

*see pg. 18-22 for Legal Descriptions

Upon Recording Return to:

Robert A. McConnell
Parr Brown Gee & Loveless
101 South 200 East, Suite 700
Salt Lake City, Utah 84111

12889329
11/20/2018 11:22:00 AM \$56.00
Book - 10731 Pg - 8791-8812
ADAM GARDINER
Recorder, Salt Lake County, UT
VIAL FOTHERINGHAM LLP
BY: eCASH, DEPUTY - EF 22 P.

**RECIPROCAL PARKING LICENSE
AND
SHARED PARKING AGREEMENT**

This Reciprocal Parking License and Shared Parking Agreement (this “**Agreement**”) is entered into this ____ day of November, 2018, by and among Gateway Associates, Ltd., a Utah limited partnership (“**Gateway Associates**”), Parc Gateway Partners, L.C., a Utah limited liability company (“**Parc Gateway**”), and The Parc at Gateway Condominiums Association, Inc., a Utah non-profit corporation (the “**Association**”). All of the foregoing are hereafter referred to collectively as the “**Parties**” and each is referred to individually as a “**Party**”.

RECITALS

A. Gateway Associates executed that certain Declaration of Condominium, Gateway Block C2 Condominium Project, dated December 18, 2000, and caused the same to be recorded in the offices of the Salt Lake County Recorder on December 27, 2000, as Entry No. 7788090, in Book 8410, beginning at page 8942 (as amended prior to the date hereof, including, without limitation, by that certain Amended and Restated Declaration of Condominium, Gateway Block C2 Condominium Project, dated April 19, 2001, recorded in the offices of the Salt Lake County Recorder on April 27, 2001, as Entry No. 7881709, in Book 8450, beginning at page 4843 the “**C2 Declaration**”).

B. Parc Gateway executed that certain Declaration of Condominium, The Parc at Gateway Condominiums, dated July 1, 2004, and caused the same to be recorded in the offices of the Salt Lake County Recorder on August 20, 2004, as Entry No. 9151849, in Book 9028, beginning at page 1350 (as amended prior to the date hereof, the “**Parc Declaration**”).

C. The C2 Declaration, together with the condominium plat recorded contemporaneously therewith (the “**C2 Condominium Plat**”), created seven (7) condominium units designated as “Parking Units,” including Parking Unit 5 (the “**Gateway Associates Parking Unit**”) and Parking Units 2, 4 and 7 (the “**Parc Gateway Parking Units**”, and together with the Gateway Associates Parking Unit, the “**Parking Unit[s]**”).

D. The C2 Condominium Plat and the condominium plat recorded contemporaneously with the Parc Declaration (the “**Parc Gateway Condominium Plat**”) conflict with respect to the physical location and boundaries of the Gateway Associates Parking Unit and one or more of the Parc Gateway Parking Units.

E. The Parc Declaration and the Parc Gateway Condominium Plat designate parking spaces within the Parc Gateway Parking Units (collectively, the “**Parking Spaces**”) as limited common areas assignable by Parc Gateway in connection with its sale of residential Condominium Units within the Parc Gateway Condominium.

F. Parc Gateway assigned some, but not all, of the assignable Parking Spaces in connection with its general third-party sales efforts and that certain Settlement Agreement and Release executed contemporaneously with this Agreement.

G. The Parking Units are adjacent parking condominium units within the Gateway Block C2 Condominiums that share related access ramps, drive lanes and related facilities, and in connection with the operation of the Parking Units, the Parties desires to enter into this Agreement in order to, among other things, establish certain rights and obligations between the said Parking Units.

NOW, THEREFORE, for the foregoing purposes, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties enter into this Agreement and make the following declarations, create the following licenses and rights of use and establish the following covenants and restrictions, all of which apply to, bind, affect and run with title to each Parking Unit:

AGREEMENT

1. Definitions. Certain terms which are used in this Agreement are defined in this Agreement prior to this Section. In addition to those previously defined terms, the following terms shall have the meanings indicated.

(a) “**Access Areas**” means all areas within each Parking Units intended to be used at any time and from time to time as traffic lanes, driveways, walkways or similar areas for ingress and egress of vehicles and pedestrians.

(b) “**Benefitted Parties**” means, with respect to a Parking Unit, the Owners and Occupants of the Parking Unit, and their respective employees, customers, guests, invitees and licensees, as applicable.

(c) “**Index**” means the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics (the “**Bureau**”) “All Items” for All Urban Consumers, U.S. City Average (1982–84 = 100). Should the Bureau discontinue the publication of the Index, publish the same less frequently or alter the same in some other manner, the most nearly comparable index or procedure as agreed to by each of the Owners will be substituted therefor.

(d) “**Mortgage**” means a recorded mortgage, deed of trust or other security agreement creating a lien on an Owner’s interest in a Parking Unit or a portion of a Parking Unit as security for the payment of indebtedness.

(e) “**Mortgagee**” means the mortgagee, beneficiary or other secured party under a Mortgage.

(f) “**Occupant**” means any Person that, by virtue of a contract to purchase, a lease, a rental arrangement, a license, a condominium declaration or any other instrument, agreement, contract, document, understanding or arrangement is entitled to or does occupy, possess or use any Parking Unit or portion of any Parking Unit.

(g) “**Owner**” means the Person that, at the time concerned, is the owner of record in the office of the County Recorder of a fee interest in any Parking Unit or portion of any Parking Unit; provided, however, that for purposes of the Parc Gateway Parking Units, the Association shall be deemed the “Owner” for all purposes under this Agreement. In the event that, at any time, more than one Person owns the fee interest in a Parking Unit, they shall constitute one (1) Owner, and liability of each such Person for performance or compliance with the applicable provisions of this Agreement shall be joint and several. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term “Owner” shall not mean or include a Mortgagee unless and until such Person has acquired fee title to the Parking Unit encumbered by a Mortgage pursuant to foreclosure, trustee’s sale or any arrangement or proceeding in lieu thereof.

(h) “**Parking Areas**” means the areas on any Parking Unit that are used at any time and from time to time for parking in conformance with this Agreement.

(i) “**Person**” means a natural person or a legal entity.

2. Grant of License. The Parties hereby create the following reciprocal licenses appurtenant to each Parking Unit for the benefit of the Benefitted Parties of each of the other Parking Units, which licenses shall be appurtenant to each of the other Parking Units:

(a) A reciprocal, non-exclusive, perpetual license for ingress and egress, upon, over and across the Access Areas and Parking Areas on each Parking Unit for pedestrian use by the Benefitted Parties of each other Parking Unit.

(b) A reciprocal, non-exclusive, perpetual easement for ingress and egress, upon, over and across the Access Areas and Parking Areas on each Parking Unit for the purpose of furnishing access and the right of access for the vehicles of the Benefitted Parties of each other Parking Unit, including, without limitation, the access ramp that exits on to 500 West on Level 01 at the northwest corner of the Parking Area.

(c) A reciprocal, non-exclusive, perpetual easement for vehicular parking upon, over and across the Parking Areas and within the Parking Stalls identified on **Exhibit “A”** attached hereto as being assigned to and available for the use of each Party and their respective Benefitted Parties.

(d) A reciprocal, non-exclusive, perpetual easement for access to the Storage Spaces assigned to and available for the use of each Party and their respective Benefitted Parties.

3. Maintenance of the Parking Areas and Access Areas. The Owners shall appoint a single Person, which may be an Owner or another third party (the “**Manager**”) who shall be obligated, on behalf of the Owners, to operate and maintain the Parking Areas and Access Areas on the Parking Units in accordance with the provisions of this Agreement. Initially, the Manager is the Association. The Association shall continue as Manager unless and until it voluntarily resigns, at which time a new Manager shall be appointed by the unanimous vote of the Owners. When the Manager is an Owner, such Owner may, in its sole discretion, contract with a Person or Persons to fulfill some or all of its management responsibilities, provided the fees and expenses charged by such Person shall be reasonable in light of the services provided. If Manager is not an Owner, such Manager shall enter into a separate agreement with the Owners pursuant to which such Manager agrees to perform the obligations of Manager under this Agreement, which agreement shall be in form and substance acceptable to a majority of the Owners. Such agreement may be executed by two of the three Owners and shall thereafter be binding on all Owners.

(a) Prior to Manager commencing any operation and/or maintenance duties, Manager shall obtain, and thereafter maintain while continuing to be Manager, a CGL Insurance Policy with combined single limits of at least Three Million Dollars (\$3,000,000) (which such limit will be increased on January 1, 2020, and on every fifth anniversary of such date (each an “**Adjustment Date**”) by the percentage increase in the Index (calculated by multiplying the then applicable insurance limit by a fraction, the numerator of which will be the Index for the month which is three months before the subject Adjustment Date and the denominator of which will be the Index for the month which is 63 months before such Adjustment Date)). The costs of maintaining such insurance shall be included within the Maintenance Costs (as defined below). The liability portion of all such insurance shall name each of the Owners and their Mortgagees as additional insureds, and the property portion of the policy will include a waiver of subrogation rights by the insurer as to the Owners, the Association, and Mortgagees.

(b) Manager shall operate and maintain the Parking Areas and Access Areas on the Parking Units in accordance with the requirements of this Agreement. Each of the Owners hereby grants to Manager, its agents, contractors and employees, a license to enter upon its Parking Unit for the purposes of performing Manager’s duties hereunder. At least thirty (30) days prior to any major work in the Parking Areas or Access Areas, Manager shall give notice to each of the Owners of the scope thereof, and the proposed commencement and completion dates. Manager shall expend such funds as are reasonably necessary for the operation and maintenance of the Parking Areas and Access Areas on the Parking Units (“**Maintenance Costs**”) and for the performance of other obligations imposed on Manager pursuant to this Agreement, and shall promptly pay all such costs when incurred. The Manager’s operation and maintenance duties shall include power washing the Parking Areas and Access Areas, trash removal and pick-up, replacement of electrical/light fixtures and light bulbs, fixing doors to stairwells (door handles, hinges, etc. but no electronic components or systems), cleaning of stairwells and other areas, maintenance of the garage access gate and security systems, striping of parking spaces, maintenance of security electronic access to stairwell doors and maintenance of fire sprinklers and fixtures. Maintenance Costs shall include the

Manager's costs associated with performing the foregoing operation and maintenance duties. Maintenance Costs shall not include the costs associated with maintaining signage designating reserved parking spaces, which shall be paid for by each Owner in connection with their assigned parking spaces. In connection with performing its obligations under this Agreement, Manager may hire or subcontract with third Persons, provided, if such Persons are affiliated with Manager such contracts must be on terms similar to those obtained on an arm's length basis. Notwithstanding the Manager's operation and maintenance obligations, each Owner shall be responsible to repair and bear the associated costs of any damages to the Parking Areas and Access Areas caused by such Owner or its guests or invitees excluding normal wear and tear.

(c) Gateway Associates and Parc Gateway agree, collectively, to pay to Manager the sum of Fifteen Thousand and 00/100 Dollars per annum (\$15,000.00) (the "**Management Fee**") as their respective prorated share of the Maintenance Costs. The Management Fee shall be payable in arrears and shall be due and payable on or before December 30th of each year, commencing on December 30, 2018. The Management Fee shall be increased on each Adjustment Date by the percentage increase in the Index (calculated by multiplying the then applicable Management Fee by a fraction, the numerator of which will be the Index for the month which is three months before the subject Adjustment Date and the denominator of which will be the Index for the month which is 63 months before such Adjustment Date)).

(d) Manager agrees to defend, indemnify and hold each Owner harmless from and against any mechanic's, materialmen's and/or laborer's liens, and all costs, expenses and liabilities in connection therewith, including reasonable attorney's fees and court costs, arising out of the maintenance and operation by Manager of the Parking Areas and Access Areas on the Parking Units and the performance of other functions expressly required of Manager by this Agreement, and if any Parking Unit shall become subject to any such lien, Manager shall promptly cause such lien to be released and discharged of record, either by paying the indebtedness which gave rise to such lien or by posting such bond or other security as shall be required by law to obtain such release and discharge.

4. No Subordination. Neither of the parties to this Agreement shall cause the benefits of this Agreement to be subordinated to any subsequent Mortgage, lien or encumbrance, it being the intent of the parties that the respective rights created hereunder are intended to benefit the respective tracts specified.

5. Further Assurances. Each Owner shall execute any such further documentation reasonably required to confirm the rights and obligations of the Owners under this Agreement. In addition to the foregoing, the Parties agree that in the event the C2 Condominium Plat and/or Parc Gateway Condominium Plat are amended in the future in such a way as to accommodate the correction of the respective boundaries of the Parking Units so as to correspond with this Agreement, the Owners shall exercise commercially reasonable efforts so as to cause such corrections to be reflected in such amendment, provided that the parking licenses and rights established pursuant to this Agreement are maintained in connection with any such amendment.

6. Entire Document. This Agreement contains the entire understanding of the Parties with respect to the matters set forth herein and supersedes all prior oral or written understandings relating to the subject matter set forth herein.

7. Counterpart Signatures. This Agreement may be executed in counterparts each of which shall be deemed an original. An executed counterpart of this Agreement transmitted by facsimile shall be equally as effective as a manually executed counterpart.

8. Recording. Upon execution of this Agreement, this Agreement shall be recorded by the Parties hereto in the appropriate real estate recorder's office.

9. Covenants to Run with Land. This Agreement and the easements and covenants created by this Agreement are intended by the Parties to be and shall constitute covenants running with the land as to each of the Parking Units, and shall be binding upon and shall inure to the benefit of each Owner and any Person who acquires or comes to have any interest in any Parking Unit, and their respective grantees, transferees, lessees, heirs, devisees, personal representatives, successors, and assigns. This Agreement and all of the easements, covenants, provisions, and requirements hereof shall also inure to the benefit of each and every Person owning any interest in or occupying any portion of a Parking Unit. Each Owner and Occupant shall comply with, and all interests in all Parking Units shall be subject to, the terms of this Agreement. By acquiring, in any way coming to have an interest in, or occupying a Parking Unit, the Person so acquiring, coming to have such interest in, or occupying a Parking Unit, shall be deemed to have consented to, and shall be bound by, each and every provision of this Agreement.

10. Enforcement. In the event of a breach of any of the terms, covenants, conditions or restrictions hereof by any Owner of any portion of any Parking Unit, and if such breach continues for a period of thirty (30) days after the defaulting Owner's receipt of a notice of such breach, or such longer period as may be reasonably required to cure a non-monetary breach provided the defaulting Owner has commenced the cure of such breach within such thirty (30) day period and is diligently prosecuting the cure of such breach, any one or all of the Owners of the other Parking Unit shall be entitled forthwith and after written notice to such breaching party to perform any of the breaching party's obligations hereunder or to make any payment required hereunder, as the breaching party's attorney-in-fact, and by reason of so doing, the Owner taking such action shall not be liable or responsible for any loss or damage thereby sustained by the breaching party. All actual out of pocket, reasonable costs and expenses incurred by any Owner in performing any of the breaching Owner's obligations or in making any such payment shall be assessed against the defaulting Owner and, upon filing a notice of such assessment in the recorder's office, shall constitute a lien against the Parking Unit[s] or the interest therein for which such payment or performance was made, but any such lien shall be and is hereby made subordinate to the lien of any first Mortgage covering any portion of such Parking Unit[s]. The Owner of a Parking Unit or any portion of a Parking Unit shall also have the right to enforce, through any permitted proceeding at law or in equity, the terms, provisions, restrictions and requirements of this Agreement. Any failure to insist upon the strict performance of or compliance with any of the terms, provisions, covenants and requirements of this Agreement shall not result in or be construed to be an abandonment or termination of this Agreement or any waiver of the right to insist upon such performance or compliance with the terms of this

Agreement in the future. If any action or proceeding is brought because of a default under, or to enforce or interpret any of the covenants, provisions, or requirements of, this Agreement the party prevailing in such action or arbitration shall be entitled to recover from the unsuccessful party reasonable attorneys' fees (including those incurred in connection with any appeal), the amount of which shall be fixed by the court or the arbitrator and made a part of any judgment rendered. In addition to the foregoing, if a defaulting Owner shall fail to pay another Owner amounts due by such defaulting Owner within thirty (30) days after delivery of written demand on the defaulting Owner, then: (i) a five percent (5%) late payment fee shall be added to the amount due on the thirty-first (31st) day; and (ii) the unpaid balance shall thereafter accrue interest at the rate of ten percent (10%) per annum.

11. Miscellaneous. This Agreement shall be binding upon and inure to the benefit of the Owners, legal and equitable, Occupants, mortgagees, lienholders, licensees, invited guests, users and employees of each tract, their successors, heirs and assigns, and the covenants and agreements herein contained shall be deemed covenants running with the land, and binding upon the successors, heirs and assign of all parties.

[SIGNATURE PAGE IMMEDIATELY FOLLOWS]


IN WITNESS WHEREOF, intending to be legally bound, the parties hereto, execute this Agreement as of the date and year first above written.

GATEWAY ASSOCIATES:

GATEWAY ASSOCIATES, LTD., a Utah limited partnership, by its general partner:

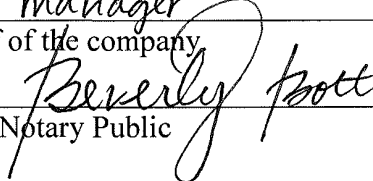
BOYER GATEWAY, L.C., a Utah limited liability company, by its manager:

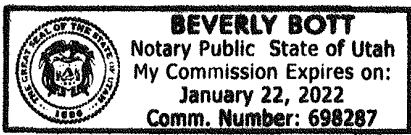
THE BOYER COMPANY, L.C., a Utah limited liability company

By: 
Name: BRIAN GOCHNOUR
Its: Manager

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

The foregoing instrument was acknowledged before me this 13th day of November, by Brian Gochnour the manager of Boyer Gateway, L.C. on behalf of the company


Notary Public



ASSOCIATION:

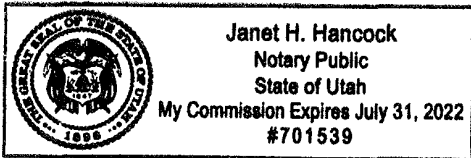
THE PARC AT GATEWAY CONDOMINIUMS
ASSOCIATION, INC., at Utah non-profit
corporation

By: John Higuchi
Name: John Higuchi
Title: president

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

The foregoing instrument was acknowledged before me this 12th day of November, by
John Higuchi the President of
The Parc at Gateway Condominiums Assoc. on behalf of the company.

Janet H. Hancock
Notary Public



PARC GATEWAY:

PARC GATEWAY PARTNERS, L.C.,
a Utah limited liability company, by its sole
Manager

Parc Developers, L.C.,
a Utah limited liability company, by its
Managers

Cowboy Partners, L.C.,
a Utah limited liability company

By: _____
Daniel Lofgren, President

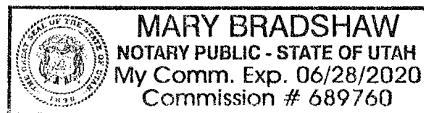
Boyer PG Manager, L.C.,
a Utah limited liability company

By: _____
Name: _____
Its: Manager

STATE OF Utah)
)ss.
COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 13th day of November, by
_____ the _____ of
_____ on behalf of the company.

Mary Bradshaw
Notary Public



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

The foregoing instrument was acknowledged before me this 13th day of November, by
Brian Gochnour the manager of
Boyer PG Manager, L.C. on behalf of the company.

Beverly Bott
Notary Public

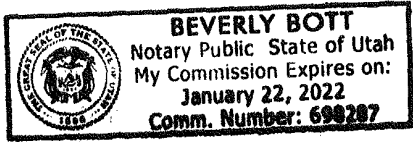


EXHIBIT A

(Identification of Individual Parking Spaces and Usage Rights within Parking Units)

[See attached]

4816-4858-2256 v. 1

Print




Parcel Number: **15011300040000**

PROPERTY DESCRIPTION FOR TAXATION PURPOSES ONLY

Legal Description

PARKING UNIT 1, GATEWAY BLOCK C-2 CONDO. 8410-8942 8450-4927



[» Book And Page Lookup](#) 

BK 10731 PG 8808

Print



SALT LAKE COUNTY RECORDER


Parcel Number: **15011300050000**

PROPERTY DESCRIPTION FOR TAXATION PURPOSES ONLY

Legal Description

PARKING UNIT 2, GATEWAY BLOCK C-2 CONDO. 8410-8942



[» Book And Page Lookup](#) 

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Print




Parcel Number: **15011300060000**

PROPERTY DESCRIPTION FOR TAXATION PURPOSES ONLY

Legal Description



PARKING UNIT 3, GATEWAY BLOCK C-2 CONDO. 8410-8942 8450-4927

[» Book And Page Lookup](#) 

BK 10731 PG 8810

Print



SALT LAKE COUNTY RECORDER


Parcel Number: **15011300070000**

PROPERTY DESCRIPTION FOR TAXATION PURPOSES ONLY

Legal Description

PARKING UNIT 4, GATEWAY BLOCK C-2 CONDO. 8410-8942



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Parcel Number: **15011300080000**

PROPERTY DESCRIPTION FOR TAXATION PURPOSES ONLY

Legal Description



PARKING UNIT 5, GATEWAY BLOCK C-2 CONDO.

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