Road pursuant to a separate agreement. So long as SoJo Parking performs such management and maintenance, the responsibilities of the Owners to maintain the Easement Area as set forth herein shall be deemed satisfied.

ARTICLE IV
TERM

4.1 Term. This Agreement, the Easement, and each covenant and restriction set forth in this Agreement shall be perpetual.

ARTICLE V
ENFORCEMENT; REMEDIES

5.1 Enforcement. Each Owner and each other Benefited Party may enforce the obligations of the Owners under this Agreement by a suit or judicial proceedings for injunctive relief, specific performance or damages, as may be appropriate.

5.2 Costs, Expenses and Remedies Upon Breach. In the event of a breach in any of the covenants or agreements contained in this Agreement, after written notice a reasonable opportunity to cure under the circumstances, the breaching party shall pay all costs and litigation expenses, including reasonable attorneys' fees, which may arise or accrue from enforcing this Agreement or in pursuing any remedy provided by the laws of the State of Utah, whether such remedies are pursued by filing suit or otherwise. The parties acknowledge that in the event of any default hereunder, it would be difficult to ascertain the exact money damages suffered by the non-defaulting party. Accordingly, the parties agree that such non-breaching party is entitled to appropriate equitable remedies in the event of any such default; provided that in no event shall a default hereunder result in termination of the Easement and/or any Benefited Party hereunder no longer having the benefit of the Easement for the purpose of pedestrian and vehicular ingress and egress.

5.3 Mortgage Protection Clause. No violation or breach of or failure to comply with any provision of this Agreement and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any existing or future mortgage or deed of trust taken in good faith and for value on any Benefited Parcel. Any lien imposed in connection with the enforcement of this Agreement shall be subject and subordinate to the lien of any mortgage or deed of trust now or hereafter secured by the Benefited Parcels. Any purchaser on foreclosure or person accepting a deed-in-lieu thereof shall take title to such Benefited Parcel subject to the terms of this Agreement for all matters first arising after taking title thereto.

ARTICLE VI
MISCELLANEOUS

6.1 Covenants to Run with the Land. The Easement and the covenants and restrictions described in this Agreement applicable thereto shall run with the land and shall benefit the Benefited Parcels and shall burden the Easement Area as set forth herein in perpetuity. The Easement is created and granted subject to all other easements, restrictions, liens, and encumbrances affecting the respective properties as of the date hereof.

6.2 Notice. Any notice, demand, request, consent, submission, approval, designation or other communication which a Benefited Party is required or desires to give to an Owner shall be in writing and shall be sent by United States registered or certified mail, return receipt requested, or by nationally recognized commercial courier, addressed to such Owner at the then-current mailing address for tax notices applicable to such Owner's parcel of the Property, as shown on the records of the Salt Lake County Recorder. Any notice mailed in accordance with the foregoing provisions shall be deemed to be received on the earlier of (a) the date actually received; or (b) three (3) days following the tendering thereof to the United States Postal Service, postage prepaid, in the manner set forth above.

6.3 Waiver. No waiver of any default hereunder shall be implied from any failure to take any action in respect to such default. No express waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. One or more waivers of any default in the performance of any terms, provision or covenant contained in this Agreement shall not be deemed to be a waiver of any subsequent default in the performance of the same term, provision or covenant or any other term, provision or covenant contained in this Agreement. The rights or remedies of the parties under the terms of this Agreement shall be deemed to be cumulative and none of such rights and remedies shall be exclusive of any others or of any right or remedy at law or in equity which any party might otherwise have as a result of a default under this Agreement. The exercise of any right or remedy shall not impair the right to exercise any other right or remedy.

6.4 No Relationship of Principal and Agent. Nothing contained in this Agreement nor any acts of any Owner shall be deemed or construed by any third person to create the relationship of principal and agent, or of limited or general partnership, or of joint venture, or of any other similar association between the Owners.

6.5 Severability of Unenforceable Provisions. If any provision or provisions of this Agreement, or the application thereof to any Owner or other person or to any certain circumstances, shall be held to be unenforceable, void or illegal, the remaining provisions hereof and/or the application of such provisions to any Owner or other person or to any circumstances other than as to those to which it is held to be unenforceable, void or illegal, shall, nevertheless, remain in full force and effect and not be affected thereby, so long as removing the severed portion(s) of this Agreement does not materially alter the overall intent and purpose of this Agreement.

6.6 Interpretation. The captions of the Sections and Articles of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation and construction. The use of the singular in this Agreement shall include the plural, where the context is otherwise appropriate.

6.7 Governing Law. This Agreement shall be construed, interpreted and applied in accordance with the laws of the State of Utah, without regard to its principles of conflicts of law.

6.8 Rights of Successors and Assigns. The covenants and agreements in this Agreement shall extend and inure in favor and to the benefit of, and shall be binding on, each Benefited Party and their respective successors (including successors in ownership and estate) and assigns. No Benefited Party shall transfer its rights and interests under this Agreement separate from its sale or other transfer of such Benefited Party's Benefited Parcel. Acknowledging that a Benefited Parcel may be subdivided, the Owners acknowledge and agree that each Benefited Party's rights and obligations under this Agreement will run with any such portions of the Benefited Parcels that are conveyed by such Benefited Party, with each successor in title to any such portion being responsible for fulfilling such Benefited Party's obligations under this Agreement with regard to the portion of the Benefited Parcel that such successor acquires; *provided, however*, that if any Benefited Party (or any successor to a Benefited Party) conveys a portion, but not all, of such Benefited Party's Benefited Parcel to a third party, such Benefited Party (or any successor to such Benefited Party) and such third party may, as between

themselves and without affecting the rights or obligations of the Benefited Parties hereunder, agree to an allocation of the rights, responsibilities, and obligations between the transferring Benefited Party and such third party without such agreement constituting an amendment to this Agreement that requires any other Benefited Party's consent, acceptance, execution, or other action.

6.9 Disposition of Property. In the event of any sale, assignment, foreclosure or other disposition of all or a portion of an Owner's interest in the Property, the conveying party shall be, and is hereby, entirely freed and relieved of all liability under any and all of its respective covenants and obligations contained in or derived from this Agreement and arising out of any act, occurrence, or omission occurring after the consummation of such transaction with respect to that portion of the Property so transferred. In such event, the purchaser or other transferee of any portion of the Property, and any subsequent purchaser or transferee of any such interest, shall be subject to, and bound by, all of the terms and provisions of this Agreement with respect to the portion of the Property so acquired.

6.10 Amendment. Except as otherwise expressly set forth in this Agreement, this Agreement may be modified or amended only by a written instrument executed by all of the Owners.

6.11 No Gift or Dedication. Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of the easement areas to the general public or for the benefit of the general public or for any public purpose whatsoever, it being the intention of the parties that this Agreement shall be strictly limited to the purposes expressly provided above.

6.12 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

6.13 Authority of Signatories. Each person executing this Agreement individually and personally represents and warrants that he is duly authorized to execute and deliver the same on behalf of the entity for which he is signing (whether it be a corporation, general or limited partnership or otherwise), and that this Agreement is binding on such entity in accordance with its terms.

[Remainder of page intentionally left blank; signature page to follow.]

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

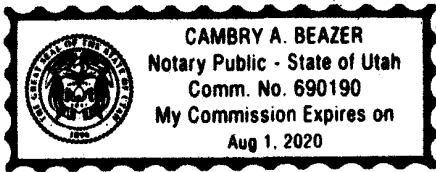
SOJO SOUTH:

SOJO STATION SOUTH, LLC
By: SoJo Station, LLC, its Manager

By: [Signature]
Name: Andrew Bybee
Title: Manager

STATE OF UTAH)
)
) :ss.
COUNTY OF Utah)

The foregoing instrument was acknowledged before me this 29th day of March 2017 by Andrew Bybee, in his capacity as a Manager of SoJo Station, LLC, the Manager of SoJo Station South, LLC, a Utah limited liability company.

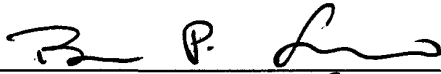


[Signature]
Notary Public

[Signature page to Access and Parking Easement Agreement]

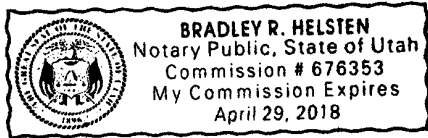
106TH SOUTH:

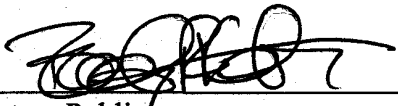
106th SOUTH BUSINESS PARK, A UTAH
LIMITED PARTNERSHIP
By: Sterrett Properties, L.C.
Its: General Partner

By: 
Name: Brett P. Sterrett
Title: Manager

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

The foregoing instrument was acknowledged before me this 29 day of March 2017 by Brett Sterrett, in his capacity as the Manager of Sterrett Properties, L.C., the General Partner of 106th South Business Park, a Utah Limited Partnership, a Utah limited partnership.




Notary Public

[Continued Signature page to Access Easement Agreement]

UTA:

UTAH TRANSIT AUTHORITY

By: [Signature]
Name: JERRY R. BENSON
Title: PRESIDENT / CEO

By: [Signature]
Name: Robert K. Biles
Title: VP - Finance

Approved as to Form:

[Signature]
Counsel for the Authority

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

The foregoing instrument was acknowledged before me this 30th day of March 2017 by Jerry R. Benson & Robert K. Biles in his/her capacity as the President/CEO & V.P. Finance of Utah Transit Authority, a public transit district organized under the laws of the State of Utah.

[Signature]
Notary Public



[Continued Signature page to Access Easement Agreement]

EXHIBIT A

LEGAL DESCRIPTION OF BENEFITED PARCELS

Lots 1A, 3, 4, and 5 and Parcel "A", SoJo Subdivision Phase 2, according to the official plat thereof on file and of record in the Salt Lake County Recorder's Office.

Lot 2, SoJo Subdivision, according to the official plat thereof on file and of record in the Salt Lake County Recorder's Office.

EXHIBIT B

EASEMENT AREA LEGAL DESCRIPTION AND DEPICTION

(See attached.)

Reciprocal Easement Description

COMMENCING at the North Quarter Corner Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian; thence S 00°54'50" W 1267.20 feet; thence N 90°00'00" W 101.99 feet; which is the POINT OF BEGINNING.

And running thence S 89°59'26" W 154.01 feet; thence S 87°58'25" W 56.83 feet; thence S 89°59'25" W 52.81 feet; thence in a westerly direction with a tangent curve turning to the left with a radius of 269.50 feet, having a chord S 83°16'21" W 63.05 feet, a central angle 13°26'07" and an arc length 63.20 feet; thence S 76°33'17" W 26.03 feet; thence S 13°43'22" E 34.27 feet; thence in an easterly direction with a non-tangent curve turning to the right with a radius of 34.50 feet, having a chord N 72°59'18" E 4.29 feet, a central angle 07°08'00" and an arc length 4.30 feet; thence N 76°33'17" E 21.58 feet; thence in an easterly direction with a tangent curve turning to the right with a radius of 235.50 feet, having a chord N 83°16'21" E 55.10 feet, a central angle 13°26'07" and an arc length 55.22 feet; thence N 89°59'25" E 263.62 feet; thence N 00°00'00" E 36.00 feet; to the point of beginning. Containing 12,224 square feet or 0.281 acres.

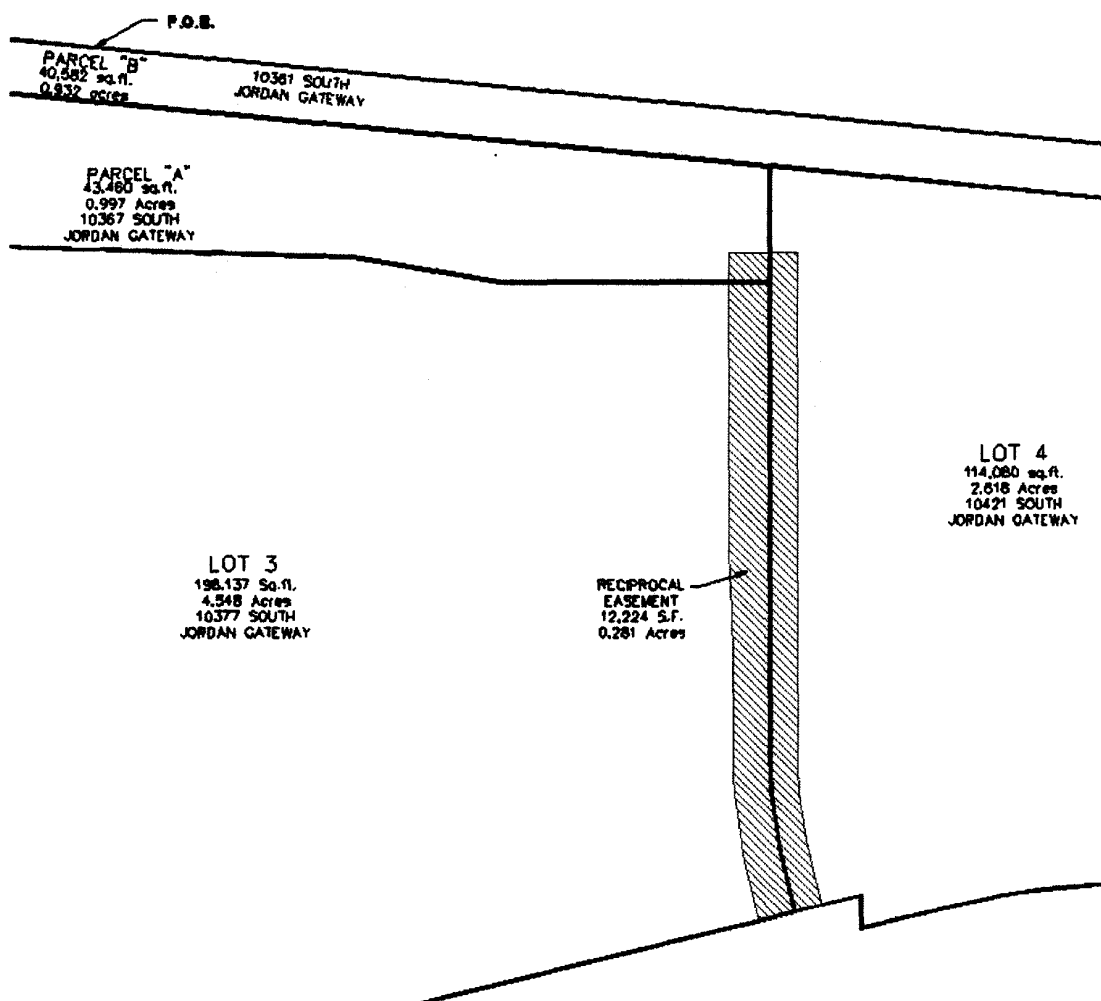


EXHIBIT C

SITE PLAN

(See attached.)

	SITE PLAN ALTERNATE 11 TOWERS PARKING STRUCTURE PHASE III (LOT 4 - TOWERS PK. GAR.) 10421 S. JORDAN GATEWAY, SOUTH JORDAN, UT 84095
	PROJECT NO.: 10421-0000 CHECKED BY: PEF DRAWN BY: PEF SCALE: AS SHOWN DATE: 2/8/2017 REV. DESCRIPTION:

