



When recorded, return to:

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ASSIGNMENT OF RECIPROCAL EASEMENT AGREEMENT FOR ROAD ACCESS AND COVENANTS AND RESTRICTIONS

THIS ASSIGNMENT OF RECIPROCAL EASEMENT AGREEMENT FOR ROAD ACCESS, AND COVENANTS AND RESTRICTIONS (the "Assignment"), is made this 17 day of August, 2017 (the "Effective Date"), by and between RUSSELL COBURN JORDAN, JR. ("Jordan"), as Assignor; and TYDON OLER and BRITTNEY OLER, husband and wife (collectively "Oler"), as Assignees.

RECITALS

A. On or about March 11, 2009, the following parties entered into that certain Reciprocal Easement Agreement for Road Access and Covenants and Restrictions (the "Easement Agreement"): Jordan; Garland C Hirschi and Vonda H. Hirschi, Trustees of The Garland C. and Vonda H. Hirschi Family Trust U/A/D May 30, 2003 ("Hirschi Trust"); Mary Brown, Trustee of The Frank J. Mooney and Ruth B. Mooney Trust ("Mooney Trust"); Karl Hammer, Trustee of The Karl Hammer Revocable Trust U/A/D August 21, 2002 ("Hammer Trust"); and Michael Fatali, Trustee of The Fatali Family Trust U/A/D October 23, 2007 ("Fatali Trust"). Jordan's property is known by Tax ID/Serial No. R-1305-A-7-B; Hirschi Trust's parcel is known by Tax IDs/Serial Nos. R-157-A and R-166; Mooney Trust's property is known by Tax ID/Serial No. R-162; Hammer Trust's property is known by Tax ID/Serial No. R-152-A-1-E; and Fatali Trust's property is known by Tax ID/Serial No. R-152-A-1-D. All of these parcels of property are situated within the Town of Rockville, Utah.

B. The Easement Agreement was recorded on March 24, 2009 with the Washington County Recorder as Document 20090010734.

C. Access to the Hirschi Trust property (now owned by Oler), the Mooney Trust property, the Hammer Trust property (a portion of which is now owned by Hermitage, LLC) and the Fatali Trust property (now owned by the Francis Trust) has been and currently is primarily or exclusively by means of a dirt track commencing at the cul-de-sac at the end of River Road (the "Dirt Track"). The first few feet of the Dirt Track traverses the southwest corner of Tax ID/Serial No. R-SFD-5, which is owned by The Amy L. Shima Trust U/A/D May 11, 2005 ("Shima Trust") and which is not a party to the Easement Agreement, and next approximately two hundred feet (200') of the Dirt Track is situated on Jordan's property. After traversing Jordan's property, the Dirt Track next traverses unincorporated property owned by the Bureau of Land Management, followed by the Hirschi Trust property, followed by the Mooney Trust

property, followed by the Hammer Trust property, and followed by the Fatali Trust property where it terminates.

D. Later on March 24, 2009, the Fatali Trust property was conveyed by warranty deed to Scott D. Fleming and Ann K. Fleming, husband and wife as joint tenants, as to an undivided 2/5th interest, Scott Underwood, as to an undivided 1/5th interest, Kristin Edholm, as to an undivided 1/5th interest, and Kenneth Kulas as to an undivided 1/5th interest (collectively the "Fleming Parties"), which instrument of conveyance was recorded as Document 20090010736 in the Washington County Recorder's Office. Following this conveyance, the Fleming Parties became assignees of and successors to the Easement Agreement.

E. On or about January 21, 2011, a portion of the Hammer Trust property was conveyed by warranty deed to K. Brent Cook and Kimberly Sue Cook, Co-Trustees of The Brent and Kimberly Cook Trust U/A/D May 5, 2010, which instrument of conveyance was recorded as Document 20110002190 in the Washington County Recorder's Office. Following this conveyance, K. Brent Cook and Kimberly Sue Cook, Co-Trustees, became assignees of and successors to the Easement Agreement.

F. On or about February 28, 2011, another portion of the Hammer Trust property was conveyed by warranty deed to Hermitage, LLC, a Nevada limited liability company, which instrument of conveyance was recorded as Document 20110006201 in the Washington County Recorder's Office. Following this conveyance, Hermitage, LLC became an assignee of and successor to the Easement Agreement.

G. On or about October 4, 2011, the Fatali Trust property was thereafter conveyed by warranty deed from the Fleming Parties to Luci Francis, Trustee of the William H. Francis, Jr Trust U/A/D October 4, 1985, which instrument of conveyance was recorded as Document 20110030263 in the Washington County Recorder's Office. Following this conveyance, Luci Francis, Trustee, became an assignee and successor to the Easement Agreement.

H. On or about May 21, 2013, Tydon Oler ("Oler") purchased the Hirschi Trust property, specifically parcels R-157-A and R-166, traversed by the Dirt Track, making Oler an assignee of and successor to the Easement Agreement. This conveyance of property from the Hirschi Trust to Oler was by warranty deed recorded as Document 20130019574 in the Washington County Recorder's Office.

I. Some months later, Oler made application to the Town of Rockville for a permit to construct a residence upon the former Hirschi Trust property. In connection with that building permit application process, the Town of Rockville required Oler to have the Dirt Track inspected by the Rockville/Springdale Fire Protection District (the "Fire District") to determine whether in its existing state the Dirt Track was of adequate width and construction for emergency vehicle access. The Fire District initially determined that the Dirt Track was of insufficient width and construction.

J. Thereafter, Oler sought Jordan's support and approval to allow the portion of the Dirt Track on Jordan's property to be widened and improved to meet the requirements imposed by the Fire District. Jordan expressed concerns that Oler's proposed changes to the Dirt Track to meet the requirements imposed by the Fire District would violate the terms of the Easement Agreement and the Town of Rockville's ordinances pertaining to grading, excavation and sensitive lands, and would destabilize and scarify Jordan and Shima's properties. Thereafter, Oler claimed the Easement Agreement was invalid and the Dirt Track was an historic public access/public thoroughfare.

K. On or about April 16, 2014, Oler filed a Complaint in the Fifth Judicial District Court in and for Washington County, Utah (Civil Number 140500221) against Jordan, the Shima Trust, the Mooney Trust, the Hammer Trust and Hermitage, LLC, for declaratory judgment and quiet title, seeking to have Oler's rights and obligations under the Easement Agreement extinguished and the Easement Agreement voided, seeking to have the Dirt Track recognized as an historic public access/public thoroughfare, and seeking a judgment against Jordan for nuisance and injunctive relief. After being served with Oler's Complaint, Jordan filed an Amended Answer and Counterclaim. Jordan's Counterclaim sought judgment against Oler for breaching the terms of the Easement Agreement and for declaratory relief to determine the extent of Oler's obligations under the Easement Agreement. None of the other named defendants in Oler's Complaint have ever been served with process. For the past approximately three years, Oler and Jordan have been litigating their respective claims against each other (the "Lawsuit").

L. On or about January 27, 2017, the Fatali Trist property was thereafter conveyed by warranty deed from Luci Francis, Trustee of the William H. Francis, Jr. Trust U/A/D October 4, 1985, to Luci Francis, Trustee of the Luci Francis Trust U/A/D August 27, 2008, which instrument of conveyance was recorded as Document 2017003784 in the Washington County Recorder's Office. Following this conveyance, Luci Francis, Trustee, became an assignee and successor to the Easement Agreement.

M. Oler and Jordan have now settled the Lawsuit. Among specific settlement terms of their settlement agreement, Oler has agreed to pay Jordan a specific sum of money, and Jordan has agreed to convey the following portion of Jordan's property to Oler. After this conveyance of property, Jordan will no longer own any portion of the Dirt Track; instead, the portion of the Dirt Track formerly owned by Jordan will be owned entirely by Oler.

BEGINNING AT THE NORTHEAST CORNER OF SECTION 12, TOWNSHIP 42 SOUTH, RANGE 11 WEST, OF THE SALT LAKE BASE AND MERIDIAN; THENCE S00°01'50"W, ALONG THE SECTION LINE, 78.59 FEET; THENCE DEPARTING SAID LINE AND RUNNING N87°06'09"W, 230.52 FEET; THENCE N00°00'00"E, 55.40 FEET TO A POINT LOCATED 2.00 FEET SOUTHERLY AND PERPENDICULAR TO THE SOUTHERLY LINE OF AN EXISTING 13.00 FOOT WIDE ACCESS EASEMENT, DOCUMENT NO.

20090010734, ON FILE IN THE OFFICE OF THE WASHINGTON COUNTY RECORDER; THENCE N76°59'27"W, AND PARALLEL TO SAID LINE, 52.78 FEET TO A POINT LOCATED ON THE SOUTH LINE OF RIVER ROAD (SUTTON PLACE). SAID POINT ALSO BEING LOCATED ON THE NORTH LINE OF SAID SECTION 12; THENCE S89°55'50"E, ALONG SAID RIVER ROAD AND ALONG THE SECTION LINE, 281.69 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH ALL IMPROVEMENTS AND APPURTENANCES THEREUNTO BELONGING, AND SUBJECT TO EASEMENTS, RIGHTS OF WAY, RESTRICTIONS, AND RESERVATIONS OF RECORD AND THOSE ENFORCEABLE IN LAW AND EQUITY.

CONTAINING 0.39 ACRES.

N. Section 10 of the Easement Agreement, entitled "Successors and Assigns," states, in pertinent part, as follows: "This Agreement shall apply to, inure to the benefit of, and bind the parties hereto, and their transferees, assigns, grantees, heirs, personal representatives . . . [and] such future owner shall automatically be deemed to have assumed and agreed to be personally bound by, and shall be bound by, the covenants, agreements, and obligations of such Owner contained in this Agreement."

NOW THEREFORE, in consideration of the mutual promises and covenants of the parties set forth in this Assignment as well as the Easement Agreement, the parties agree as follows:

ASSIGNMENT


1. **Jordan's Transfer and Assignment of All Right, Title, Interest and Obligations under the Easement Agreement to Oler.** Jordan hereby conveys, grants, transfers and assigns to Oler, and Oler hereby accepts and receives from Jordan, all of Jordan's right, title, interest and obligations in and to the Easement Agreement. Oler acknowledges that all of Jordan's former obligations under the Easement Agreement are now binding upon Oler and Oler's successors and assigns.

2. **Oler's Indemnity of Jordan.** Oler hereby agrees to indemnify, defend and hold harmless Jordan from any and all claims from any and all persons or entities arising after the Effective Date set forth above from or in connection with any right, title, interest or obligation transferred and assigned to Oler under this Assignment and otherwise set forth within the Easement Agreement.

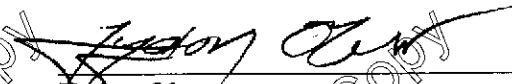
[Signatures on following page]

DATED effective as of the 17 day of August, 2017.

JORDAN:


Russell Coburn Jordan, Jr.
As Assigner

OLER:


Lydon Oler
As Assignee


Brittany Oler
As Assignee

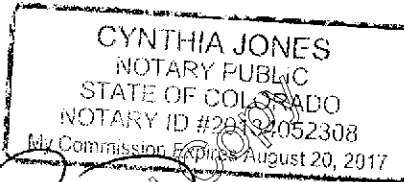
STATE OF COLORADO


COUNTY OF DELTA

): ss

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On this 17 day of August, 2017, before me personally appeared Russell Coburn Jordan, Jr., the signer of the foregoing instrument, who duly acknowledged before me that he executed the same for the uses and purposes set forth herein.

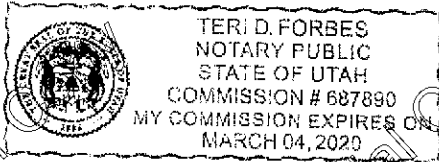



NOTARY PUBLIC

STATE OF UTAH)

COUNTY OF WASHINGTON) ss

On this 23rd day of August, 2017, before me personally appeared Tydon Oler and Brittany Oler, signers of the foregoing instrument, who duly acknowledged before me that they executed the same for the uses and purposes set forth herein.



Teri D. Forbes
NOTARY PUBLIC