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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
02/19/2015 03:39 PM
FEE \$0.00 Pgs: 8
DEP RTT REC'D FOR NINIGRET CONSTRU
TION COMPANY

When Recorded, Mail To:

Ninigret Construction Company North L.C.
Attn: Randolph G. Abood
1700 South 4650 West
Salt Lake City, Utah 84104

With A Copy To:

Ivory Development, LLC
975 E. Woodoak Lane
Salt Lake City, UT 84117
Attn: Clark D. Ivory

RETURNED
FEB 19 2015

Tax Parcel No: ~~12~~-025-0017

12-025-0018

12-026-0026

(Space above for Recorder's use only)

PUBLIC UTILITY AND ACCESS EASEMENT

THIS PUBLIC UTILITY AND ACCESS EASEMENT (this "**Instrument**") is entered into this 19th day of February, 2015, by and among NINIGRET CONSTRUCTION COMPANY NORTH L.C., a Utah limited liability company; IVORY DEVELOPMENT, L.L.C., a Utah limited liability company (collectively, "**Grantor**"); and CITY OF SYRACUSE, a Utah municipal corporation ("**Grantee**").

RECITALS

A. Grantor owns certain real property ("**Grantor's Property**") located in the County of Davis, State of Utah.

B. Grantee desires to obtain a non-exclusive public utility and access easement along the future location of 1550 West Street (the "**Easement**"). The Easement is located on, over, under and across that portion of Grantor's Property particularly described in the legal description on Exhibit A, and depicted in the drawing on Exhibit B, both the attached hereto and incorporated herein by this reference (the "**Easement Area**"). Should there exist any discrepancy between the legal description on Exhibit A and the depiction on Exhibit B, the legal description on Exhibit A shall control.

C. Grantor is willing to grant the Easement to Grantee over the Easement Area for the purposes more particularly described herein, subject to the terms and conditions set forth herein.

TERMS AND CONDITIONS

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and based upon the mutual promises and subject to the conditions set forth below, the parties agree as follows:

1. **Easement.** Grantor hereby conveys to Grantee a perpetual non-exclusive easement on, over, under, and across the Easement Area for the benefit of the public and for the

purposes of designing, constructing, installing, using, operating, maintaining, repairing, altering, inspecting, removing, relocating, and/or replacing: (i) a future paved road right-of-way to be used for public pedestrian and vehicular ingress and egress; and (ii) any and all public utilities, including, but not limited to, water, sanitary sewer, storm water drainage, electricity, telecommunications, and natural gas (collectively, the "Improvements").

2. **Construction and Dedication of the Improvements.** Upon completion of the Improvements according to the Syracuse City ordinances and construction requirements, Grantee agrees to accept the dedication and ownership of the Improvements and to maintain and repair the Improvements and any and all related improvements installed for the benefit of the Public within the Easement Area.

3. **Condition of Grantor's Property/Release.** Grantee accepts the Easement Area and all aspects thereof in "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 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.

4. **Hold Harmless.** Grantee shall at Grantee's sole expense and with counsel reasonably acceptable to Grantor, defend and hold harmless Grantor from and against all claims, losses, costs, damages, expenses, liabilities, liens, actions, causes of action, assessments, fines and penalties of any kind including court costs and attorneys' fees actually incurred from any cause other than Grantor's gross negligence or willful misconduct, arising out of or relating directly or indirectly to this Instrument. This hold harmless provision extends to and includes claims for: (i) the acts and omissions of the Grantee or Grantee's guest's; or (ii) the use of the Easement Area or the exercise of the rights granted hereunder by the Grantee, or Grantee's guests, or their successors or assigns, and their agents, servants, employees, consultants and/or contractors.

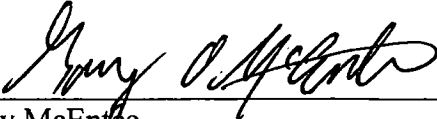
5 **Dedication.** Either Grantor may at any time dedicate and convey the Easement Area to Syracuse City, or to the governing authority have jurisdiction over public right-of-ways (the "Governmental Entity"), which may include the conveyance of both the Easement and the underlying property to the Governmental Entity for use by the public as a public utility and road right-of-way, pursuant to a plat or otherwise. The parties agree to fully cooperate with each other in the dedication and conveyance of the Easement and the underlying property to the Governmental Entity, which cooperation includes, but is not limited to, signing dedication documents (including dedication plats), easements, deeds, and other instruments necessary for the Easement to be fully functional, installed, dedicated, and accepted pursuant to the requirements of the Governmental Entity.

6. **Termination Upon Dedication and Acceptance.** If the Easement Area is dedicated to, and accepted by, the Governmental Entity as a public street, this Instrument, shall automatically terminate, effective the date the Easement Area is formally dedicated and accepted as a public street by the Governmental Entity.

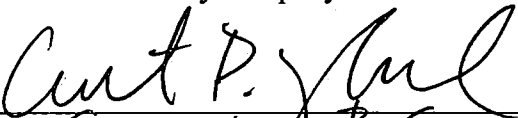
7. **Miscellaneous.** This Instrument constitutes and represents the entire agreement of the parties hereto with respect to the subject matter hereof, and all other prior agreements, covenants, promises and conditions, oral or written, between the parties are incorporated herein or superseded in their entirety by this Instrument. The parties acknowledge and agree that all of the terms and conditions of this Instrument are contractual in nature and shall be interpreted under any applicable law as contractual obligations, including, but not limited to the provisions of U.C.A. Sections 63G-7-301(1)(a) and (b), and the parties waive any claims or defenses to the contrary. In the event that this Instrument or any provision hereof shall be enforced by an attorney retained by a party hereto, whether by suit or otherwise, the fees and costs of such attorney shall be paid by the party who breaches or defaults hereunder. GRANTEE'S RIGHT to use the Easement Area shall be subject to the aforementioned conditions, which upon the recordation of this Instrument or use of the Easement granted herein shall be deemed to have been agreed and accepted by Grantee.

IN WITNESS WHEREOF, Grantor has executed this Instrument on the day and year first above written.

Grantor: NINIGRET CONSTRUCTION COMPANY NORTH L.C.,
a Utah limited liability company

By: 
Gary McEntee
Title: Manager

IVORY DEVELOPMENT, L.L.C.,
a Utah limited liability company

By: 
Name: CHRISTOPHER P. SAMIOULAS
Its: PRESIDENT

STATE OF UTAH)
 : ss.
COUNTY OF SL)

The foregoing instrument was acknowledged before me this 19th day of Feb, 2015, by Gary McEntee, as the Manager of NINIGRET CONSTRUCTION COMPANY NORTH L.C., a Utah limited liability company.



Heather Mitchell
NOTARY PUBLIC
Residing at: Bountiful, UT
My Commission Expires: 10/24/18

STATE OF UTAH)
 : ss.
COUNTY OF S.S.)

The foregoing instrument was acknowledged before me this 19th day of Feb, 2015, by Christopher Annals the President of IVORY DEVELOPMENT, L.L.C., a Utah limited liability company.

Brooke Siddoway
NOTARY PUBLIC
Residing at: S.S. County

My Commission Expires:
12-20-17

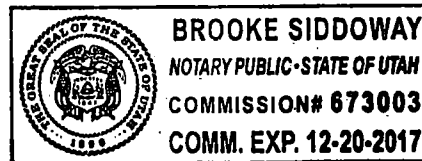


EXHIBIT A

(Legal Description of the Easement Area)

That certain real property located in the County of Davis, State of Utah, specifically described as:

Utility Outfall Easement, Ninigret North II – Subdivision

A part of the South half of Section 3, Township 4 North, Range 2 West, Salt Lake Base and Meridian, U.S. Survey, Syracuse City, Davis County, Utah:

Beginning at a point which is 1576.79 feet North 89°56'33" West along the Section line, 1714.45 feet North 13°11'47" West and 955.68 feet North 89°57'12" West from the Southeast Corner of said Section 3, being a point on the arc of a curve and running thence Southwesterly along the arc of a 458.00 foot Radius curve to the right a distance of 108.94 feet (Delta Angle equals 13°37'40", Center bears North 74°27'58" West, Long Chord bears South 22°20'52" West 108.68 feet) thence South 29°09'42" West 257.94 feet to a point of curvature; thence Southwesterly along the arc of a 367.00 foot Radius curve to the left a distance of 186.49 feet (Delta Angle equals 29°06'55", Long Chord bears South 14°36'14" West 184.49 feet); thence South 0°02'48" West 516.79 feet to the North line of Monterey Estates Subdivision Phase 1, Syracuse City, Davis County, Utah; thence South 87°55'38" West 66.05 feet along said North line; thence North 0°02'48" East 519.23 feet to a point of curvature; thence Northeasterly along the arc of a 433.00 foot Radius curve to the right a distance of 220.03 feet (Delta Angle equals 29°06'55", Long Chord bears North 14°36'14" East 217.67 feet); thence North 29°09'42" East 257.94 feet to a point of curvature; thence Northeasterly along the arc of a 392.00 foot Radius curve to the left a distance of 74.82 feet (Delta Angle equals 10°56'11", Long Chord bears North 23°41'36" East 74.71 feet); thence South 89°57'12" East 68.94 feet to the point of beginning.

Contains: Approximately 1.623 acres

EXHIBIT B

(Depiction of the Easement Area)

[See the Following Page]

