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Matthew J. Ball (9414)
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Salt Lake City, Utah 84111
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Attorneys for Plaintiffs

**IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH**

CERCO DEVELOPMENT, INC., a Texas corporation; and 400 SOUTH, LLC, a Utah limited liability company,

Plaintiffs,

v.

ENCENADA REALTY AND INVESTMENT COMPANY, a Utah corporation; GROWERS MARKET COMPANY, a Utah corporation; E.O. MUIR ASSOCIATES, a Utah limited partnership; PRESCOTT M. MUIR and PHILLIP R. MUIR as Trustees of THE EDWARD W. MUIR REVOCABLE TRUST (amended and restated in its entirety pursuant to a Third Amended Declaration of Trust dated August 10, 2005) and THE MARY M. MUIR FAMILY TRUST (under an Amended and Restated Declaration of Trust dated February 25, 2013); FRANCES P. MUIR, as Trustee of THE RICHARD W. MUIR AND FRANCES P. MUIR REVOCABLE TRUST u/a/d November 1, 1996; DEBRA G. FRANDSEN, DEVON M. GLENN and DENECE G. HUFTALIN as Trustees of THE JEAN MUIR

**AFFIDAVIT OF
MATTHEW J. BALL**

Case No. 230900941

Judge Randall Skanchy

GLENN FAMILY TRUST u/a/d December 26, 1996; THE MARK W. AND MARGARET ANN MUIR FUND LTD., a Utah limited partnership; and DOES 1 – 10, whose true identities are presently unknown, Defendants.	
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STATE OF UTAH)
 : ss.
 COUNTY OF SALT LAKE)

I, Matthew J. Ball, being first sworn and while under oath or affirmation, say as follows:

1. I am of adult age, and I am an attorney duly licensed to practice law in the State of Utah. I am a shareholder at Parr Brown Gee & Loveless, P.C. and I have personal knowledge of the following matters.

2. I am over 21 years of age and am in all respects competent to make this affidavit.


3. I am counsel to the above-named plaintiffs (the “Plaintiffs”) in the above-captioned matter.

4. The above-captioned action concerns certain real property located on 400 South between West Temple Street and 200 West in Salt Lake City (the “Property”) and which is more particularly described as follows:

Beginning at a point 99 feet west from the northeast corner of Lot 6, Block 41, Plat A, Salt Lake City Survey, and running thence south 124 feet, thence west 25 feet, thence north 25 feet, thence east 15 feet, thence north 99 feet, thence east 10 feet to the place of beginning.

5. On May 2, 2023, the above-named court entered a Final Judgment in favor of the Plaintiffs wherein the court quieted title to the Property in the Plaintiffs. A certified copy of the Final Judgment is attached hereto as Exhibit “A.”

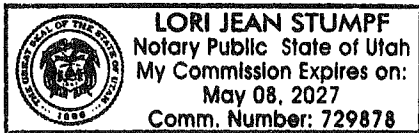
DATED this 10th day of May, 2023.


Matthew J. Ball

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

I certify that Matthew J. Ball, who is known to me or who presented satisfactory identification, has, while in my presence and while under oath or affirmation, voluntarily signed this document and declared that it is true.

SUBSCRIBED AND SWORN to before me this 10th day of May, 2023.



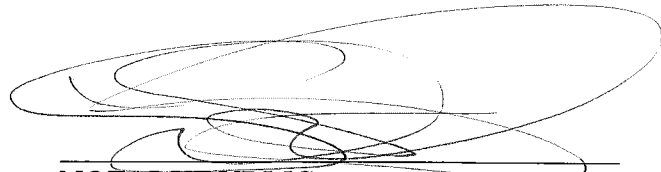

NOTARY PUBLIC

Exhibit “A”



Matthew J. Ball (9414)
PARR BROWN GEE & LOVELESS, P.C.
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Salt Lake City, Utah 84111
Telephone: (801) 532-7840
mball@parrbrown.com

I CERTIFY THAT THIS IS A TRUE COPY OF AN ORIGINAL DOCUMENT ON FILE IN THE THIRD DISTRICT COURT, SALT LAKE COUNTY, STATE OF UTAH.

DATE: 5/2/23

DEPUTY COURT CLERK

Attorneys for Plaintiffs

**IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR
SALT LAKE COUNTY, STATE OF UTAH**

CERCO DEVELOPMENT, INC., a Texas corporation; and 400 SOUTH, LLC, a Utah limited liability company,

Plaintiffs,

v.

ENCENADA REALTY AND INVESTMENT COMPANY, a Utah corporation; GROWERS MARKET COMPANY, a Utah corporation; E.O. MUIR ASSOCIATES, a Utah limited partnership; PRESCOTT M. MUIR and PHILLIP R. MUIR as Trustees of THE EDWARD W. MUIR REVOCABLE TRUST (amended and restated in its entirety pursuant to a Third Amended Declaration of Trust dated August 10, 2005) and THE MARY M. MUIR FAMILY TRUST (under an Amended and Restated Declaration of Trust dated February 25, 2013); FRANCES P. MUIR, as Trustee of THE RICHARD W. MUIR AND

FINAL JUDGMENT

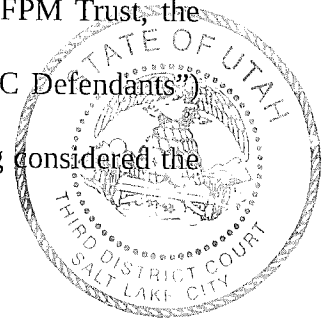
Case No. 230900941

Judge Randall Skanchy

FRANCES P. MUIR REVOCABLE TRUST
u/a/d November 1, 1996; DEBRA G.
FRANDSEN, DEVON M. GLENN and
DENECE G. HUFTALIN as Trustees of
THE JEAN MUIR GLENN FAMILY TRUST
u/a/d December 26, 1996; THE MARK W.
AND MARGARET ANN MUIR FUND
LTD., a Utah limited partnership; and DOES
1 – 10, whose true identities are presently
unknown,

Defendants.

Plaintiffs Cerco Development, Inc. (“Cerco”) and 400 South, LLC (“400 South” and, with Cerco, “Plaintiffs”) and defendants Growers Market Company (“GMC”), E.O. Muir Associates (“E.O. Muir”), Prescott M. Muir and Phillip R. Muir as Trustees of The Edward W. Muir Revocable Trust (amended and restated in its entirety pursuant to a Third Amended Declaration of Trust dated August 10, 2005) (the “EWM Trust”) and The Mary M. Muir Family Trust (under an Amended and Restated Declaration of Trust dated February 25, 2013) (the “MMM Trust”), Frances P. Muir, as Trustee of The Richard W. Muir and Frances P. Muir Revocable Trust u/a/d November 1, 1996 (the “RWMFPM Trust”), Debra G. Frandsen, Devon M. Glenn and Denece G. Huftalin as Trustees of The Jean Muir Glenn Family Trust u/a/d December 26, 1996 (the “JMGF Trust”), The Mark W. and Margaret Ann Muir Fund Ltd.’s (the “Muir Fund”) (GMC, E.O. Muir, the EWM Trust, the MMM Trust, the RWMFPM Trust, the JMGF Trust, and the Muir Fund are referred to collectively herein as the “GMC Defendants”). Joint Motion for Entry of Judgment came before the Court for decision. Having considered the



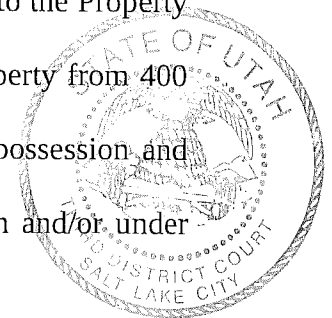
Joint Motion and the evidence submitted in support thereof, there being no opposition to the Joint Motion, and for good cause appearing, it is hereby ORDERED, ADJUDGED and DECREED that Plaintiffs and the GMC Defendants' Joint Motion for Entry of Judgment is GRANTED. Accordingly, the Court hereby renders this Final Judgment in favor of Plaintiffs and against the GMC Defendants, Encenada Realty and Investment Company and Does 1 – 10 (the GMC Defendants, Encenada Realty and Investment Company and Does 1 – 10 are referred to collectively herein as "Defendants") pursuant to Rules 54, 58A and 65A of the Utah Rules of Civil Procedure as follows:

1. This action concerns certain real property located on 400 South between West Temple Street and 200 West in Salt Lake City (the "Property") and which is more particularly described as follows:

Beginning at a point 99 feet west from the northeast corner of Lot 6, Block 41, Plat A, Salt Lake City Survey, and running thence south 124 feet, thence west 25 feet, thence north 25 feet, thence east 15 feet, thence north 99 feet, thence east 10 feet to the place of beginning;

2. Having been properly served by publication in accordance with the Court's order, and having failed to answer or otherwise respond to Plaintiffs' Complaint, the defaults of defendants Encenada Realty and Investment Company and Does 1 – 10 have been duly entered according to law;

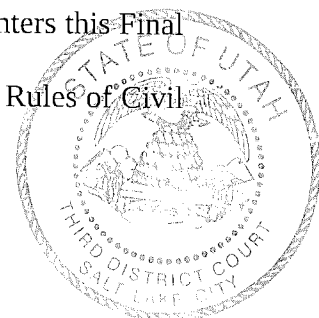
3. The Court hereby decrees and declares that (a) 400 South holds legal title to the Property and Cerco holds equitable title to the Property (having contracted to buy the Property from 400 South), (b) Plaintiffs own absolutely and are entitled to the quiet and peaceful possession and occupation of the Property as against Defendants and all who claim by, through and/or under



them, and (c) Defendants and all others claiming by, through and/or under them have no right, title or interest in or to the Property; and

4. Plaintiffs are entitled to a permanent injunction barring Defendants and all others claiming by, through and/or under them from asserting or claiming any right, title or interest in or to the Property because (a) as the owners of the Property, Plaintiffs are entitled to the exclusive use and occupancy of their land, (b) Plaintiffs would be harmed by the invasion of their land by Defendants, (c) a legal remedy for the invasion of the Property by Defendants would be inadequate inasmuch as the invasion, once effected, could not be undone, (d) Plaintiffs would be irreparably harmed if in the future, having gone to the trouble and expense of redeveloping and/or making economic use of the Property and surrounding land, any of Defendants were to assert a right to use or access the Property, (e) the Court is capable of policing an injunction in Plaintiffs' favor inasmuch as the Court can direct the Sheriff of Salt Lake County to remove Defendants from the Property, and (f) having balanced the equities, the Court is convinced and finds that Plaintiffs merit injunctive relief to protect their interest in the Property as against Defendants. Accordingly, Defendants and all others claiming by, through and/or under them are hereby permanently enjoined from asserting or claiming, by word or action, any right, title or interest in or to the Property.

1The Court, having fully adjudicated all claims asserted by, between and among the parties to the above-captioned action and finding no just reason for delay, hereby enters this Final Judgment as a final judgment in this action for purposes of Rule 54(b) of the Utah Rules of Civil Procedure.



* * * END OF ORDER AND FINAL JUDGMENT * * *

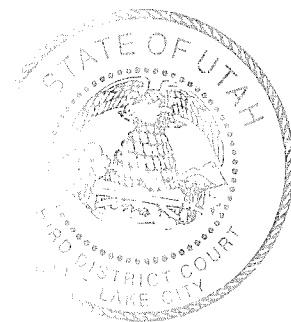
Pursuant to Rule 10(e) of the Utah Rules of Civil Procedure, this Final Judgment will be entered by the Court's signature at the top of the first page.

Approved as to form and substance:

By: /s/ P. Matthew Muir (w/ permission)

P. Matthew Muir

Attorneys for the GMC Defendants



CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of April, 2023 I caused a true and correct copy of the foregoing **Final Judgment** to be served electronically on the following:

P. Matthew Muir
mmuir@aklawfirm.com

/s/ Matthew J. Ball

