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12/28/2018 10:22:00 AM \$25.00  
Book - 10742 Pg - 914-921  
ADAM GARDINER  
Recorder, Salt Lake County, UT  
FOUNDERS TITLE LAYTON  
BY: eCASH, DEPUTY - EF 8 P.

**WHEN RECORDED, RETURN TO:**  
Lamont R. Richardson, Esq.  
Parr Brown Gee & Loveless  
101 South 200 East, Suite 700  
Salt Lake City, Utah 84111

17-023265

## GRANT OF ACCESS AND PARKING EASEMENT

This Grant of Access and Parking Easement (this "**Easement Agreement**") is executed as of the 28 day of DECEMBER, 2018, by **EAST BAY ASSOCIATES NO. 2, L.C.**, formerly known as East Bay Associates No. 2, Ltd., a Utah limited liability company ("**Boyer East Bay**") and **BOYER BANGERTER, L.C.**, a Utah limited liability company ("**Boyer Bangarter**") and together with Boyer East Bay, individually and collectively, as the context may require, the "**Declarant**").

WHEREAS, Declarant, owns certain parcels of real property located in Salt Lake County, Utah, as more particularly described in Exhibit "A" attached hereto and made a part hereof (each a "**Parcel**" and collectively the "**Parcels**"), which Parcels consist of Parcel 1 and Parcel 2 as such Parcels are identified on Exhibit "A" attached hereto.

WHEREAS, Declarant desires to enter into this Easement Agreement for the purpose of granting a non-exclusive easement on and over each of the Parcels for the benefit of the other Parcels for vehicular and pedestrian ingress and egress across the Parcels and between the Parcels and the public roadway known as 200 West Street, and for the non-exclusive parking of vehicles on the Parcels.

NOW, THEREFORE, to these ends and in consideration of the promises, mutual covenants and agreements set forth below, together with the mutual benefits to be derived from this Easement Agreement, Declarant hereby declares as follows:

1. Grant of Easements; Limitations.

(a) Subject to the limitations set forth in this Easement Agreement, Declarant hereby grants and conveys to the owner of each Parcel (each a "**Benefited Parcel Owner**" and collectively the "**Benefited Parcel Owners**") and for the benefit of each of the Parcels owned by a Benefitted Parcel Owner (each a "**Benefited Parcel**" and collectively the "**Benefited Parcels**") a non-exclusive perpetual easement, for the parking of vehicles on the Parking Area (defined below), and for vehicular and pedestrian ingress and egress on, over and across the Access Area (as defined below), on each Parcel (each a "**Burdened Parcel**" and collectively the "**Burdened Parcels**") and between the Benefited Parcels, the Burdened Parcels and 200 West Street by the Benefited Parcel Owner and its tenants, subtenants, licensees, invitees or other permitted users of each Benefited Parcel. As used in this Easement Agreement, "**Access Area**" shall mean the drive aisles on each Burdened Parcel and "**Parking Area**" means the parking stalls on each Burdened Parcel, as the same may at any time and from time to time be constructed and maintained for such uses by the Owner of such Burdened Parcel in accordance with this Agreement (each a "**Burdened Parcel Owner**" and collectively the "**Burdened Parcel Owners**"). Such easements shall each (i) be appurtenant to and benefit the Benefited Parcels, (ii) bind and burden the Access Area and Parking Area on the Burdened Parcels and every person having any fee, leasehold, lien or other interest, as and to the extent arising by, through or under the Burdened Parcels, in any portion of the Access Area and Parking Area, and (iii) constitute a covenant running with the land.

(b) Exclusive use of the Access Area and Parking Area on a Burdened Parcel is not hereby granted to the Owners of the Benefited Parcels, and the Owner of each Burdened Parcel reserves the right for ingress and egress, and vehicular parking, in common with all other Parcels. Each Burdened Parcel Owner shall have the right to make any use of the Access Area and Parking Area on its Parcel, so long as any such use does

not unreasonably interfere with the rights and easements for use and related ingress and egress and parking which is herein granted to the Benefited Parcels.

(c) The easements described in this Section 1 above, so long as the following do not unreasonably interfere with the right and easement for use and related ingress and egress and parking which is herein granted to the Benefited Parcels, shall be subject to and limited as follows:

(i) The easements shall not be exercised in any manner which substantially interferes with the purposes for which the Access Area and Parking Area are to be used as provided herein.

(ii) Each Burdened Parcel Owner, in its sole discretion (subject, however, to this subsection 1(c)), may grant permits, licenses and easements over, across, through and under the Access Area and Parking Area to any governmental or quasi-governmental authority, to any public or private utility company, or to any other party, for the purpose of installing, maintaining or providing utilities and related facilities or roads or for such other purposes reasonably necessary or appropriate, in such Burdened Parcel Owner's sole discretion, for the use construction, development, maintenance or operation of a Parcel.

(iii) Notwithstanding any of the provisions of this Easement Agreement, each Benefited Parcel shall comply with and satisfy all parking related requirements of Draper City and any other applicable governmental authority related to the improvements and uses of such Benefited Parcel independent of, and without relying on, any parking spaces located on any other Parcel, or any right and easement to use such parking spaces as granted herein.

(d) A Benefited Parcel Owner shall not permit any lien or claim of mechanics, laborers or materialmen to be filed against the Access Area or Parking Area located on the Burdened Parcels, or any part or parts thereof, for any work, labor or materials furnished, alleged to have been furnished or to be furnished pursuant to any agreement by such Benefited Parcel Owner or any one claiming by, through or under such Benefited Parcel Owner. If such a lien is filed, within ten (10) business days after the date of the filing or recording of any such lien, such Benefited Parcel Owner shall cause the same to be paid and discharged of record.

(e) Each Burdened Parcel Owner may, on a temporary basis, for reasonable construction, repair, maintenance, or to prevent a public dedication or the accrual of any rights to the public, close the Access Area or Parking Area on its Burdened Parcel for access, provided that, in any such event, such Burdened Parcel Owner shall first notify the Benefited Parcel Owners in writing and shall, to the extent possible, provide for alternate access to and parking for the Benefited Parcels during such period of closure.

(f) The grant and conveyance of the rights to the Benefited Parcels set forth in this Section 1 are made on an "AS-IS" basis and Declarant has not made and hereby expressly disclaims any statements or representations, express or implied, made by Declarant or its agents or brokers, as to the existing or future condition of or characteristics of the Access Area or Parking Area, its fitness for use for any particular purpose, or the compliance by the Access Area or Parking Area with any zoning or other rules, regulations, laws or statutes applicable to the Access Area or Parking Area, or the uses permitted on or the development requirements for or any other matters relating to the Access Area or Parking Area.

2. Failure to Perform; Remedies. In the event that a Benefited Parcel Owner fails to perform when due any act or obligation required by this Easement Agreement to be performed by such Benefited Parcel Owner, a Burdened Parcel Owner, in addition to and not in lieu of any other remedies available at law or in equity, shall be entitled to file a suit in equity to enjoin such Benefited Parcel Owner from such breach or threatened breach and/or for the specific performance of such Benefited Parcel Owner's obligations under this Easement Agreement. In the event a Burdened Parcel Owner fails to perform when due any act or obligation required by this Easement Agreement to be performed by such Burdened Parcel Owner, a Benefited Parcel Owner, in addition to and not in lieu of any other remedies available at law or in equity, shall be entitled to file a suit in equity to

enjoin such Burdened Parcel Owner from such breach or threatened breach and/or for the specific performance of such Benefited Parcel Owner's obligations under this Easement Agreement. Notwithstanding any other provision of this Easement Agreement, the rights granted to each Benefited Parcel under this Easement shall not be terminated or suspended in the event a Benefited Parcel Owner is in default of its obligations hereunder.

3. Limitation on Authority.

(a) The Burdened Parcel Owners are not to be deemed or construed as the agent or joint venturer of a Benefited Parcel Owner in any respect, all other provisions of this Easement Agreement notwithstanding. The Burdened Parcel Owners have not and do not hereby assume or agree to assume any liability whatsoever of a Benefited Parcel Owner and the Burdened Parcel Owners do not assume or agree to assume any obligation of any Benefited Parcel Owners under any contract, agreement, indenture, or any other document to which a Benefited Parcel Owners may be a party or by which a Benefited Parcel Owner are or may be bound, or which in any manner affects the Benefited Parcels or any part thereof, except as expressly provided in this Easement Agreement.

(b) The Benefited Parcel Owners are not to be deemed or construed as the agent or joint venturer of the Burdened Parcel Owners in any respect, all other provisions of this Easement Agreement notwithstanding. Each Benefited Parcel Owner has not and does not hereby assume or agree to assume any liability whatsoever of the Burdened Parcel Owner and each Benefited Parcel Owner does not assume or agree to assume any obligation of any Burdened Parcel Owner under any contract, agreement, indenture, or any other document to which a Burdened Parcel Owner may be a party or by which a Burdened Parcel Owner is or may be bound, or which in any manner affects the Burdened Parcels or any part thereof, except as expressly agreed to by a Benefited Parcel Owner in this Easement Agreement.

4. Notices. All communications, consents, and other notices provided for in this Easement Agreement shall be in writing and shall be effective on the date hand delivered, sent by facsimile, or mailed by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

(a) If to the Benefited Parcel Owners, to:

c/o The Boyer Company, L.C.  
101 South 200 East, Suite 200  
Salt Lake City, Utah 84111  
Attention: President

or to such other address as a Benefited Parcel Owners may designate to each of the Burdened Parcel Owners, in writing.

(b) If to the Burdened Parcel Owner, to:

c/o The Boyer Company, L.C.  
101 South 200 East, Suite 200  
Salt Lake City, Utah 84111  
Attention: President

or to such other address as a Burdened Parcel Owner may designate to the Benefited Parcel Owners, in writing.

5. Miscellaneous Provisions.

(a) This Easement Agreement shall be interpreted in accordance with the laws of the State of Utah. The recital paragraphs set forth above are hereby expressly incorporated in and made a part of this

Easement Agreement, however, the paragraph headings and titles are not part of this Easement Agreement, having been inserted for reference only, and shall have no effect upon the construction or interpretation hereof.

(b) The waiver by either party hereto of a breach of any term or condition of this Easement Agreement shall not constitute a waiver of any further breach of a term or condition. As concerns all matters of performance agreed hereunder, it is covenanted by the parties that time is strictly of the essence.

(c) This Easement Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in such documents, which supersede all prior and contemporaneous agreements, representations and understandings of the parties with respect thereto. No supplement, modification or amendment of this Easement Agreement shall be binding unless executed in writing by all parties. No waiver of any of the provisions of this Easement Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed, in writing, by the party making the waiver. No amendment to this Easement Agreement shall in any way affect the rights of a holder (a "Mortgagee") of a mortgage, deed of trust or other security agreement (a "Mortgage") creating a lien on an owner's interest in a Parcel or a portion of a Parcel as security for the payment of indebtedness that is recorded at the time of the recordation of the amendment, or the rights of any successor in interest or title to such Mortgagee, either before or after such Mortgagee or its successor enters into possession or acquires title pursuant to foreclosure, trustee's sale or any arrangement or proceeding in lieu thereof, unless such Mortgagee has consented in writing to such amendment.

(d) This Easement Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The recitals stated above and the exhibits attached to this Easement Agreement shall be and hereby are incorporated in and an integral part of this Easement Agreement by this reference.

(e) This Easement Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns, and the Burdened Parcels and the Benefited Parcels shall be subject to the easements, covenants, restrictions and charges set forth herein, which shall run with each of the Burdened Parcels and the Benefited Parcels and shall be binding upon all parties having or acquiring any right, title or interest in (i) the Burdened Parcels, or any part thereof, by, through or under the Burdened Parcel Owner, or (ii) the Benefited Parcels, or any part thereof, by, through or under the Burdened Parcel Owners, as the case may be.

(f) In the event that any provision of this Easement Agreement shall be held invalid and unenforceable, such provision shall be severable from, and such invalidity and unenforceability shall not be construed to have any effect on, the remaining provisions of this Easement Agreement.

(g) Nothing contained herein will be construed or deemed to constitute a dedication, express or implied, of any real property to or for any public use or purpose whatsoever.

(h) For purposes of this Easement Agreement, "*force majeure*" shall mean any delay caused by acts of nature, strikes, lockouts, other labor troubles, riots, civil commotion, insurrection, war or other reason not the fault of the party delayed (financial inability excepted), in which case performance of the action in question shall be excused for the period of delay and the period for the performance of such act shall be extended for a period equivalent to the period of such delay.

(i) In the event of default by either party, or if any action is brought because of any breach of or to enforce or interpret any of the provisions of this Easement Agreement, the non-defaulting party or the party prevailing in such action shall be entitled to recover from the other party reasonable attorneys' fees, costs and expenses incurred in the enforcement of or the termination of this Easement Agreement.

(j) Concurrently with the execution and delivery of this Easement Agreement, this Easement Agreement shall be recorded against the Burdened Parcels and the Benefited Parcels in the official real estate records of Salt Lake County, Utah.


*[signatures on following page]*

IN WITNESS WHEREOF, Declarant has executed this Easement Agreement to be effective as of the date first written above.

**DECLARANT**


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

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

By:   
Name: BIRLEN GOCHNANTZ  
Title: Manager

EAST BAY ASSOCIATES NO. 2, L.C., a Utah limited liability company, by its manager

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

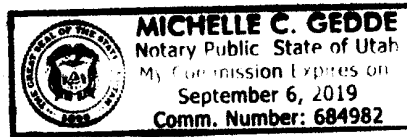
By:   
Name: BIRLEN GOCHNANTZ  
Title: Manager

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

On this 21 day of December, 2018, personally appeared before me Brian Gohnose, the person who executed the within instrument as a manager of The Boyer Company, L.C., a Utah limited liability company, the manager of Boyer Bangerter, L.C., a Utah limited liability company, and acknowledged to me that he executed the within instrument on behalf of said company.

Michelle C. Gedde  
Notary Public

My Commission Expires:  
09.06.2019

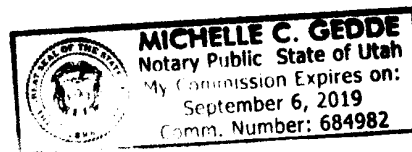


STATE OF UTAH )  
 ) : ss.  
COUNTY OF SALT LAKE )

On this 21 day of December, 2018, personally appeared before me Brian Gohnose, the person who executed the within instrument as a manager of The Boyer Company, L.C., a Utah limited liability company, the manager of East Bay Associates No. 2, L.C., a Utah limited liability company, and acknowledged to me that he executed the within instrument on behalf of said company.

Michelle C. Gedde  
Notary Public

My Commission Expires:  
09.06.2019



**EXHIBIT "A"**

***(Description of Real Property)***

Property located in Salt Lake County, Utah more particularly described as follows:

**Parcel 1**

Lot 101, Amended Lot 1 of 136 Center Office Plat, according to the official plat thereof filed in the office of the Salt Lake County Recorder, State of Utah.

**Parcel 2**

Lot 102, Amended Lot 1 of 136 Center Office Plat, according to the official plat thereof filed in the office of the Salt Lake County Recorder, State of Utah.

33-01-252-008

33-01-252-007