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**WHEN RECORDED RETURN TO:**

IV Development Group, LLC  
Attn: John Lindsley  
299 South Main Street, Suite 355  
Salt Lake City, UT 84111

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06/02/2020 10:14 AM \$40.00  
Book - 10953 Pg - 9721-9728  
RASHELLE HOBBS  
RECORDER, SALT LAKE COUNTY, UTAH  
IV DEVELOPMENT GROUP  
299 S MAIN STREET STE 355  
SALT LAKE CITY UT 84111  
BY: TCA, DEPUTY - M18 P.

**RIGHT OF FIRST REFUSAL AGREEMENT**

This RIGHT OF FIRST REFUSAL AGREEMENT (this "Agreement") is made and entered into as of the 1<sup>st</sup> day June, 2020 (the "Effective Date"), by and between **IV DEVELOPMENT GROUP, LLC**, a Utah limited liability company ("IV Development"), and **STAKER & PARSON COMPANIES**, a Utah corporation ("S&P"). IV Development and S&P are sometimes referred to individually as a "Party" and collectively as the "Parties".

**RECITALS**

WHEREAS, S&P is the owner of certain parcels of land located in Salt Lake County, Utah, which is more particularly described on Exhibit A, attached hereto and made a part hereof by reference (the "ROFR Property");

WHEREAS, subject to and upon the terms and conditions contained herein, S&P desires to grant to IV Development a right of first refusal to purchase the ROFR Property, together with all rights, benefits, privileges and appurtenances pertaining to the ROFR Property, including, without limitation, all service contracts and agreements, and, as part of this grant, IV Development has the exclusive right to develop the ROFR Property, in conformance to the agreed upon terms and conditions of the Development Services Agreement, which will be negotiated and attached hereto and made a part hereof at the time of exercising Right;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**AGREEMENT AND GRANT**

1. Grant of Right of First Refusal. For a period of twenty (20) years from the Effective Date (the "Term"), IV Development shall have the right of first refusal to purchase all of the ROFR Property, or any portion thereof, together with all rights, benefits, privileges and appurtenances pertaining to the ROFR Property, including, without limitation, all service contracts and agreements, and the exclusive right to develop the ROFR Property as further discussed in Section 2 hereof, upon the terms and conditions set forth in this Section 1 (the "ROFR"). S&P may not sell, transfer, lease or otherwise dispose of all or any part of the ROFR Property unless the provisions of this Section 1 have been satisfied. If at any time during the Term, S&P shall receive a bona fide offer from a third party for the purchase, transfer, lease, other conveyance, or development of all or any part of the ROFR Property (whether or not solicited by S&P), S&P shall notify IV Development of any such offer (the "Offering Notice") by notice to IV Development specifying the following terms and information: (a) the name and address of the third-party offeror, (b) the

purchase price for the ROFR Property or any portion of the ROFR Property, and (c) any other terms and conditions set forth in such offer.

(a) Time Period to Exercise. IV Development shall have ten (10) business days from the date of receipt of the Offering Notice to IV Development to exercise the ROFR. Such right of first refusal shall be exercisable by IV Development notifying S&P in writing (within such 10-business day period) of IV Development's irrevocable election to purchase the ROFR Property or the portion of the ROFR Property which is the subject of the applicable Offering Notice, on the terms and conditions set forth in the Offering Notice (the "**Exercise Notice**"). If IV Development does not deliver the Exercise Notice within such ten (10) business day period, IV Development shall be deemed to have elected to not exercise the ROFR as to the portion of the ROFR Property described in the Offering Notice only. In the event IV Development does not desire to purchase the ROFR Property, or portion thereof, on the terms set forth in the Offering Notice, IV Development agrees to deliver to S&P a written notice indicating that IV Development is not exercising its rights as provided in this Section 1, provided, IV Development's failure to deliver such notice shall not extend such ten (10) business day period. Within ten (10) days of the delivery of the Exercise Notice, IV Development and S&P shall enter into a purchase agreement incorporating the terms of the Offering Notice.

(b) Escrow. Upon IV Development's giving S&P the Exercise Notice, IV Development and S&P shall open an escrow account with a recognized title insurance or trust company selected by IV Development. Such escrow shall be subject to the standard escrow instructions of the escrow agent to the extent such instructions are not inconsistent with the terms of this Section 1 or the terms of the Offering Notice. At or before the close of escrow, S&P shall deliver to the escrow agent its special warranty deed (or such other type of deed as is specified in the Offering Notice) conveying to IV Development all of S&P's right, title and interest in the ROFR Property or the portion of the ROFR Property which is the subject of the applicable Exercise Notice, free and clear of all liens and encumbrances, except liens for taxes and assessments and easements, covenants and restrictions of record which were attached to the ROFR Property as of the Effective Date, attached during the Term through IV Development's action or inaction, as the case may be, have been granted by S&P in lieu of a taking by the power of eminent domain or the like, have been approved by IV Development, or which do not materially or adversely affect the use of the ROFR Property as a commercial or residential property, or as otherwise specified in the Offering Notice. In the event S&P (in the exercise of S&P's good faith reasonable efforts) is unable to convey title as required, IV Development agrees that its sole remedy or recourse shall be one of the following: (i) to accept such title as S&P is able to convey, (ii) bring an action for specific performance, or (iii) to elect not to consummate its exercise of the right of first refusal as to the ROFR Property or the portion of the ROFR Property which is the subject of the applicable Exercise Notice, in which case the right of first refusal shall lapse as to the ROFR Property or the portion of the ROFR Property which is the subject of the applicable Exercise Notice and S&P shall be entitled to sell and convey the ROFR Property or the portion of the ROFR Property which is the subject of the applicable Exercise Notice to the original third-party offeror identified in the applicable Offering Notice, or its permitted assignee, free and clear of any right granted to IV Development under this Section 1; *provided, however*, if the applicable Offering Notice describes only a portion of the ROFR Property, then the rights granted to IV Development under this Agreement shall continue in full force and effect as to the remaining ROFR Property for the remainder of the Term.

(c) Close of Escrow. The close of escrow of the sale of the ROFR Property, or the portion of the ROFR Property which is the subject of the applicable Exercise Notice, to IV Development shall occur no later than the date that is forty-five (45) days after IV Development gives S&P the Exercise Notice. At the close of escrow of the sale of the ROFR Property to IV Development pursuant to IV Development's ROFR under this Section 1, this Agreement shall terminate if the sale is for all of the ROFR Property. If the close of escrow is for the sale of a portion of the ROFR Property to IV Development pursuant to IV Development's ROFR under this Section 1, then this Agreement shall terminate only as to

the portion of the ROFR Property sold, leased, or transferred to IV Development and the rights granted to IV Development under this Agreement shall continue in full force and effect as to the remaining ROFR Property for the remainder of the Term.

(d) Limitation and Termination of Right. Notwithstanding any other provision or right contained in this Agreement to the contrary, in the event IV Development shall exercise its ROFR to purchase the ROFR Property, or the portion of the ROFR Property which is the subject of the applicable Offering Notice, by giving the Exercise Notice, and IV Development shall fail to purchase the ROFR Property or the portion of the ROFR Property which is the subject of the applicable Exercise Notice on the terms set forth or incorporated by reference in the Exercise Notice and in this Section 1 (except if such failure is the result of a default by S&P of its obligations under this Section 1), IV Development's ROFR set forth in this Section 1 shall cease to exist only as to the ROFR Property or the portion of the ROFR Property set forth in the Exercise Notice.

(e) Subsequent Sale by S&P. In the event IV Development waives or is deemed to have waived its right of first refusal to purchase the ROFR Property or any portion thereof, S&P shall have the right to sell and convey the ROFR Property, or the portion of the ROFR Property which is the subject of the applicable Offering Notice, to such third-party offeror on terms which are substantially similar to the terms set forth in the Offering Notice, and upon the consummation of such a sale, IV Development's right of first refusal shall cease to exist only as to the portion of the ROFR Property which is the subject of the applicable Offering Notice. In the event S&P does not consummate such a sale to the third party offeror on terms substantially similar to those terms contained in the Offering Notice or shall desire to sell the ROFR Property or any portion thereof to another third-party offeror on terms not substantially similar to the terms set forth in the Offering Notice (it being agreed an adjustment of purchase price by five percent (5%) is not a material change), then IV Development's right of first refusal shall remain in full force and effect for the remainder of the Term, and S&P shall be required to again offer the ROFR Property or any portion thereof to IV Development in accordance with this Section 1.

(f) Transferability of ROFR. Notwithstanding anything contained herein to the contrary, the rights granted to IV Development under this Section 1 are personal to IV Development, and the rights of IV Development under this Section 1 may not be assigned, sold, pledge, encumbered, conveyed or otherwise transferred (whether directly, indirectly or as security) to any party without the prior written consent of S&P in each instance, which approval may only be reasonably withheld by S&P; provided, however, the rights of IV Development under this Agreement may be assigned without S&P's consent to an entity any parent, subsidiary, affiliate, division, or entity controlling, controlled by, or under common control with IV Development. Any assignment that is not permitted by this Agreement is and shall be null and void for all purposes.

2. Right to Develop the Property. Should S&P ever desire to develop the ROFR Property for any use other than its current sand and gravel use during the Term, then S&P shall first enter into a Development Services Agreement with IV Development in the form attached hereto as **Exhibit B**.

3. Miscellaneous.

(a) Covenant Running with the Land. This Agreement's covenants, conditions, and restrictions shall touch, concern, and run with the ROFR Property for the duration of this Agreement, and shall be binding upon and inure to the benefit of S&P, IV Development, and their respective successors and assigns.

(b) Continued Effectiveness. Subject to the provisions of Section 1(f), if S&P sells, transfers, leases or otherwise disposes of less than all of the ROFR Property or sells, transfers, leases or

otherwise disposes of a portion of the ROFR Property in conjunction with other of S&P's properties which are not subject to this Agreement, then the rights granted to IV Development under this Agreement shall continue in full force and effect as to the remaining ROFR Property not sold or transferred for the remainder of the Term or earlier termination of this Agreement as provided herein.

(c) Termination upon Transfer to IV Development. Upon any vesting of all or any portion of the ROFR Property' title in IV Development, all covenants, conditions, restrictions, and reservations imposed under this Agreement shall automatically terminate and be of no further force and effect as to that portion of the ROFR Property vested in IV Development.

(d) Termination upon Expiration of Time. The Parties agree that no further recording shall be necessary and this Agreement shall expire on its face at the end of the Term, unless earlier terminated in accordance to this Agreement.

(e) Enforceability. This Agreement may be executed in one or more counterparts, each of which, when taken together, constitutes the original. If any term, provision or condition contained in this Agreement shall to any extent be deemed invalid or unenforceable, the remainder of the Agreement shall not be affected thereby, and each remaining term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(f) Notice. All notices, waivers, statements, demands, approvals or other communications to be given under or pursuant to this Agreement shall be in writing, addressed to the Parties at their respective addresses as provided below, and shall be delivered by certified or registered mail, postage prepaid, as follows:

**If to IV Development:**

IV Development Group, LLC  
Attn: John Lindsley  
299 South Main Street, Suite 355  
Salt Lake City, UT 84111

**If to S&P:**

Staker & Parson Companies  
Attn: Real Estate Manager  
2350 South 1900 West, Ste 100  
Ogden, UT 84401

(g) Amendment. This Agreement may only be amended or modified, in whole or in part, by recording, in the official records of Salt Lake County, Utah, an instrument in writing reciting such amendment, bearing the acknowledged signatures of the Parties.

(h) Non-Waiver. The failure of either Party to insist upon strict performance of any covenants, conditions, or terms of this Agreement shall not be construed as a waiver or relinquishment of any such covenants, conditions or terms, but the same shall be and remain in full force and effect.

(i) Headings. The captions and headings used herein are for convenience of reference only and shall not affect the interpretation of this Agreement.

(j) Construction. This Agreement shall be construed in accordance with the laws of the State of Utah and both Parties shall be considered the drafters of this Agreement.

(k) Attorneys' Fees. Each Party will be responsible for payment of their respective attorneys' fees in the negotiation and execution of this Agreement. In the event of any action to enforce the provisions of this Agreement, the prevailing party shall be entitled to receive its costs and attorney fees.

(l) Recordation. Within five (5) days of the Effective Date, IV Development will record this Agreement with the Salt Lake County Recorder's Office as against the ROFR Property.

(m) Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter contained in this Agreement. All prior and contemporaneous agreements, representations, and understandings of the Parties, oral or written, are superseded by and merged into this Agreement.

*[Signatures and Acknowledgments Follow]*

IN WITNESS WHEREOF, the Parties have created this Agreement effective as of the day and year first above written.

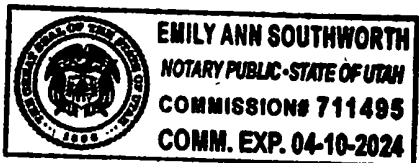
**IV DEVELOPMENT:**

**IV DEVELOPMENT GROUP, LLC**  
a Utah limited liability company

By: \_\_\_\_\_  
Name: John Lindsley  
Title: Managing Member

STATE OF Utah )  
County of Salt Lake ) ss.

The foregoing instrument was acknowledged before me this 1st day of June, 2020, by John Lindsley, the Managing Member of IV Development Group, LLC, a Utah limited liability company, on behalf of said company.



\_\_\_\_\_  
Notary Public

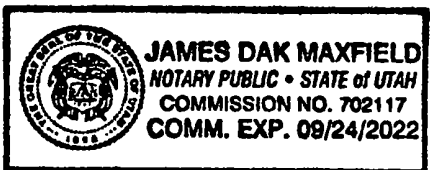
**S&P:**

**STAKER & PARSON COMPANIES**, a Utah corporation

By: \_\_\_\_\_  
Name: TRAVIS CANFIELD  
Title: VICE PRESIDENT

STATE OF Utah )  
County of Weber ) ss.

The foregoing instrument was acknowledged before me this 29th day of May, 2020, by Travis Canfield, a Vice President of Staker & Parson Companies], a Utah corporation, on behalf of said company.



\_\_\_\_\_  
Notary Public

**EXHIBIT A  
TO  
RIGHT OF FIRST REFUSAL AGREEMENT**

**ROFR Property Description**

A PARCEL OF LAND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 17 OF TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE SOUTHWEST QUARTER CORNER OF SECTION 17, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE NORTH  $01^{\circ}40'37''$  EAST ALONG THE SECTION LINE 2403.73 FEET; THENCE NORTH  $88^{\circ}45'17''$  EAST 2569.51 FEET TO THE QUARTER SECTION LINE OF SAID SECTION 17; THENCE SOUTH  $0^{\circ}31'23''$  WEST ALONG SAID QUARTER SECTION LINE 1107.23 FEET; THENCE SOUTH  $86^{\circ}21'45''$  WEST 629.81 FEET; THENCE SOUTH  $46^{\circ}24'40''$  WEST 624.94 FEET; THENCE SOUTH  $0^{\circ}28'19''$  EAST 866.25 FEET TO THE SOUTH LINE OF SAID SECTION 17; THENCE SOUTH  $89^{\circ}28'20''$  WEST ALONG SAID SOUTH SECTION LINE 1555.15 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 4,968,469.23 SQ/FT OR 114.06 ACRES

33-17-300-001

-and-

33-17-300-003

for reference purposes only

**EXHIBIT B  
TO  
RIGHT OF FIRST REFUSAL AGREEMENT**

**Form of Development Services Agreement**

*[To be negotiated at time of exercising Right]*