

WHEN RECORDED, MAIL TO:

City of Springville
Attn: John Penrod
110 South Main Street
Springville, Utah 84663

WITH A COPY TO:

Suburban Land Reserve, Inc.
Attn: Graham Larson
51 S. Main St., Ste. 301
Salt Lake City, Utah 84111

Tax Parcel ID: 23:031:0099

FATC NCS-1012102

(space above for Recorder's use only)

DRAINAGE EASEMENT AGREEMENT

THIS DRAINAGE EASEMENT AGREEMENT (this "**Agreement**") is made this 19 day of August, 2020 (the "**Effective Date**") by and between **SUBURBAN LAND RESERVE, INC.**, a Utah corporation ("**Grantor**") and **CITY OF SPRINGVILLE**, a Utah municipal corporation ("**Grantee**"). Grantor and Grantee are sometimes referred to herein individually as a "**Party**", and collectively as the "**Parties**".

RECITALS

A. Grantor is the owner of certain real property located in Springville City, Utah County; Utah with a Tax Parcel No. 23:031:0099 ("**Grantor's Property**").

B. Grantee desires a perpetual, non-exclusive utility easement on, over, across, under and through certain portions of Grantor's Property, as more particularly described and depicted on Exhibit A-1 and Exhibit A-2, attached hereto and incorporated herein by this reference (the "**Easement Area**"), for the purposes set forth in this Agreement.

C. Grantor is willing to grant an easement to Grantee, subject to the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations expressed herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties make the following grants, agreements, and covenants:

1. **Grant of Easement.** Grantor hereby conveys to Grantee, without warranty, a perpetual, non-exclusive easement (the "**Easement**") on, over, across, under and through the Easement Area for the purposes of constructing, operating, repairing, altering, protecting, restoring, and maintaining an underground storm drain line and related facilities (the "**Improvements**").

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2. **Consideration.** As valuable consideration for the Easement granted herein, Grantee has paid Grantor the sum of Ten Dollars (\$10.00). Receipt of the payment of such consideration by Grantor and the sufficiency of such consideration is hereby acknowledged by Grantor.

3. **Access.** Grantee and its respective agents, servants, employees, consultants, contractors and subcontractors shall have the right to enter upon the Easement Area solely for the purposes permitted by this Agreement. Grantee shall enter upon the Easement Area at its sole risk and hazard, and Grantee and its successors and assigns, hereby release Grantor from any and all claims relating to the condition of the Easement Area and the entry upon the Easement Area by Grantee and Grantee's agents. In the event Grantee needs to access the Easement Area to perform any maintenance, repair, or restoration work on the Easement Area, Grantee shall (i) use reasonable efforts to minimize any interference or disruption to Grantor's use and occupancy of the Easement Area, and (ii) except in the case of an emergency, perform such work on days other than Sunday (and in the event of any emergency on Sunday, work will only be performed to the minimum extent necessary to cure or remediate such emergency).

4. **Reservation by Grantor.** Notwithstanding anything to the contrary herein, Grantor hereby reserves the right to use the Easement Area for any use not inconsistent with Grantee's permitted use of the Easement Area. Without limiting the above, Grantor reserves the right (i) to relocate, or require the relocation of the Improvements and the Easement Area at any time at Grantor's cost and expense, provided that such relocation provides Grantee with comparable easement rights and functionality and such relocation terminates the use of the Easement in its prior location, and (ii) to grant additional rights, easements or encumbrances to other third parties to use or occupy the Easement Area (or the surface of the Grantor's Property above same). Grantee hereby understands and agrees that the Easement is granted on a non-exclusive basis and that other third parties have been, and/or may be in the future, granted the right by Grantor to use the Easement Area and/or surrounding areas in a way that does not materially prevent or impair the use or exercise of the Easement rights granted hereby.

5. **Condition of the Easement Area.** Grantee accepts the Easement Area and all aspects thereof in their "AS IS," "WHERE IS" condition, without warranties, either express or implied, "WITH ALL FAULTS," including but not limited to both latent and patent defects, the existence of hazardous materials, if any, and any other easements, rights, or other encumbrances affecting the Easement Area. Grantee hereby waives all warranties, express or implied, regarding the title, condition and use of the Easement Area, including, but not limited to any warranty of merchantability or fitness for a particular purpose; provided, however, that notwithstanding anything in this Agreement to the contrary, Grantor represents that Grantor is the sole owner of Grantor's Property and has the right to enter into this Agreement and grant Grantee the Easement. Without limiting the generality of the foregoing, the Easement Area is granted to Grantee subject to: (a) any state of facts which an accurate ALTA/ASCM survey (with Table A items) or physical inspection of the Easement Area might show, (b) all zoning regulations, restrictions, rules and ordinances, building restrictions and other laws and regulations now in effect or hereafter adopted by any governmental authority having jurisdiction; and (c) reservations, easements, rights-of-way, covenants, conditions, restrictions, encroachments, liens, and encumbrances and all other matters of record or enforceable at law or in equity. Grantee must obtain any and all consents, approvals, permissions, and agreements to cross, encumber or encroach upon any other easements or rights of others related to its use and improvement of the Easement Area.

Grantee shall not disturb or interfere with any existing utility service or the rights of the beneficiaries of any existing easements and shall comply with any applicable terms and conditions in any such easements or of any such utility service providers.

6. **Construction of the Improvements.** Grantee or Grantee's agents will conduct all construction activities in a good and workmanlike manner in compliance with all laws, rules, and



ordinances, both present and future. Upon completion of the Improvements, Grantee shall provide Grantor with evidence reasonably satisfactory to Grantor of such completion.

7. Maintenance; Restoration; and Damage.

7.1 General Maintenance and Restoration. Grantee, at its sole cost and expense, shall maintain and repair the Improvements and Easement Area in good order and condition so long as the maintenance is required as a result of Grantee's activities. Grantee shall promptly repair any damage to Grantor's Property, Grantor's improvements located thereon (including, without limitation, any and all crops, landscaping, trees, fences, water and/or irrigation pipes, lines and ditches, curbs, gutters, asphalt surfaces, signs, lighting, buildings, etc.), and Easement Area caused by Grantee and/or Grantee's agents, and shall restore Grantor's Property, Grantor's improvements and the Easement Area to the same or better condition as they existed prior to any entry onto or work performed by Grantee and Grantee's agents. Grantee's restoration responsibilities shall also include, but not be limited to: (i) removal of all improvements, equipment or materials which it has caused to be placed upon Grantor's Property, except as allowed by this agreement; and (ii) leaving the Grantor's Property in a condition which is clean, free of debris and hazards which may be caused by Grantee's activities, and subject to neither environmental hazards nor liens caused by Grantee's activities.

7.2 Future Work Conducted. Grantee will provide Grantor with at least thirty (30) days' prior written notice before entering onto the Easement Area to perform any work as set forth in this Agreement and use reasonable efforts to minimize any interference or disruption to Grantor's use and occupancy of Grantor's Property.

8. Termination. The Easement will automatically terminate upon the earlier to occur of the following: (i) Grantee provides Grantor written notice of its intent to terminate this Agreement, or (ii) Grantee does not actually use the Easement Area for a consecutive period of twenty-four (24) months. Upon the termination of this Agreement, the parties agree to cooperate in the execution and recordation of an instrument providing notice of the termination.

9. Indemnification. The parties hereby acknowledge and agree that Grantee is a governmental entity under the Utah Governmental Immunity Act, Utah Code Ann., §63G-7-101, et seq. ("UGIA"). Nothing in this Agreement, including without limitation any indemnity obligations, shall be construed as a waiver of any rights, immunities, or defenses otherwise applicable under the UGIA, including the provisions of Utah Code Ann., §63G-7-604 regarding limitation of judgments provided, however, if any provision of the Governmental Immunity Act conflicts with any provision in this Agreement, the terms and conditions of this Agreement shall control. Grantee shall indemnify, defend, and hold harmless Grantor and any entity controlling, controlled by or under control with Grantor ("Affiliates"), and its and their Affiliates' officers, directors, employees, managers, members, agents and servants (collectively, the "**Indemnitees**") from and against any third party liens, encumbrances, costs, demands, claims, judgments, and/or damage caused by or arising out of (i) any use of the Easement Area and/or adjacent areas by Grantee or Grantee's agents, (ii) any act or omission of Grantee or any of Grantee's agents, (iii) any work performed within or on the Easement Area by Grantee or its successors or assigns, and their agents, servants, employees, consultants and/or contractors. The terms and conditions of this indemnification provision shall remain effective, notwithstanding the expiration or termination of this Agreement, so long as the event for which the indemnification is needed occurred prior to such expiration or termination. Grantee shall have no obligation to indemnify Indemnitees pursuant to this section for claims or liabilities to the extent the same are caused solely by the gross negligence or willful misconduct of Grantor. At such time that Grantor transfers title of Grantor's Property to any other person or entity (excepting Affiliates), Grantee shall no longer have any responsibility whatsoever to indemnify the new property owner under this Agreement.



10. **Insurance.** Grantee will assure that prior to entering into the Easement Area, Grantee will cause its contractors performing work on the Easement Area to obtain the following insurance coverage and policies and provide evidence thereof as described below:

10.1. **Liability Insurance Coverage and Limits.** A commercial general liability insurance policy insuring the insured’s interests against claims for personal injury, bodily injury, death, property damage occurring on, in or about the Easement Area and the ways immediately adjoining the Easement Area, with a “Combined Single Limit” covering personal injury liability, bodily injury liability and property damage liability) of not less than Two Million Dollars (\$2,000,000.00). Grantor must be endorsed as an additional insured on such policy on ISO Form CG 20 10 (10/93) or its equivalent. The coverage set forth above shall be primary coverage and shall apply specifically to the Easement Area, Grantor’s Property, and adjacent areas.

10.2. **Workers’ Compensation Insurance.** All Workers’ Compensation and Employers’ Liability Insurance required under applicable Workers’ Compensation Acts and/or applicable law. In addition, the insured shall maintain Employers’ Liability Insurance with a minimum limit of not less than Five Hundred Thousand Dollars (\$500,000.00).

10.3. **Automobile Insurance.** Automobile Liability Insurance with a minimum limit of not less than Two Million Dollars (\$2,000,000.00) Combined Single Limit per accident, and coverage applying to “Any Auto”.

11. **Liens.** Grantee shall keep Grantor’s Property free from any liens arising out of any work performed, materials furnished, or obligations incurred by, through, for or under Grantee, and shall indemnify, hold harmless and agrees to defend Grantor from any liens that may be placed on Grantor’s Property pertaining to any work performed, materials furnished or obligations incurred by, through, for, or under Grantee or any of Grantee’s agents.

12. **Notices.** Except as otherwise required by law, any notice, demand or request given in connection with this Agreement shall be in writing and shall be given by personal delivery, overnight courier service, electronic mail, or United States certified mail, return receipt requested, postage or other delivery charge prepaid, addressed to Grantor or Grantee, as the case may be, at the following addresses (or at such other address as Grantor or Grantee, or the person receiving copies may designate in writing given in accordance with this section):

IF TO GRANTOR: Suburban Land Reserve, Inc.
Attn: Graham Larsen
51 S. Main St., Ste. 301
Salt Lake City, Utah 84111
Phone: (801) 321-8753

WITH A COPY TO: Kirton McConkie
Attn: Jessica Rancie
50 E. South Temple, Suite 400
Salt Lake City, Utah 84111
Phone: (801) 328-3600

IF TO GRANTEE: Springville City
Attn: John Penrod

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110 South Main Street
Springville, Utah 84663
Phone: (801) 489-2700

13. **Non-Waiver.** No delay or omission of any Party hereto in the exercise of any rights created hereunder shall impair such right, or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of an event of default hereunder. A waiver by any Party hereto of a breach of, or default in, any of the terms, provisions and conditions of this Agreement by another Party shall not be construed to be a waiver of any subsequent breach thereof or of any other term, condition or provision of this Agreement. Except as otherwise specifically provided in this Agreement, no remedy provided in this Agreement shall be exclusive, but instead all remedies shall be cumulative with all other remedies provided for in this Agreement and all other remedies at law or in equity which are available to the Parties hereto.

14. **Miscellaneous.**

14.1. **Binding Effect.** Except as expressly stated herein, the provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto, as well as the successors and assigns of such Parties.

14.2. **Partial Invalidity.** If any term, covenant or condition of this Agreement or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and shall be enforced to the extent permitted by law.

14.3. **Captions.** The captions and headings in this Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants or conditions contained herein.

14.4. **Gender.** In construing the provisions of this Agreement and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

14.5. **Relationship of the Parties.** Nothing contained herein shall be construed to make the Parties hereto partners or joint venturers, or render any of such Parties liable for the debts or obligations of the other Parties hereto.

14.6. **Amendment.** This Agreement may be canceled, changed, modified or amended in whole or in part only by the written and recorded agreement of the Parties hereto or their successor and assigns (as determined by the provisions herein).

14.7. **Counterparts.** This Agreement may be executed in any number of counterparts and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute but one Agreement.

14.8. **Attorney Fees.** In the event any legal action or proceeding for the enforcement of any right or obligations herein contained is commenced, the prevailing party in such action or proceeding shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.



14.9. Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of Grantor's Property to the general public or for the general public or for any public purpose whatsoever, it being the intention that this Agreement shall be strictly limited to and for the purposes herein expressed. This Agreement is not intended to create, nor shall it be in any way interpreted or construed to create, any third-party beneficiary rights in any person not specifically benefited by the terms and provisions hereof. Grantor shall have the right to perform any act, or do anything, from time to time that Grantor may deem necessary or desirable to assure that no public gift dedication (or deemed gift dedication) occurs.

[SIGNATURES TO FOLLOW]

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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

GRANTOR:

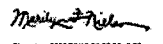
SUBURBAN LAND RESERVE, INC.,
a Utah corporation

By: 
R. Steven Romney, President

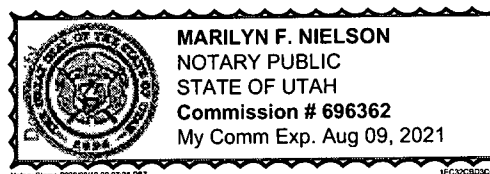
STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

On this ¹⁹ day of August, 2020, personally appeared before me R. Steven Romney, proved on the basis of satisfactory evidence to be the person whose name is subscribed to in this document, and acknowledged he executed the same.

WITNESS my hand and official seal.


Signed on 2020/08/19 09:07:28 -8:00

Notary Public for the
State of Utah

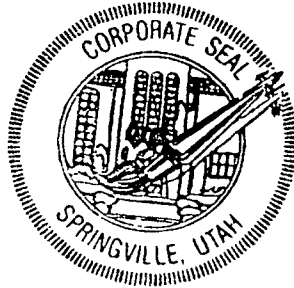


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GRANTEE:

CITY OF SPRINGVILLE,
a Utah municipal corporation



By: *Richard J. Child*
Name (Print): Richard J. Child
Its: Mayor

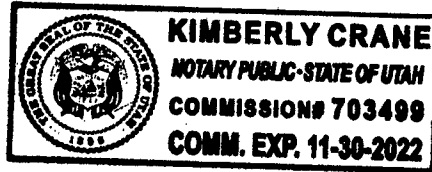
Attest:

By: *Kim Crane*
Kim Crane, City Recorder

STATE OF UTAH)
 :SS
COUNTY OF UTAH)

On this 20 day of August, 2020, personally appeared before me
Richard J. Child, proved on the basis of satisfactory evidence to be the person(s)
whose name(s) (is/are) subscribed to in this document, and acknowledged (he/she/they) executed the same.

WITNESS my hand and official seal.



Kim Crane
Notary Public for the
State of Utah

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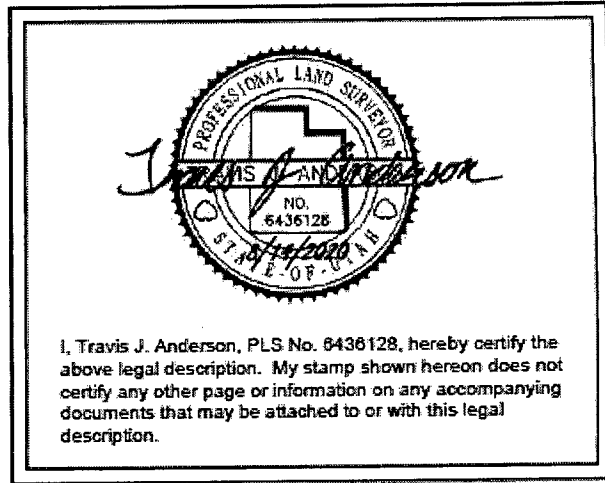
Exhibit A-1

LEGAL DESCRIPTION OF EASEMENT AREA

Real property located in Utah County, Utah, described as follows:

Legal Description

BEGINNING AT A POINT LOCATED NORTH 88°34'40" EAST ALONG THE SECTION LINE 977.06 FEET AND SOUTH 220.19 FEET FROM THE NORTHWEST CORNER OF SECTION 5, TOWNSHIP 8 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 75°07'51" EAST 72.01 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF 1200 WEST ROAD IN SPRINGVILLE, UTAH; THENCE ALONG SAID RIGHT-OF-WAY SOUTHERLY ALONG THE ARC OF A 574.50 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT 20.00 FEET (CHORD BEARS: SOUTH 14°00'40" WEST 20.00 FEET); THENCE NORTH 75°07'51" WEST 70.55 FEET; THENCE NORTH 09°49'19" EAST 20.08 FEET; TO THE POINT OF BEGINNING.
AREA: 1424 SQUARE FEET OR 0.033 ACRES.



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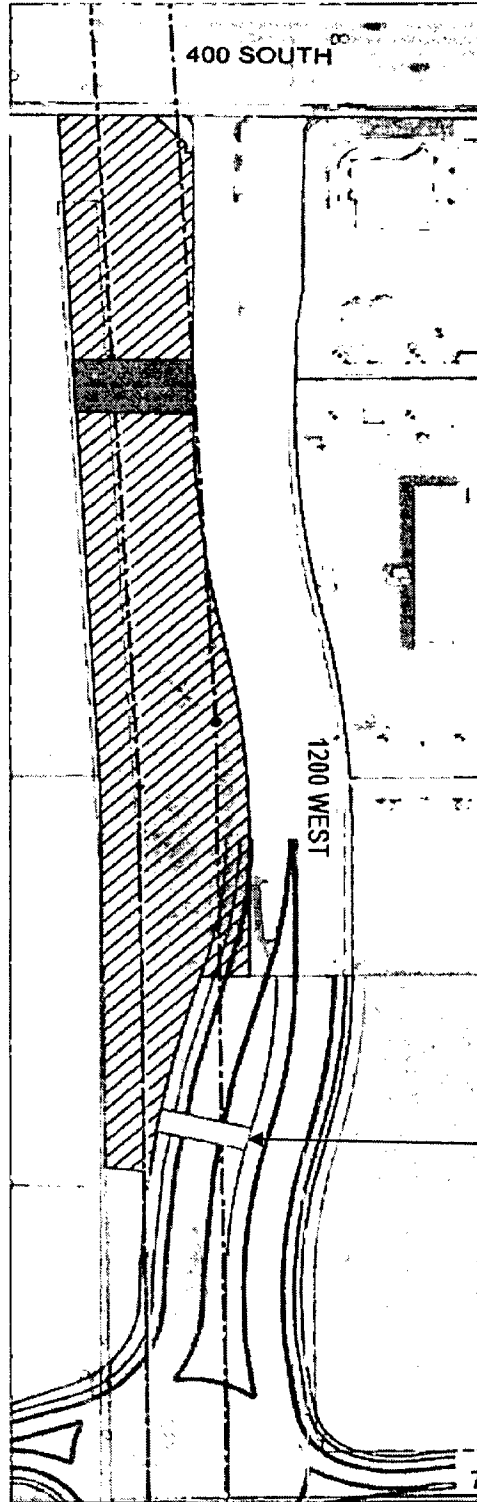


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Exhibit A-2

DEPICTION OF EASEMENT AREA



Easement Area





Carma Deed of Release - Shoal Creek MO

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 Created: August 19, 2020 08:09:24 -8:00
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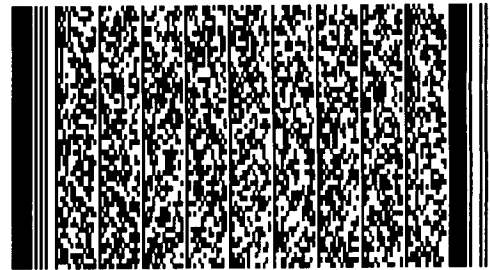
E-Signature Summary

E-Signature 1: R. Steven Romney (RSR)

August 19, 2020 09:07:28 -8:00 [FB759D25D53B] [73.20.31.187]
 romneys@slreserve.com (Principal) (Personally Known)

E-Signature Notary: Marilyn F. Nielson (MFN)

August 19, 2020 09:07:28 -8:00 [1EC32CBD3C6C] [65.130.190.144]
 nielsonm@slreserve.com
 I, Marilyn F. Nielson, did witness the participants named above electronically sign this document.



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