



Recorded at the request of:

Cole West Land, LLC
c/o Matthew J. Ence
SNOW JENSEN & REECE, PC
912 West 1600 South, Ste. B200
St. George, UT 84770

Parcel Nos.: W-4-2-6-323

ROADWAY AND UTILITY EASEMENT AGREEMENT

This Roadway and Utility Easement Agreement (“Agreement”) is made and entered into this 31st day of August, 2021, by and between COLE WEST LAND, LLC (“Cole West”), and KATHIE BINGHAM TRUST (hereafter “Grantor”), and their successors and assigns. Cole West and Grantor are collectively referred to as the “Parties.”

Recitals

A. Cole West controls, through a development lease with the State of Utah School and Institutional Trust Lands Administration (“SITLA”), certain real property located within the Coral Canyon master planned community and designated for future development (hereafter “Coral Canyon Property”) in Washington City, Washington County, State of Utah, and as more particularly described in **Exhibit “A”** attached and incorporated with this reference, and Grantor owns or controls fee simple title to real property adjacent or near the Coral Canyon Property in Washington City, Washington County, State of Utah (hereafter the “Grantor Property”) and as more particularly described in **Exhibit “B”** attached and incorporated with this reference;

B. Grantor is willing to encumber the Grantor Property with a fifty foot (50’) wide easement for ingress to the Coral Canyon Property from existing public roadways. And egress from the Coral Canyon Property to existing public roadways, for the benefit of Cole West and others claiming under or through SITLA, and for all regular or typical public utility services which may be installed in a public roadway (hereafter, the “Easement”), the intent of which Easement is ultimately to dedicate the same as a public roadway at some point in the future if required by Washington City;

C. The Easement is intended by the parties to provide secondary access to public roadways and secondary utility connectivity to both the Coral Canyon Property and the Grantor Property; and

D. The Parties hereby desire to define the scope of the Easement and identify their respective obligations with respect to the same, as set forth herein.

NOW THEREFORE, in consideration of the Recitals which are an integral part of this Agreement, the sum of Ten Dollars (\$10.00) in hand paid by Cole West to Grantor, and of the promised contained in this Agreement and the mutual benefits accruing to each of the Parties, their successors and assigns, the Parties declare and agree as follows:

1. **Recitals Incorporated.** The foregoing Recitals are acknowledged by the parties to be accurate and complete and are hereby incorporated as binding provisions of this Agreement.

2. **Grant of Easement.** Until a public road satisfying the purposes of the Easement as described in this Agreement is dedicated to Washington City, Grantor grants to Cole West, SITLA, and their respective tenants, licensees, invitees, employees, agents, successors and assigns, including subsequent purchasers of the Coral Canyon Property and the purchasers or owners of any lots or parcels therein, and to provide for the construction and use of a fifty foot (50') wide right-of-way easement for ingress and egress for vehicular and pedestrian traffic, and for all public utilities, including for road construction purposes in the easement area, on, over, upon, across or through the Grantor Property. The legal description of the Easement upon the Grantor Property is more particularly set forth in Exhibit "C" and incorporated herein with this reference.

3. **Construction of Improvements to Easement.** Cole West or its successors or assigns may construct improvements upon the Easement as may be required from time to time by Washington City, and such improvements may include but may not be limited to preparation and installation of an all-weather driving surface; asphalt pavement; curb, gutter, and sidewalk; storm water management improvements; underground or above ground public utilities; streetlights; and any other improvements as may be reasonable or typical in a roadway of similar scope. Any improvements shall be made in a good and workmanlike manner, and in such dimensions and to such specifications as needed to satisfy all regulatory and land-use requirements of Washington City and any other authority with jurisdiction. Improvements upon the Easement may commence at any time following the recording of this Agreement. Nothing herein shall be interpreted as creating any obligations for Cole West or any of its successors or assigns to actually install or construct any particular improvements upon the Easement, or establish a responsibility of any party to bear the costs of such improvement.

4. **Non-exclusivity; Relocation at Grantor's Sole Expense.** The easement granted under this agreement is non-exclusive and Grantor reserves the right to issue other non-exclusive easements, leases, or permits on or across the Easement where such uses are appropriate and compatible with the use by Cole West and its successors, with the express condition that all other such grants shall be consistent with the potential dedication of the Easement as a public roadway when the same may be required by Washington City, and by accepting such grant or grants the grantees of the same shall be deemed to consent to such dedication.

5. **Right to Relocate.** If Grantor, or its assigns, with the advance written consent of Washington City or other authorities with jurisdiction, constructs reasonable and comparable alternative improved roadway to replace the Easement, Grantor shall have the right, upon completion of full-width improvements to the alternative roadway and replication therein of any utility lines or connections existing in the Easement, to terminate the Easement granted pursuant to this Agreement and remove any and all improvements made to the Easement at the Grantor's sole expense, to accommodate Grantor's use or future development of the Easement or adjoining lands. To the extent necessary, Cole West or its successors shall cooperate with any reasonable steps requested by Grantor to vacate or abandon the Easement in order to accommodate the realignment. If the alternative roadway is not dedicated to Washington City for the use of the public, then it and its construction shall be subject to this Agreement and Grantor shall grant to

Cole West or its successors and assigns and record an easement relating to the alternate road consistent with the Easement under this Agreement, except that all costs of maintenance, insurance, or other expenses of use of this alternate roadway shall be the sole responsibility of Grantor until the alternate road is dedicated and accepted as a public road.

6. Maintenance of Roadway. Until such time as such functions are assumed by the appropriate governmental authorities and the road is dedicated and accepted as a public road, Cole West or its respective successors and assigns to the Coral Canyon Property shall maintain and keep in good repair the improvements to the Easement and shall provide adequate drainage and lighting on it to the extent required by applicable codes.

7. Protection of Grantor Property from Liens and Claims. Cole West, or whichever of Cole West's successors or assigns pursue construction of improvements upon the Easement (hereafter the "Constructing Party"), shall not suffer or permit to be enforced against the Easement area or any part of it, and shall indemnify and hold Grantor harmless from (i) any mechanics, materialman's, contractor's, or subcontractor's liens arising from the construction, and (ii) any claim for damage growing out of the work of, any construction, repair, restoration, replacement, or improvement done by or on behalf of the Constructing Party on the Easement area. The Constructing Party shall pay or cause to be paid all of such liens, claims, or demands before any action is brought to enforce the same against the Easement area. If the Constructing Party shall in good faith contest the validity of any such lien, claim, or demand, then the Constructing Party shall, at its expense, defend itself and the other Party and any successors of them against the same and shall pay and satisfy any adverse judgement that may be rendered, and in the event of any such contest, the Constructing Party shall at the request of the other Party provide such security and take such steps as may be required by law to release the Easement area from the effect of such lien.

8. Responsibility Passes to Buyer or Transferee upon Sale or Transfer. On any sale or transfer of the entirety of the Coral Canyon Property, Cole West or its successors shall notify the Buyer or any Transferee of their obligations under this Agreement, and upon conveyance of the Coral Canyon Property to the Buyer or Transferee, Cole West shall have no further responsibility for any obligation under this Agreement and Grantor shall look solely to Cole West's successor(s) in interest for any recourse.

9. Dedication of Easement for Benefit of the Public. The Parties covenant, for themselves and their successors and assigns, that if at any time in the future Washington City requires or requests dedication of the Easement or any part thereof as a public roadway, the Parties shall cooperate in the preparation, execution and recording of a roadway dedication plat or other such instruments as may be required by Washington City. The cost of preparation of such dedication plat or other instruments, and of obtaining review and approval of the same by Washington City, shall be borne by the party seeking such approvals from the City as trigger the requirement or request for dedication.

10. Integration and Severability. This Agreement contains the entire understanding of the Parties with respect to subject matter. If any clause, sentence or other portion of the terms, conditions, covenants and restrictions of this Agreement shall be declared illegal, null, or void for

conditions, covenants and restrictions of this Agreement shall be declared illegal, null, or void for any reason, the remaining terms, conditions, covenants, and restrictions of this Agreement shall remain in full force and effect.

11. **Covenants Running with the Land.** This Agreement shall be acknowledged and accepted by SITLA as the title owner of the Coral Canyon property, and shall be filed for record in the office of the Recorder for Washington County, State of Utah. The rights and easement granted by this Agreement and the obligations contained herein shall be easements and covenants running with the land and shall inure to the benefit of and be binding upon, the Parties and their respective successors and assigns as to each parcel of real property subject to this Agreement including, without limitation, all subsequent owners of the Grantor Property or any property over which the easement runs, and all subsequent owners of the Coral Canyon Property and all persons claiming under them, and the road shall be for the benefit of any persons with any right, title, or interest of any kind of any interest in the Coral Canyon Property, and also shall be for the benefit of Washington City, Utah.

12. **Acknowledgment of Cole West Development Lease; Release and Indemnification of SITLA.** Cole West or its affiliated entities (collectively, "Cole West"), have contracted to purchase, under certain conditions set forth in a development lease, the Coral Canyon Property which will benefit from the Easement. The rights and duties of Cole West or its successors or assigns under the development lease remain in place and are not modified by this Agreement. Pursuant to the development lease, Cole West shall exonerate, indemnify, and hold harmless SITLA from and against any liability with respect to this Agreement whether incurred before or after the closing of the purchase of any portion of the Coral Canyon Property.

13. **Enforcement.** This instrument may be enforced by any party to it or a successor in interest to any such party or by Washington City as a third-party beneficiary. All remedies allowed at law or in equity shall be available to an enforcing party. In the case of any action to enforce this instrument or any of its terms, the prevailing party shall be entitled to an award of all costs of enforcement including reasonable attorney's fees. The courts of the State of Utah in Washington County shall have and retain exclusive jurisdiction over any dispute, controversy, or claim arising out of or in connection with this Agreement, or the breach, termination, or validity of it, including any such matter brought by any successor in interest to any of the Parties.

The Parties have executed this Agreement the day and year first above written.

GRANTOR:

COLE WEST:
Cole West Land, LLC

By: *Kathie Bingham*
Print Name: KATHIE BINGHAM
Title: TRUSTEE

By: *Chris Winter*
Print Name: Chris Winter
Title: Authorized Agent



Exhibit "A"

Beginning at a point on the center section line, said point being North 89°01'15" West 5.82 feet along the section line and North 257.56 feet from the North Quarter Corner of Section 7, Township 42 South, Range 14 West, Salt Lake Base & Meridian, and running;

thence South 01°17'40" East 88.50 feet along said center section line;

thence North 47°46'11" West 82.45 feet;

thence North 58°39'14" West 19.24 feet;

thence Northwest 126.22 feet along an arc of a 415.00 foot radius curve to the left (center bears South 31°20'46" West, long chord bears North 67°22'01" West 125.73 feet with a central angle of 17°25'34");

thence North 76°04'48" West 96.07 feet;

thence West 48.41 feet along an arc of a 535.00 foot radius curve to the right (center bears North 13°55'12" East, long chord bears North 73°29'16" West 48.39 feet with a central angle of 05°11'04");

thence North 01°17'40" West 53.73 feet;

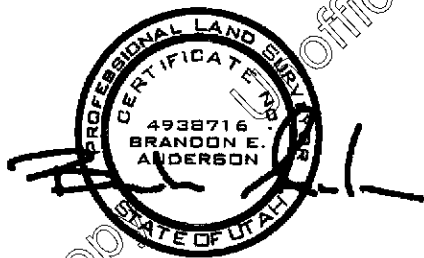
thence East 62.62 feet along an arc of a 485.00 foot radius curve to the left (center bears North 21°19'03" East, long chord bears South 72°22'52" East 62.58 feet with a central angle of 07°23'51");

thence South 76°04'48" East 96.07 feet;

thence East 88.82 feet along an arc of a 465.00 foot radius curve to the right (center bears South 13°55'12" West, long chord bears South 70°36'29" East 88.69 feet with a central angle of 10°56'39");

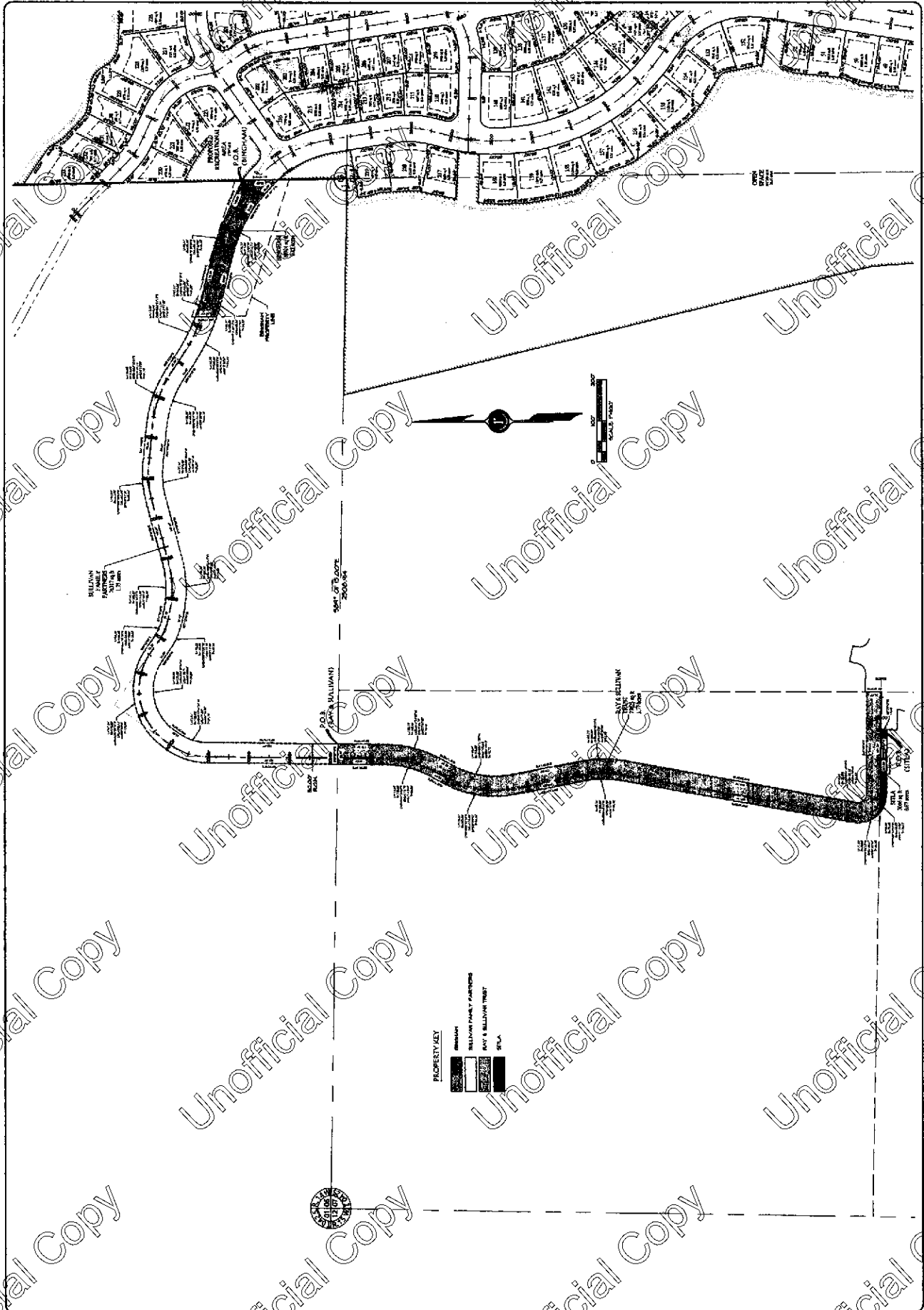
thence South 65°08'09" East 105.65 feet to the Point of Beginning.

Containing 18,924 square feet or 0.43 acres.



June 24, 2021

ROSENBERG ASSOCIATES CIVIL ENGINEERS & LAND SURVEYORS
SOLIS AT CORRAL CANYON FOR ACCESS ROAD - 50' RIGHT-OF-WAY EXHIBIT
WASHINGTON, UTAH
1 OF 7 SHEETS



PROPERTY KEY

[Thick dark line]	PROPOSED ACCESS ROAD
[Thin solid line]	PROPERTY BOUNDARY
[Dashed line]	EASEMENT
[Dotted line]	SETBACK



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