

Office of the Davis County Recorder



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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
03/16/2021 12:50 PM
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DEP RTT REC'D FOR THOMAS & SONS

Continued on...

RETURNED

MAR 16 2021

Recorder
Richard T. Maughan
Chief Deputy
Laile H. Lomax

THE UNDERLYING DOCUMENT ATTACHED HERETO IS AN ORIGINAL DOCUMENT SUBMITTED FOR RECORDING IN THE OFFICE OF THE COUNTY RECORDER OF DAVIS COUNTY, UTAH. THE DOCUMENT HAS INSUFFICIENT MARGIN SPACE FOR THE REQUIRED RECORDING ENDORSMENT STAMP. THIS PAGE BECOMES THE FRONT PAGE OF THE DOCUMENT FOR RECORDING PURPOSES.

THE DOCUMENT HEREIN RECORDED IS A Agreement
(Document Type)

06-313-0012, 06-084-0078
Tax Serial Number(s)

CROSS ACCESS AND CROSS PARKING AGREEMENT

This Cross Access and Cross Parking Agreement (the "Agreement") is hereby made on March 15, 2021; between Thomas & Sons L.L.C., a Utah limited liability company, or its assignee ("**Thomas & Sons**") and Moffat Plastering L.C., a Utah limited liability company, or its assignee ("**Moffat Plastering**"), and Moffit - Thomas Holdings LLC.

WHEREAS, Moffat Plastering pursuant to an Agreement with Thomas & Sons and Moffit Thomas Holdings LLC shall become the owner of the real property more fully described on Exhibit "A" (legal description) attached hereto and incorporated herein by this reference as "Parcel 1," currently owned by Moffit-Thomas Holdings LLC;

WHEREAS, Thomas & Sons pursuant to an Agreement with Moffat Plastering and Moffit Thomas Holdings LLC shall become the owner of real property more fully described on Exhibit "B" (legal description) attached hereto and incorporated herein by references as "Parcel 2," currently owned by Moffit-Thomas Holdings LLC;

WHEREAS, the parties to this Agreement desire to create and grant an easement on, over, upon and across portions of each property (Parcel 1 and Parcel 2, collectively, the "Parcels") for purposes of vehicular and pedestrian ingress and egress to and from, and non-exclusive parking rights, and for all other uses expressly contemplated by this Agreement;

WHEREAS, the parties agree that these mutual easements will be defined, at a minimum, by the designated areas in Exhibit "C" attached hereto (the "Easement Areas").

1. Recitals. The above recitals are true and correct and are hereby made a part of and incorporated in this Agreement.

2. Granting of Easements.

2.1. Cross Access Easement. The interested parties representing Parcel 1 and Parcel 2 hereby grant and convey non-exclusive, mutual cross access easements for purposes of vehicular and pedestrian ingress and egress on, over, upon and across the areas defined in the Easement Areas. The Cross Access Easement is subject to the terms, conditions, restrictions and limitations set forth herein and in other recorded easements, reservations, rights-of-way, licenses, restrictions, conditions and limitations affecting the Easement Areas; provided, however, that the foregoing shall not unreasonably interfere with the easement rights under this Agreement. The Cross Access Easement is for the benefit of and is appurtenant to each of the Parcels, respectively, and may be used by the record title owner of each of the Parcels, respectively, and each of their respective successors, assigns, employees, contractors, agents, licensees, lessees under leases extending the use thereof to such lessees and other permittees (collectively the "Permitted Users") solely for the uses set forth herein (the "Permitted Uses") and for no other uses. Such Permitted Uses shall be for the benefit of the Parcels as now

or hereafter improved, subdivided and/or developed.

2.2. Drainage Easements. The interested parties representing Parcel 1 and Parcel 2 hereby grant and convey non-exclusive, mutual common drainage easements for the benefit, use and enjoyment of one other another ("Drainage Easement") over and across those areas defined Exhibit C as the Easement Areas to allow the parcels to transmit and convey untreated stormwater originating from one Property over, across and through the Easement Areas located on each Property as contemplated in the grading plan.

2.3. Utility Easement. To facilitate development of the subdivided properties, the division and sharing of existing and future utility access on the property is desired. The interested parties hereby grant and convey non-exclusive, mutual utility easements through the Easement Areas located on each Property. The grant includes the right to install and maintain privately-owned equipment, piping, conduits, electric wiring, fiber optic cables or such other devices as required for the dividing, sharing, and extending the existing and future utilities, including but not limited to culinary water, fire sprinkler water, secondary irrigation water, natural gas, storm water piping and facilities, and telecommunications, to the separate Parcels. The grant also includes the right to install, maintain, and restore all public utility easements on the Parcel. Installation and maintenance, including restoration of surface improvements disturbed to perform installation and maintenance, of the forgoing utility extensions are the sole responsibility of the party receiving beneficial use of the installation.

2.4. Common Driveway Easement. The interested parties representing Parcel 1 and Parcel 2 hereby grant and convey non-exclusive, mutual common driveway easements for purposes of vehicular ingress and egress on, over, upon and across the areas defined in Exhibit C as the Easement Areas, including temporary use for material staging as required for truck and/or equipment loading or unloading.

2.5. Cross Parking Easement. The interested parties representing Parcel 1 and Parcel 2 hereby grant and convey non-exclusive, mutual cross parking easements for use of all parking spaces within the areas as defined in Exhibit C as the Easement Areas.

3. **Maintenance.** Any construction of/on the Easement Areas shall be completed in a good and workmanlike manner free and clear of any construction liens and in full compliance with all present and future local, municipal, county, state and federal environmental and all other applicable laws, statutes, governmental constitutions, ordinances, codes, rules, regulations, resolutions, requirements, standards, applications and directives, as well as all decisions, judgments, writs, injunctions, orders, decrees or demands of courts, administrative bodies and other authorities construing any of the foregoing (collectively, the "Laws"). Each party shall maintain its respective Easement Areas, at its sole cost and expense, in good condition and in full compliance with all

applicable local, state, and federal laws. Additionally, the parties agree to share the common costs of maintaining, improving, and repairing the area identified on Exhibit C as the Easement Areas.

4. Mutual Indemnities. Each party held by this Agreement will indemnify, defend and hold harmless the other for, from and against any and all claims suffered or incurred in connection with any alleged bodily injury or property damage arising out of use or enjoyment of the Easement Areas, unless caused by negligence or willful misconduct of the party to be indemnified.

5. Run with the Land. The covenants, conditions, restrictions, easements, and the other provisions of this Agreement shall run with and be appurtenant to each portion of Parcel 1 and Parcel 2 and shall be binding upon each portion of Parcel 1 or Parcel 2 as applicable.

6. Breach. If any party breaches (such party being referred to as the "Breaching Party") any provision of this Agreement and fails to cure any such breach within fifteen (15) days after written notice thereof is given by the other party (the "Non-Breaching Party") in addition to any other right or remedy available to the Non-Breaching Party at law or in equity, the Non-Breaching Party shall have the right, but not the obligation, to cure any such breach. The Breaching Party shall reimburse the Non-Breaching Party for the cost thereof upon demand. In addition, the Non-Breaching Party shall have the right to reimbursement of its reasonable attorney fees and all other costs and expenses in seeking resolution for the Breaching Party's breach.

7. Termination and Modification. The terms and conditions of this Agreement may be abrogated, modified, rescinded or amended in whole or in part only by written instrument executed by all the then owners of Parcel 1 and Parcel 2.

8. Assignment. This Agreement involves the granting of an appurtenant easement for the benefit of the Parcels and which burdens the Easement Areas. Therefore, this Agreement and the and the benefits and/or burdens of the easements granted herein, as applicable, shall be automatically assigned (either in whole or in part, as applicable) to any person or entity to whom fee simple title to all or any portion of any of the Parcels and/or the Easement Areas are conveyed. Notwithstanding anything else contained in this Agreement, upon any such assignment or partial assignment, the rights, duties, obligations and liability of the assignor shall automatically terminate, and the assignee shall be deemed to have assumed and be bound by the applicable duties, obligations and liability so assigned and shall be entitled to all the rights and benefits so assigned with respect to that portion of the Parcels and/or the Easement Areas conveyed. Whenever and wherever the term "successors and assigns" is used in this Agreement, it shall mean only those successors and assigns who acquire their interest by a conveyance of any portion of the Parcels and/or the Easement Areas in accordance with and subject to this Section.

9. Notices. Each notice or communication under this Agreement shall be

deemed delivered and received if in writing and either: (i) personally delivered; (ii) delivered by reliable overnight air courier service; or (iii) deposited with the United States Postal Service or any official successor thereto, certified or registered mail, return receipt requested, with adequate postage prepaid, delivered or addressed to the entity entitled or required to receive the same or (iv) sent via email, provided that evidence of transmission is retained by the sender and further provided that a copy of such notice is also contemporaneously sent by one of the methods described in the preceding clause (i), (ii) or (iii) of this Section (it being understood and agreed, however, that such notice shall be deemed received upon transmission by email), at the address (or email address) set forth below or such other address (or email address) as may have been designated by the party by written notice hereunder. Rejection or other refusal by the addressee to accept the notice, and inability to deliver the notice because of a change of address of the party of which no notice was given, shall be deemed to be the receipt of the notice on the third day following the date postmarked by the United States Postal Service or on the second day following the date accepted by the courier service. All notices shall be addressed as hereinbelow set forth, or to such other address as the parties shall hereafter give notice to the other in writing:

If to Thomas & Sons, L.L.C.: Thomas & Sons L.L.C.
c/o Bruce Thomas
PO Box 996
Centerville, UT 84014
bruce@thomasandsonslc.com

If to Moffat Plastering L.C.: Moffat Plastering, L.C.
c/o Jeff Moffat
215 S Riverbend Way
North Salt Lake, UT 84054
jeff@moffatplastering.com

Any such notice shall be deemed given and received when actually so personally delivered or when receipt thereof is refused or, if mailed, as aforesaid, three (3) business days after the date of mailing, or, if sent by nationally-recognized overnight courier service, as aforesaid, one (1) business day after delivery of the same to such courier service for overnight delivery or if sent by facsimile, as aforesaid, at the time and on the date of receipt with receipt thereof confirmed by transmittal confirmation and telephonic acknowledgment if such date is a business day or if such day is not a business day, the following business day. Notwithstanding the foregoing, if any notice or other communication has not been sent in compliance with this Section but has in fact actually been received by its intended recipient, then such notice or communication shall be deemed duly given to and received by such recipient effective as of the date of actual notice. Any party may designate a different address or facsimile number for receiving written notices by written notice to the other entities entitled to receive notice, such notice to be given in accordance with this Section.

10. Counterparts. This Agreement may be executed in counterparts; each of which shall be deemed to be an original and all of which shall together constitute one and

the same instrument.

11. Governing Law. This Agreement shall be governed by, construed under and interpreted and enforced in accordance with the laws of the State of Utah.

[Signature Page to Follow]

IN WITNESS WHEREOF, this Agreement has been made as of this 15 day of March, 2021.

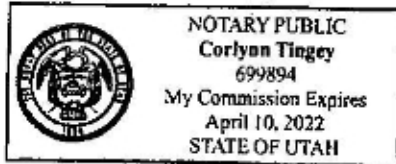
**MOFFIT - THOMAS HOLDINGS LLC, and
THOMAS & SONS, L.L.C.**

Bruce Thomas
By:
Its: LLC MEMBER AGENT

STATE OF UTAH)
) ss
COUNTY OF DAVIS)

This instrument was acknowledged before me by Bruce Thomas [LLC Member Agent] of Thomas & Sons, L.L.C., on behalf of such limited liability company.

Given under my hand and official seal this 15 day of Mar, 2021.



Corynn Tingey
Notary's Name Printed: Corynn Tingey
My Commission Expires: 04-10-2022

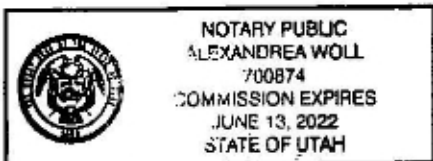
**MOFFIT - THOMAS HOLDINGS LLC, and
MOFFAT PLASTERING, L.C..**

Jeff Moffat
By:
Its: President / Managing member

STATE OF UTAH)
) ss
COUNTY OF DAVIS)

This instrument was acknowledged before me by Jeff Moffat [President] of Moffat Plastering, L.C., on behalf of such limited liability company.

Given under my hand and official seal this 15 day of March, 2021.



Alexandra Woll
Notary's Name Printed: Alexandra Woll
My Commission Expires: June 13, 2022

Exhibit A

Parcel 1 [Moffat Lot (Lot 1)] Legal Description

COMMENCING AT THE WITNESS CORNER TO THE CENTER OF SECTION 35, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, AND RUNNING THENCE NORTH 00°16'54" WEST 85.02 FEET TO THE CALCULATED CENTER OF SAID SECTION 35; THENCE NORTH 00°10'10" WEST 526.08 FEET ALONG THE QUARTER SECTION LINE (THE BASIS OF BEARING FOR THIS DESCRIPTION IS NORTH 89°59'35" EAST 2639.63 FEET CALCULATED BETWEEN THE NORTH CORNER AND THE NORTH EAST CORNER OF SAID SECTION 35), THENCE EAST 1185.36 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE EAST LINE OF 1250 WEST STREET, A STREET DEPICTED ON THE WOODS CROSS INDUSTRIAL PARK SUBDIVISION PLAT, A PLAT RECORDED AT THE DAVIS COUNTY RECORDERS OFFICE; THENCE ALONG THE EAST LINE OF 1250 WEST STREET FOLLOWING THE (3) COURSES: (1) NORTH 12°08'07" EAST 101.53 FEET, (2) NORTHEASTERLY 111.19 FEET ALONG THE ARC OF A 647.50 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 09°50'21" (CHORD BEARS NORTH 07°12'56" EAST 111.06 FEET), AND (3) NORTHEASTERLY 38.42 FEET ALONG THE ARC OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 88°03'24" (CHORD BEARS NORTH 46°19'28" EAST 34.75 FEET) TO THE SOUTHERLY LINE OF 2285 SOUTH STREET; THENCE SOUTH 89°38'50" EAST ALONG THE SOUTH LINE OF SAID STREET 149.34 FEET TO THE NORTHEAST CORNER OF LOT 12 OF SAID SUBDIVISION; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 232.51 FEET; AND THENCE WEST 209.76 FEET TO THE POINT OF BEGINNING.

CONTAINING: 43,560 SQ.FT. (1.0 ACRE)

ROTATE 0°18'51" COUNTER-CLOCKWISE FOR NAD83

Exhibit B

Parcel 2 [Thomas Lot (Lot 2)] Legal Description

COMMENCING AT THE WITNESS CORNER TO THE CENTER OF SECTION 35, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, AND RUNNING THENCE NORTH 00°16'54" WEST 85.02 FEET TO THE CENTER OF SAID SECTION 35; THENCE NORTH 00°10'10" WEST 342.12 FEET ALONG THE QUARTER SECTION LINE (THE BASIS OF BEARING FOR THIS DESCRIPTION IS NORTH 89°59'35" EAST 2639.63 FEET CALCULATED BETWEEN THE NORTH CORNER AND THE NORTH EAST CORNER OF SAID SECTION 35), THENCE EAST 1154.46 FEET TO THE SOUTHWEST CORNER OF LOT 12, WOODS CROSS INDUSTRIAL PARK, AS RECORDED AT THE DAVIS COUNTY RECORDERS OFFICE, THE POINT OF BEGINNING, RUNNING THENCE ALONG THE EAST LINE OF 1250 WEST STREET FOLLOWING THE (3) COURSES: (1) NORTH 00°16'54" WEST 11.63 FEET, (2) NORTHEASTERLY 60.14 FEET ALONG THE ARC OF A 277.50 RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 12°25'01" (CHORD BEARS NORTH 05°55'36" EAST 60.02 FEET), AND (3) NORTH 12°08'07" EAST 115.20 FEET; THENCE EAST 209.76 FEET TO THE EAST LINE OF SAID LOT; THENCE SOUTH 183.96 FEET TO THE SOUTHEAST CORNER OF SAID LOT; THENCE SOUTH 14.51 FEET TO THE NORTH LINE OF ALUMATEK INDUSTRIAL PARK SUBDIVISION, A PLAT RECORDED AT THE DAVIS COUNTY RECORDERS OFFICE; THENCE SOUTH 89°59'35" WEST 234.55 FEET ALONG SAID SUBDIVISION LINE TO THE EAST LINE OF THAT PARCEL DESCRIBED IN ENTRY 2379790, IN BOOK 4574, AT PAGE 978, RECORDED JULY 15, 2008 AT THE DAVIS COUNTY RECORDERS OFFICE IN FAVOR OF WOODS CROSS CITY; THENCE NORTH 00°17'19" WEST 14.53 FEET (NORTH 00°16'54" WEST 14.41 FEET BY RECORD) ALONG THE EAST LINE OF SAID PARCEL TO THE SOUTH LINE OF SAID WOODS CROSS INDUSTRIAL PARK; AND THENCE WEST ALONG THE SOUTH LINE OF SAID SUBDIVISION 5.50 FEET TO THE POINT OF BEGINNING.

CONTAINING: 45,407 SQ. FT. (1.04 ACRES)

ROTATE 0°18'51" COUNTER-CLOCKWISE FOR NAD83

Exhibit C

EASEMENT AREA

A CROSS-ACCESS AND RECIPROCAL UTILITY AND DRAINAGE EASEMENT, DESCRIBED AS FOLLOWS: COMMENCING AT THE WITNESS CORNER TO THE CENTER OF SECTION 35, TOWNSHIP 2 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, AND RUNNING THENCE NORTH $00^{\circ}16'54''$ WEST 85.02 FEET TO THE CALCULATED CENTER OF SAID SECTION 35; THENCE NORTH $00^{\circ}10'10''$ WEST 526.08 FEET ALONG THE QUARTER SECTION LINE (THE BASIS OF BEARING FOR THIS DESCRIPTION IS NORTH $89^{\circ}59'35''$ EAST 2639.63 FEET CALCULATED BETWEEN THE NORTH CORNER AND THE NORTH EAST CORNER OF SAID SECTION 35), THENCE EAST 1185.36 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE EAST LINE OF 1250 WEST STREET, A STREET DEPICTED ON THE WOODS CROSS INDUSTRIAL PARK SUBDIVISION PLAT, A PLAT RECORDED AT THE DAVIS COUNTY RECORDERS OFFICE; THENCE NORTH $12^{\circ}08'07''$ EAST ALONG THE EAST LINE OF SAID STREET 20.46; THENCE EAST 205.46 FEET TO THE EAST LINE OF LOT 12 OF SAID SUBDIVISION; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 40.00 FEET; THENCE WEST 214.06 FEET TO THE EAST LINE OF SAID STREET; AND THENCE NORTH $12^{\circ}08'07''$ EAST ALONG SAID EAST LINE 20.46 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING: 8,390 SQ.FT. (0.19 ACRES)

ROTATE $0^{\circ}18'51''$ COUNTER-CLOCKWISE FOR NAD83