

WHEN RECORDED, MAIL TO:

William O. Perry, Esq.  
Perry Development, LLC  
17 E. Winchester St., Ste. 200  
Murray, UT 84107

PERPETUAL NON-EXCLUSIVE EASEMENT AGREEMENT  
(Utah County Tax Parcel Numbers: 66:529:0101 and 11:031:0152)

This Easement Agreement (**Agreement**) is entered into by and between **Perry Development, LLC**, a Utah limited liability company (**Perry**), and **Towns of Traverse Mountain, LLC**, a Utah limited liability company (**Towns**). Perry is the owner of a certain parcel of real property located in Utah County, Utah, known as Parcel No. 11:031:0152 and described on Exhibit A, attached hereto (the **Perry Property**). Towns is the owner of a certain parcel of real property located in Utah County, Utah, known as Parcel No. 66:529:0101 and described on Exhibit B, attached hereto (the **Towns Property**). The Perry Property and Towns Property are located within residential subdivisions in Lehi, Utah, known as La Ringhiera (**La Ringhiera Subdivision**) and the Seasons Townhomes (**Seasons Townhomes Subdivision**), respectively, to be constructed pursuant to the Traverse Mountain Area Plan (**Subdivisions**). Towns has agreed to grant to Perry certain easements and rights that will be beneficial in the development of the La Ringhiera Subdivision, as set forth below.

NOW THEREFORE, for good and valuable consideration, the sufficiency and receipt of which is acknowledged, Perry and Towns do hereby covenant and agree, and Towns hereby grants to Perry easements, as follows:

- A. Towns does hereby grant the following easements, rights, and privileges to Perry, its successors, and assigns: Perpetual, non-exclusive use of that portion of the Towns Property described on Exhibit C hereto (**Easement Parcel**) (a plan showing the location of the Easement Parcel is attached as Exhibit D for illustrative purposes) to enter upon the Easement Parcel and construct and install, as reasonably necessary, certain grades and slopes for the benefit of the Perry Property which is a part of the Subdivision (which Perry agrees to reseed following the initial and any subsequent disturbance and maintain in a first class manner, in perpetuity and without cost to Towns), provided that (i) any such grades and slopes shall meet the requirements of and are approved by Lehi City, (ii) any retaining walls needed for the benefit of the Perry Property shall be constructed on the Perry Property, and no retaining walls shall be constructed by Perry on the Towns Property or the Easement Parcel, (iii) such grades and slopes do not unreasonably interfere with the uses that can be made by Towns of the remaining portions of the Towns Property, including, without limitation, Towns ability to have an acceptable access in this area, and (iv) provided such use is lawful, in accordance with all Lehi City ordinances, rules, and

regulations, and is consistent with residential development as outlined in the Traverse Mountain Area Plan (**Easement**). Notwithstanding the foregoing, Perry and Towns expressly agree that the use by Perry of the Easement Parcel for the construction and installation of certain grades and slopes in accordance herewith and approved by Lehi City shall not be deemed to unreasonably interfere with the uses that can be made by Towns of the remaining portions of the Towns Property, including, without limitation, Towns ability to have an acceptable access in this area.

- B. The Easement granted herein shall be limited to those uses which are consistent with residential development as outlined in the Traverse Mountain Area Plan and Perry's use of the Easement Parcel shall be specifically limited to use as a graded slope to support the reasonable development of Perry's adjacent property which is a part of the Subdivisions. Perry covenants and agrees to indemnify Towns for any losses or damage caused by any use of the Easement.
- C. The Easement granted hereunder is non-exclusive. Towns shall be free to use the Easement Parcel in any manner it may determine, in its sole and absolute discretion, and without notice to or consent from Perry, so long as such use is not inconsistent with the rights granted to Perry hereunder. Following Perry's initial construction and installation of the grade and slopes on the Easement Parcel to support Perry's portion of the Subdivision (including the support of a roadway constructed on Perry's property), Towns shall be permitted thereafter, if and as it deems necessary, to alter or change the slopes or the grades and to construct, install, and maintain retaining walls or other features on the Easement Parcel, at its own cost, so long as such improvements do not negatively impact, weaken or undermine the improvements installed by Perry on its portion of the Subdivisions that are supported by the grades and slopes installed by Perry on the Easement Parcel. If Towns (or any of their employees, agents, officers or contractors) causes any damage, or materially impacts or interferes with the uses, slopes, and grades (if such are expressly permitted hereunder) properly created or constructed on the Easement Parcel by Perry, Towns shall promptly repair the same and restore the same to the condition that existed prior to such damage or interference, at its cost. Such obligation shall include, without limitation, complying with all engineering, design, and other approvals that may be required by the City of Lehi to ensure the structural integrity and safety of the repair and restoration work.
- D. To the fullest extent allowed under law, Towns disclaims any representations or warranties, express or implied, regarding the physical condition of, or any other matter relating to the Easement Parcel and the Easement Parcel is being transferred "as is" and "where is" with all faults, liabilities, and limitations appurtenant thereto.

- E. Prior to commencement of any work upon the Easement Parcel, Perry or the owner of the Perry Property, as applicable, shall procure commercial general liability insurance insuring Perry and its contractors against any liability arising out of or in connection with any work on the Easement Parcel and all areas appurtenant thereto, in an amount of \$2,000,000.00.
- F. In the event that the use of this Easement by Perry causes any damage or harm to the surface or subsurface areas of the Easement Parcel that is not contemplated by the improvements Perry is permitted to make on the Easement Parcel pursuant to this Agreement, or to the Towns Property, then Perry shall have a duty to repair and restore such areas to place them in a comparable condition as they were found at the commencement of any work done by Perry, its agents, contractors and representatives, or the condition as they were found at the time the damage or harm was incurred or discovered,. If Perry fails to restore such areas within thirty (30) days after receipt of written demand by Towns, Towns shall have the right to restore such areas and to charge Perry for the cost of repair. Interest shall accrue at the rate of ten percent (10%) per annum on any sums expended by Towns to restore the Easement Parcel or Towns Property disturbed by Perry, and Perry shall pay such interest charges in addition to the costs of restoration.
- G. Perry shall indemnify and hold Towns harmless from and against any and all damages, demands, claims, losses, liabilities, injuries, penalties, fines, liens, judgments, suits, actions, investigations, proceedings, costs or expenses whatsoever (including, without limitation, reasonable attorney and expert fees and costs) arising out of or relating to any physical harm, physical damage or personal injury or death caused by entry on the Easement Parcel by Perry or its invitees, guests, agents, employees or contractors in the course of utilizing the Easement Parcel or performing any work on the Easement Parcel for any purpose, except to the extent caused by the negligence or misconduct of Towns or its invitees, guests, agents, employees or contractors. Without limiting the generality of the foregoing indemnity, Perry shall remove any mechanic's or other liens which may be recorded against the Towns Property by any party providing labor, materials or services at the request of Perry.
- H. The Easement and associated rights established, granted, and conveyed by this Agreement are not intended to confer any benefit or right upon the general public.
- I. Each of the parties agree that it will execute any and all other documents or legal instruments that may be necessary or required to carry out and effectuate all of the provisions hereof.
- J. This Agreement, and all matters relating hereto, including any matter or dispute arising out of the Agreement, shall be interpreted, governed, and

enforced according to the laws of the State of Utah, and the parties hereto consent to the jurisdiction of any appropriate court in the State of Utah, Utah County, to resolve such disputes.

- K. In the event that any provision of this Agreement, or any operation contemplated hereunder, is found by a court of competent jurisdiction to be inconsistent with or contrary to any law, ordinance, or regulation, the latter shall be deemed to control and the Agreement shall be regarded as modified accordingly and, in any event, the remainder of this Agreement shall continue in full force and effect.
- L. In the event that either party is in default of their duties and obligations under this Agreement, such defaulting party shall be liable to the non-defaulting party for all of its costs, damages, and expenses, including a reasonable attorney fee and court costs, in enforcing its rights hereunder.
- M. In any legal action to enforce the rights granted to the parties under this Agreement, either party may, in addition to any other rights or remedies it may have at law or in equity, seek the remedy of specific performance to enforce the various duties and obligations arising under this Agreement. Each right and remedy provided in this Agreement is distinct from all other rights or remedies under this Agreement, and each shall be cumulative and may be exercised concurrently, independently, or successively, in any order.
- N. Each individual executing this Agreement hereby represents and warrants to each person so signing (and to each other entity for which another person may be signing) that he or she has been duly authorized to execute and deliver this Agreement in the capacity of the person or entity set forth for which he or she signs.

Except as may be provided herein, this instrument, and the easement granted herein, may not be terminated, modified or amended without the written consent of both parties, or their successors or assigns, and any such termination, modification or amendment will only be effective upon recordation in the official records of the Utah County recorder's office.

This instrument, and the easement granted herein, shall run with the land, and bind that portion of the Towns Property upon which the Easement Parcel sits, and shall be binding upon and inure to the benefit of the parties hereto and their successors in interest and assigns, and such successors in interest and assigns shall take title subject to this Easement. Conveyance of title to any portion of the Perry Property or the Towns Property shall not affect the enforceability of this Easement against any future owner of such property. The rights, conditions, obligations and provisions of this Agreement shall inure to the benefit of, and shall be binding upon, Towns and Perry and their respective successors and assigns.

*[Signature Page Follows.]*

IN WITNESS WHEREOF, the undersigned have executed this instrument this 4 day of ~~February~~ <sup>MARCH</sup>, 2017.

**PERRY DEVELOPMENT, LLC,**

By: [Signature]  
Printed Name: WILLIAM O. PERRY IV  
Title: MANAGER

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

The foregoing instrument was acknowledged before me this 4 day of MARCH, 2017, by William O. Perry, IV, in his capacity as Manager of Perry Development, LLC, a Utah limited liability company.

[Signature]  
Notary Public



**TOWNS OF TRAVERSE MOUNTAIN, LLC,** a Utah limited liability company

By: **PW MANAGEMENT, LLC,** a Utah limited liability company, its Manager

By: [Signature]  
Printed Name: Paul Willie  
Title: Manager

STATE OF UTAH )  
: ss.  
COUNTY OF Cache )

The foregoing instrument was acknowledged before me this 7 day of March, 2017, by Paul Willie, in his/her capacity as Manager of PW Management, LLC, a Utah limited liability company, which entity is the Manager of Towns of Traverse Mountain, LLC, a Utah limited liability company.



[Signature]  
Notary Public

SEAL:

EXHIBIT A

APN 11:031:0152 (La Ringhiera)

Beginning at a point which is West 2093.17 feet and North 1826.15 feet from the Southeast Corner of Section 30, Township 4 South, Range 1 East, Salt Lake Base and Meridian; which point is also on the Northerly Right-of-Way line of Morning Glory Road and running thence along said Northerly line the following (8) courses; (1) thence North 53°05'54" West a distance of 235.39 feet to a point of curvature; (2) thence along an arc 133.57 feet to the right, having a radius of 468.00 feet, a central angle of 16°21'09" the chord of which is North 44°55'20" West for a distance of 133.12 feet; (3) thence North 36°44'45" West a distance of 274.73 feet to a point of curvature; (4) thence along an arc 48.10 feet to the right, having a radius of 218.00 feet, a central angle of 12°38'28", the chord of which is North 30°25'31" West for a distance of 48.00 feet; (5) thence North 24°06'16" West a distance of 166.08 feet to a point of curvature; (6) thence along an arc 184.22 feet to the right, having a radius of 968.00 feet, a central angle of 10°54'14", the chord of which is North 18°39'09" West for a distance of 183.94 feet; (7) thence North 13°12'03" West a distance of 225.76 feet to a point of curvature; (8) thence along an arc 30.72 feet to the right, having a radius of 968.00 feet, a central angle of 1°49'07", the chord of which is North 12°17'30" West for a distance of 30.72 feet; thence North 66°41'20" East a distance of 128.54 feet; thence North 18°39'02" East a distance of 72.56 feet; thence North 32°53'13" East a distance of 106.09 feet; thence North 43°05'28" East a distance of 82.07 feet; thence North 89°14'43" East a distance of 128.65 feet; thence North 10°14'39" West a distance of 45.24 feet to a point of curvature; thence along an arc 136.83 feet to the right, having a radius of 128.50 feet, a central angle of 61°00'28", the chord of which is North 20°15'35" East for a distance of 130.45 feet; thence North 50°45'49" East a distance of 61.75 feet, to a point of curvature; thence along an arc 146.67 feet to the left, having a radius of 271.50 feet, a central angle of 30°57'08", the chord of which is North 35°17'14" East for a distance of 144.89 feet; thence along said Southerly line the following (2) courses; (1) thence along an arc 332.20 feet to the left, having a radius of 344.00 feet, a central angle of 55°19'47", the chord of which is North 78°09'02" East for a distance of 319.44 feet to a point of continued curvature; (2) thence along an arc 95.93 feet to the left, having a radius of 252.00 feet, a central angle of 21°48'37", the chord of which is North 39°34'50" East for a distance of 95.35 feet; thence North 66°57'42" East a distance of 170.19 feet; thence North 52°30'27" East a distance of 114.75 feet; thence North 77°06'24" East a distance of 168.45 feet; thence South 67°43'08" East a distance of 189.07 feet to a point of curvature; thence along an arc 72.95 feet to the left, having a radius of 354.62 feet, a central angle of 11°47'11", the chord of which is South 15°52'20" East for a distance of 72.82 feet; thence South 84°36'06" West a distance of 183.59 feet; thence South 83°40'00" West a distance of 98.01 feet; thence South 49°03'12" West a distance of 246.57 feet; thence South 6°44'58" West a distance of 194.29 feet; thence South 28°42'26" East a distance of 259.90 feet; thence South 66°01'09" West a distance of 96.88 feet; thence South 84°08'20" West a distance of 77.69 feet; thence South 44°34'04" West a distance of 136.73 feet; thence South 45°49'30" East a distance of 167.90 feet; thence South 88°26'44" East a distance of 15.63 feet to a point of curvature; thence along an arc 71.86 feet to the left, having a radius of 67.00 feet, a central angle of 61°27'07", the chord of which is South 49°50'41" East for a distance of 68.46 feet; thence South 14°56'03" West a distance of 17.63 feet; thence South 45°49'30" East a distance of 173.91 feet; thence North 76°18'37" East a distance of 38.90 feet; thence North 41°32'12" East a distance of 69.05 feet to a point of curvature; thence along an arc 226.63 feet to the left, having a radius of 237.50 feet, a central angle of 54°40'24", the chord of which is South 68°03'38" East for a distance of 218.13 feet; thence North 84°36'06" East a distance of 59.80 feet to a point of curvature; thence along an arc 14.28 feet to the right, having a radius of 8.00 feet, a central angle of 102°16'23", the chord of which is South 44°15'43" East for a distance of 12.46 feet to a point of continued curvature; thence along an arc 80.23 feet

to the right, having a radius of 222.50 feet, a central angle of 20°39'36", the chord of which is South 17°12'17" West for a distance of 79.80 feet; thence South 27°31'40" West a distance of 304.03 feet to a point of curvature; thence along an arc 405.90 feet to the left, having a radius of 207.50 feet, a central angle of 112°04'44", the chord of which is South 28°30'42" East for a distance of 344.21 feet; thence South 84°33'06" East a distance of 25.17 feet to a point of curvature; thence along an arc 15.04 feet to the left, having a radius of 207.50 feet, a central angle of 4°09'10", the chord of which is South 86°37'41" East for a distance of 15.04 feet; thence South 51°37'31" West a distance of 46.13 feet; thence South 11°40'46" West a distance of 127.51 feet; thence South 36°51'42" East a distance of 23.60 feet to a point of curvature; thence along an arc 92.12 feet to the left, having a radius of 67.00 feet, a central angle of 78°46'39", the chord of which is South 41°34'47" West for a distance of 85.03 feet; thence South 79°31'13" West a distance of 61.19 feet; thence South 4°03'33" East a distance of 200.50 feet to a point of curvature; thence along an arc 7.76 feet to the right, having a radius of 187.00 feet, a central angle of 2°22'39", the chord of which is South 75°43'16" West for a distance of 7.76 feet; thence South 76°54'38" West a distance of 52.99 feet to a point of curvature; thence along an arc 34.94 feet to the right, having a radius of 187.00 feet, a central angle of 10°42'20", the chord of which is South 82°15'48" West for a distance of 34.89 feet to a point of continued curvature; thence along an arc 73.95 feet to the right, having a radius of 375.00 feet, a central angle of 11°17'55", the chord of which is North 86°44'05" West for a distance of 73.83 feet to a point of curvature; thence along an arc 37.48 feet to the right, having a radius of 90.00 feet, a central angle of 23°51'38", the chord of which is North 69°09'18" West for a distance of 37.21 feet; thence North 57°13'35" West a distance of 29.54 feet to a point of curvature; thence along an arc 19.99 feet to the left, having a radius of 111.00 feet, a central angle of 10°19'06", the chord of which is North 62°23'08" West for a distance of 19.96 feet; thence North 67°32'39" West a distance of 7.48 feet to a point of curvature; thence along an arc 15.17 feet to the left, having a radius of 111.00 feet, a central angle of 7°49'50", the chord of which is North 71°27'34" West for a distance of 15.16 feet; thence North 75°22'30" West a distance of 39.18 feet to a point of curvature; thence along an arc 35.29 feet to the right, having a radius of 90.00 feet, a central angle of 22°27'59", the chord of which is North 64°08'31" West for a distance of 35.06 feet; thence along an arc 23.02 feet to the right, having a radius of 375.00 feet, a central angle of 3°31'02", the chord of which is North 51°09'00" West for a distance of 11.51 feet; thence North 49°23'23" West a distance of 183.36 feet to a point of curvature; thence along an arc 87.08 feet to the right, having a radius of 275.00 feet, a central angle of 18°08'35", the chord of which is North 40°19'06" West for a distance of 86.72 feet; thence North 31°14'45" West a distance of 55.41 feet to a point of curvature; thence along an arc 220.75 feet to the left, having a radius of 125.00 feet, a central angle of 101°11'04", the chord of which is North 81°50'17" West for a distance of 193.16 feet to a point of reverse curvature; thence along an arc 10.46 feet to the right, having a radius of 11.00 feet, a central angle of 54°29'02", the chord of which is South 74°48'43" West for a distance of 10.07 feet; thence North 53°05'54" West a distance of 25.85 feet; thence South 36°54'17" West a distance of 7.00 feet to the point of beginning.

Less and excepting:

Beginning at a point of curvature on the Perry Warranty Deed Entry No. 44592:2008 on file at the Utah County Recorder's office which point is also West 1992.41 feet and North 3498.71 feet from the Southeast Corner of Section 30, Township 4 South, Range 1 East, Salt Lake Base and Meridian; thence along the arc of a 344.00 foot radius curve to the left 102.40 feet through a central angle of 17°03'21", the chord of which bears North 62°44'43" East 102.03 feet; thence leaving said warranty deed South 15°57'27" West 41.21 feet; thence South 17°01'15" East 134.56 feet; thence South 0°39'48" East 68.97 feet; thence South 32°16'30" East 84.86 feet; thence South 12°00'01" East 81.28 feet; thence South 50°54'15" West 39.61 feet; thence South 22°11'05" West



183.77 feet; thence South 20°50'51" East 151.02 feet; thence South 53°02'59" East 107.05 feet; thence South 26°12'42" East 125.69 feet; thence South 80°09'45" West 164.78 feet; thence South 33°06'35" East 249.64 feet; thence South 37°06'49" West 130.61 feet; thence South 51°32'16" West 93.55 feet; thence South 86°09'13" West 202.75 feet; thence North 60°31'17" West 61.30 feet; thence North 19°03'42" West 360.00 feet; thence North 45°00'00" East 454.15 feet; thence North 20°06'07" East 168.33 feet; thence North 18°47'34" West 94.81 feet; thence North 53°30'59" West 75.99 feet; thence North 74°55'30" West 84.78 feet; thence North 45°48'43" West 27.46 feet; thence North 35°37'56" East 255.61 feet; thence North 59°46'52" West 69.30 feet to the point of beginning.

Also, less and excepting:

Beginning at a point which is West 1381.56 feet and North 1621.74 feet from the Southeast Corner of Section 30, Township 4 South, Range 1 East, Salt Lake Base and Meridian; thence North 74°55'12" West 174.44 feet; thence North 6°40'07" West 233.41 feet; thence North 43°57'51" East 142.86 feet; thence North 22°57'36" East 109.37 feet; thence North 0°52'26" East 114.72 feet; thence North 40°21'39" East 89.43 feet; thence South 17°16'06" East 71.54 feet to a point of curvature on the Perry Warranty Deed Entry No. 44592:2008 on file at the Utah County Recorder's office; along said warranty deed and the arc of a 207.50 foot radius curve to the left 177.51 feet through a central angle of 49°00'49", the chord of which bears South 3°57'05" East 172.14 feet; thence leaving said Warranty Deed South 18°50'12" W 94.00 feet; thence South 1°29'33" West 334.71 feet to the point of beginning.

EXHIBIT B

APN 66:529:0101 (Towns of Traverse Mountain, LLC)

LOT 101, PLAT A, SEASONS TOWNS SUBDIVISION, according to the official plat thereof,  
as recorded in the office of the Utah County Recorder, State of Utah.

EXHIBIT C

## (Legal Description of Easement Parcel)

**GRADING EASEMENT**

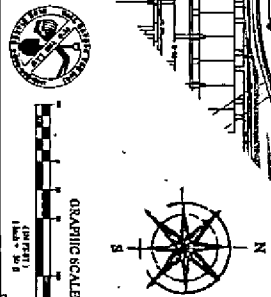
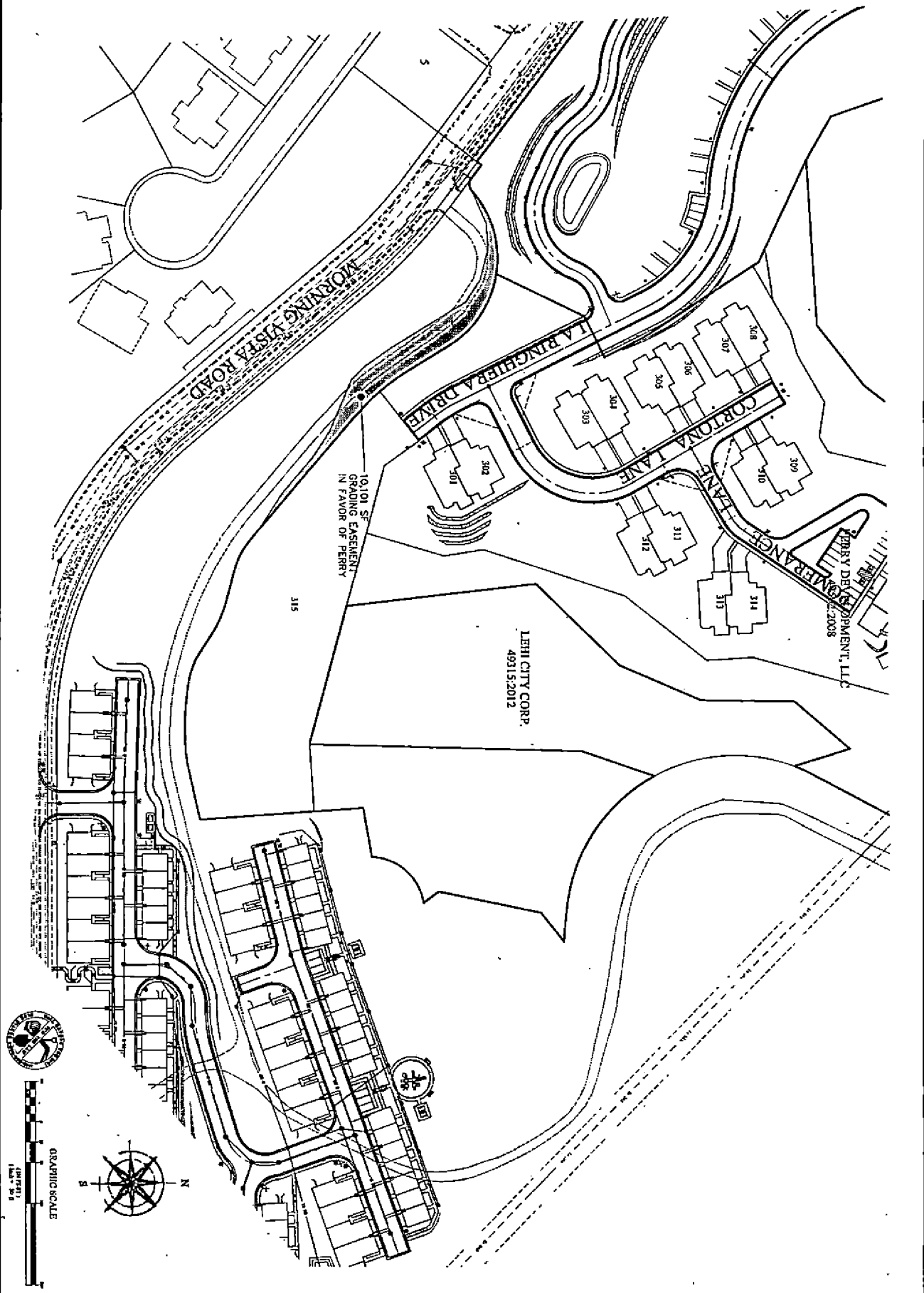
A grading easement across a portion of Lot 101, Plat "A", SEASONS TOWNS Subdivision, located in the SE1/4 of Section 30, Township 4 South, Range 1 East, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at a point on the northerly side of Lot 101, Plat "A", SEASONS TOWNS Subdivision, according to the Official Plat thereof on file in the Office of the Utah County Recorder located N0°17'58"W along the Section line 1,558.63 feet and West 1,635.11 feet from the Southeast Corner of Section 30, T4S, R1E, S.L.B.& M.; thence N57°02'11"W 53.26 feet; thence N49°22'08"W 58.15 feet; thence N57°11'37"W 37.77 feet; thence N66°54'42"W 68.55 feet; thence N44°41'12"W 23.62 feet; thence N34°21'05"W 41.13 feet; thence N31°32'16"W 104.34 feet; thence N56°33'21"W 31.65 feet; thence N75°45'24"W 39.03 feet; thence S85°32'03"W 32.60 feet; thence S66°15'42"W 43.50 feet to the northerly line of Lot 101, Plat "A", SEASONS TOWNS Subdivision, according to the Official Plat thereof on file in the office of the Utah County Recorder; thence along said plat the following 4 (four) courses and distances: Southeasterly along the arc of a 125.00 foot radius non-tangent curve (radius bears: S42°00'49"E) 219.84 feet through a central angle of 100°46'01" (chord: S81°37'48"E 192.58 feet); thence S31°14'48"E 55.41 feet; thence along the arc of a 275.00 foot radius curve to the left 87.08 feet through a central angle of 18°08'35" (chord: S40°19'06"E 86.72 feet); thence S49°23'23"E 183.36 feet to the point of beginning.

Contains: 10,101± s.f.

**EXHIBIT D**

**(Plan Showing Location of Easement Parcel)**



REVISION BLOCK	DATE	DESCRIPTION

GRADING EASEMENT 1  
EX-GE1

**LEGAL DESCRIPTION EXHIBIT**  
GRADING EASMENT  
EXHIBIT GE1

**FOCUS.**  
ENGINEERING AND SURVEYING, LLC  
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