

AFTER RECORDED, PLEASE RETURN TO
THOMAS A. ELLISON
P.O. BOX 3400
SALT LAKE CITY, UTAH 84100

Wayne Harper
Wayne Harper

\$ _____ DTP _____

VAN COIT, SAGLEY

JUN 30 10 17 AM '83

KATIE L. HARRIS
RECORDER
SALT LAKE COUNTY
UTAH

3812098 EASEMENT

BAIR INVESTMENT, LTD., a Utah Limited Partnership, Grantor, hereby conveys and warrants to MURRAY CITY, a municipal corporation of the State of Utah, its successors and assigns, Grantee, for the sum of Ten Dollars (\$10.00) and other good and valuable consideration, a perpetual easement and right-of-way for the discharge, storage and conveyance of surface and subsurface runoff waters from the River Oaks Subdivision onto and across certain properties owned by Grantor in Salt Lake County, State of Utah, together with the right of ingress and egress necessary for the use and occupation of the easement granted, and all rights and privileges incident thereto.

This easement is granted subject to the reservations, limitations, restrictions, and conditions contained in an agreement of even date between Old Stone Mortgage Corporation, a Washington corporation, John S. Bair and Laura G. Bair, and Bair Investments, Ltd., a Utah limited partnership, a copy of which is attached as Exhibit "A".

All descriptions contained in this easement are based on the Salt Lake County Sidwell Plat Maps, 1983.

The easement shall include the following:

- A. A 20 foot wide easement, the centerline of which is described as follows:
 - 1. Beginning at a point on the Westerly boundary of the River Oaks Subdivision, Murray City, Salt Lake County, State of Utah, which point of beginning lies approximately 40 feet North of the Southwest corner of Lot 45 of said subdivision at the point where an existing subsurface drain pipe crosses the Westerly boundary of

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aid subdivision, and running thence Westerly, according to the natural topography, approximately 300 feet to an existing pond.

2. Also, beginning at a point on the Westerly boundary of said subdivision, which point of beginning lies approximately 10 feet Northwesterly from the Southeast corner of Lot 43 of said subdivision at the point where an existing storm drain crosses the Westerly boundary of said subdivision, and running thence Westerly according to the natural topography, approximately 200 feet to an existing pond.
 3. Also, beginning at a point on the Southerly boundary of said subdivision, which point of beginning lies approximately 10 feet East of the Southwest corner of Lot 34 of said subdivision at the point where an existing storm drain crosses the Southerly boundary of said subdivision, and running thence Southwesterly according to the natural topography, approximately 150 feet to an existing ditch.
 4. Also, beginning at a point on the Westerly boundary of said subdivision which point of beginning lies at the Northwest corner of Lot 48 of said subdivision and running thence Northerly 50 feet to the Southwest corner of Lot 47 of said subdivision, and thence Northwesterly, approximately 450 feet to an existing pond.
- B. Also, an entire existing pond to which the easements described in A 1, A 2 and A 4 are connected, which easement extends to 10 feet beyond the shoreline of the pond at its 10-year storm water elevation. The centerline of the pond runs approximately as follows:

Beginning at a point which is approximately 150 feet South of the Southeast corner of Lot 40 of said subdivision, and running thence Southwesterly approximately 250 feet, thence Northwesterly approximately 150 feet to a point where the pond discharges to an existing ditch.

- C. Also a 20 foot wide easement running in a Northwesterly direction approximately 450 feet along the centerline of an existing ditch, from the point of discharge of the pond described in B above, to a point which is approximately 200 feet West and 20 feet South of the Southwest corner of Lot 34 of said subdivision, and thence Westerly along the centerline of said existing ditch approximately 1050 feet to the Jordan River.

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WITNESS the hand of the Grantor this 28th day of June, 1983.

BAIR INVESTMENTS, LTD.

John S. Bair

John S. Bair, General Partner

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

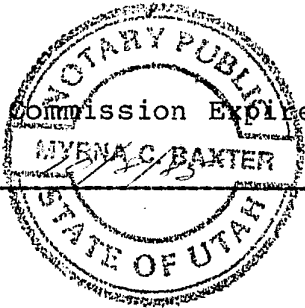
On this 28 day of June, 1983, personally appeared before me John S. Bair, general partner of Bair Investments, Ltd., signer of the foregoing instrument, who duly acknowledged to me that he executed the same on behalf of said partnership.

Myrna C. Baxter

Notary Public

Residing in: Salt Lake City, Utah

My Commission Expires:



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AGREEMENT

THIS AGREEMENT entered into as of the 16th day of June, 1983 by and among Old Stone Mortgage Corporation, a Washington corporation qualified to do business in Utah ("Old Stone") and John S. Bair and Laura G. Bair (together, the "Bairs") and Bair Investments, Ltd., a Utah limited partnership ("Bair Investments").

RECITALS:

A. On or about December 27, 1979, the Bairs conveyed to Craigco, Inc., a Utah corporation, fee title to that certain tract of real property the River Oaks Subdivision located in Murray City, Utah which property is described more fully in Exhibit "A," and shown on the plat attached hereto as Exhibit "A-1" known as the River Oaks Subdivision in Murray City, Utah (the "Property").

B. On or about December 27, 1979, Old Stone Mortgage Corporation, formerly known as Sherwood & Roberts, Inc. lent \$1,100,000.00 to Craigco, Inc. to permit Craigco to acquire the Property from the Bairs and to permit the installation of subdivision improvements on the Property.

C. During the course of construction of improvements on the Property by Craigco, the Bairs allege that Craigco failed to live up to certain contractual commitments to the Bairs including the providing of access to and from certain real property retained by the Bairs to the west and south of the Property, which retained property is more particularly described in Exhibit "B" attached hereto (the "Bair Property"), and to repair or replace certain fences and other improvements to the Bair Property and to restore certain areas of the Bair Property disturbed by construction to original condition. The Bairs also allege that the actions of Craigco during construction caused damage to the Bair Property resulting from, among other conditions, the discharge of storm and surface water run-off directly onto a portion of the Bair Property and the failure to retain certain clays and sediments on the Property, among other causes.

D. On or about April 27, 1982, Old Stone Mortgage Corporation acquired title to the Property by reason of the conduct of a non-judicial foreclosure sale of the Property, at which Old Stone was the successful bidder. The Bairs have conveyed their interest in the Bair Property to Bair Investments.

E. Old Stone presently desires to make certain payments to Bair Investments on the conditions (i) that the Bairs and Bair Investments consent to the existing design of the partially constructed catch-basins, curbs and gutters and subsurface pipes and facilities constituting the storm and surface water run-off system located in part on and discharging waters upon the Bair Property and located in part on and benefitting the Property and the owners and users of any portion of the Property (the "System"), (ii) that Bair Investments provide easements on the Bair Property to accommodate the location of portions of the System and the discharge of storm, surface, subsurface and other water run-off located on the Property (except such run-off transported from other property to the Property for the sole purpose of utilizing the System) and including suspended or accompanying clays, sediments, debris and contaminants ("Run-off") on the Bair Property and (iii) that the Bairs and Bair Investments fully waive and release all claims presently existing against Old Stone based upon any action or omission of Old Stone or Craigo in connection with or by reason of the financing, construction, ownership use or occupancy of the Property.

F. The Bairs and Bair Investments are willing to approve the System as designed and partially constructed and as to be completed and operated to provide an easement for the discharge of Run-off through the System onto the Bair Property and to waive and release any and all claims against Old Stone on the terms and conditions set forth in the balance of this Agreement.

IT IS THEREFORE AGREED:

1. Approval of System. The Bairs and Bair Investments hereby approve the design, construction to the extent that it is complete and operation of the System and the location of those portions of the System located on and discharging Run-off on the Bair Property at the locations identified on Exhibit "A-1" and consent to the discharge of Run-off onto the Bair Property.

2. Grant of Easement. Bair Investments hereby grants and conveys to Old Stone and its successors and assigns in the use or ownership of all or any portion of the Property, and to Murray City Corporation and its successors in interest in the operation and maintenance of the System (together, the "Benefitted Parties"), an easement to utilize for the location of portions of the System as shown on Exhibit "A-1" and for the

discharge, storage and conveyance of Run-off (i) the concrete ditch located on the southern boundary of the Bair Property and other ditches, ponds or streams located on or used in connection with the Bair Property, as presently existing or as modified from time to time by Bair Investments, (ii) any land adjacent to such ditches, ponds or streams or leading from the System's points of discharge to such ditches, ponds and streams as may be necessary from time to time to handle the Run-off and any other waters located on the Bair Property, and (iii) ten (10) additional feet on either side of such ditches, ponds, streams and adjacent lands, provided, however, that such easement shall not preclude Bair Investments or its successors from rerouting and reconstructing the ditch, pond and stream network if such work is approved in advance by Murray City, and the modified system meets the requirements of paragraph 4 of this Agreement. Bair Investments also grants and conveys to the Benefitted Parties an easement of ingress and egress upon and across the Bair Property to be utilized by such parties, when necessary, for purposes of operating and maintaining the System; provided, however, that the easement for ingress and egress across the Bair Property shall be exercised only after providing Bair Investments with reasonable notice, except in the case of emergency. The easements granted by this paragraph shall be perpetual and shall be deemed to run with the land to the benefit of the Property and the Benefitted Parties and shall constitute a burden upon the Bair Property and the holders of any interests in the Bair Property; provided, however, that nothing herein shall prevent the release of these easements with the consent of Murray City upon the ultimate development of the Bair Property where an alternative easement acceptable to Murray City is provided for the discharge, storage and conveyance of Run-off from the Property and across the Bair Property. The easements shall be unlimited without regard to the amount or timing of discharges of Run-off from the Property onto the Bair Property or the quality of the waters discharged in accordance with the terms of the easements. The easements shall specifically run to the benefit of Murray City Corporation and any successor corporation which undertakes to maintain or operate the improvements located on the Property, including any homeowners' association or special improvement district formed from time to time for purposes of providing utilities or services to the Property. The easements granted in this paragraph shall be reflected in the records of the Salt Lake County Recorder's Office as a burden against the Bair Property. In addition, Bair Investments shall execute such form of easement as may be reasonably required by Murray City Corporation. Neither this Agreement nor any easement

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conveyed pursuant to this Agreement shall in any way infringe on the right of Bair Investments or its successors or assigns to use the ditches, ponds, springs and streams for the uses they have historically been used for or for other future uses, subject only to the requirement to provide for capacity to handle the 10 year storm from the Property.

3. Consideration to Bair Investments. In consideration for the grant of easements set forth in paragraph 1 above, and the waivers and releases set forth in the balance of this Agreement, Old Stone hereby agrees to pay to Bair Investments on its own behalf and on behalf of the Bairs, the sum of \$37,000.00 and to convey to Bair Investments title or an easement to the west 50 feet of Lot 34, River Oaks Subdivision, which portion of Lot 34 may be utilized as a right-of-way to the Bair Property, upon which Bair Investments or its successors and assigns may construct a full width asphalt roadway with sidewalks and curb and gutter on both sides or any necessary drainage facilities. Purchasers of adjacent Lot 35 shall be entitled to own and use the balance of Lot 34, but prospective purchasers of that lot shall be given constructive notice of the right-of-way. It is agreed between the parties that the cash plus the value of the interest provided in Lot 34 will be paid by Old Stone to Bair Investments as full compensation for the grant of easements set forth above including the right to utilize the Bair Property for purposes of discharging Run-off, for the costs to be incurred by Bair Investments in complying with its obligations under this Agreement, for the costs of any additional maintenance burdens which may result to Bair Investments from the discharge of Run-off onto the Bair Property and, specifically, into the concrete ditch utilized by Bair Investments to provide water for irrigation and to other non-culinary purposes to the Bair Property, and for the waivers, releases and consents of Bair Investments and the Bairs set forth in this Agreement. The payment of cash and the conveyance of title to or an easement in the lot shall be made to Bair Investments upon execution by Bair Investments of a formal recordable easement in such form as may be prescribed by Murray City Corporation.

4. Obligations of Bair Investments. Bair Investments shall incur such engineering and other expenses and shall make of its own expense such modifications to the Bair Property as may be required by Murray City or necessary to handle, contain and convey on and over the Bair Property the amount of Run-off from the Property expected to be generated by a ten-year storm. Bair Investments shall not be responsible to

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make any changes to the pipes or conduits which transport water under Riverside Drive.

5. Obligations of Old Stone. In addition to making the payments and conveying title to Lot 34 as set forth above in paragraph 3, Old Stone agrees to obtain the agreement of its successors in interest to the following:

(a) Completion, within the time period required by an applicable completion bond or escrow required by Murray City of any party completing subdivision improvements, of all of the required improvements to the subdivision including the installation of remaining sections of curb and gutter and the provision of road base and asphalt;

(b) Provision, within forty-five (45) days from the date of this Agreement, of access for Bair Investments from 700 West Street to the east property line of the Bair Property, between Lots 47 and 48 of River Oaks Subdivision, as shown on Exhibit "C" including the grading of the road between Lots 47 and 48 with a slope to the west not to exceed .4 percent, the installation of road base on that road, the installation of a gravel ramp from the Property boundary at the end of that road down to the level of the Bair Property to the west and, if necessary to provide access by car, the grading and graveling of roadways from 700 West to the Bair Property;

(c) Creation of a concrete valley gutter to be constructed across the planned subdivision street from the west side of lot 57 to the northeast corner of lot 48 in such manner as to direct the run-off flowing to the west of Lot 57 to the east line of the Bair Property, if such design is approved by Murray City;

(d) Removal, within forty-five (45) days of the date of this Agreement, of soils and debris in the vicinity of Lots 62 and 53 which is preventing access along the concrete ditch on the Bair Property located in a right-of-way heading west from 700 West Street to the southeast corner of the Bair Property; and

(e) Correction of the problems on the north and east property lines of the Property relating to water sources causing unnecessary amounts of water to drain

onto the Bair Property, by piping the water on the north property line further north to the main ditch of the Cahoon-Maxfield Irrigation Company and by piping the water on the east directly onto the concrete ditch located on the Bair Property.

In the event Old Stone fails to obtain the agreement of a successor in interest to perform the work described in subparagraphs (b) and (d) above, Old Stone shall complete the work within the time period set forth above. With reference to subparagraphs (b) and (d), time shall be of the essence.

6. Changes to System. Subject to the absolute right of Murray City to approve any proposed modifications, Bair Investments is hereby given the right by Old Stone to modify the points of discharge of the System on the Bair Property or to otherwise make changes to the System and to the ditches, ponds and streams located on the Bair Property at its sole cost and expense, provided that no such modification shall diminish the capacity of the System to handle Run-off from the Property or to discharge Run-off onto the Bair Property and provided further that no such modification shall result in the discharge of storm or surface waters from the Property on any property other than the Bair Property. Subject to the approval of Murray City, Bair Investments shall further have the right to incorporate the System into a larger system located on the Bair Property to service both the Property and the Bair Property in conjunction with the development of the Bair Property. All costs and expenses of such a modification would be borne entirely by Bair Investments. The rights of Bair Investments set forth in this paragraph shall include a right to utilize only dedicated roadways and easements on the Property and shall not constitute an approval to utilize or interfere with the use of other portions of the Property by the owners and occupants thereof.

7. Maintenance. Old Stone and Murray City shall have responsibility to maintain those portions of the System located on the Property up to the points where Run-off is discharged onto the Bair Property and Bair Investments shall have the obligation to maintain all ditches, ponds and land on the Bair Property to the extent such maintenance is required as a result of the discharge of Run-off and associated sediments from the Property onto the Bair Property.

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8. Cooperation. The Bairs agree to cooperate with Old Stone in obtaining the consent and approval of Murray City to the terms of this Agreement and to obtain the acceptance by Murray City of the River Oaks Subdivision for purposes of maintenance.

9. Release of Claims. In consideration of the payments and obligations undertaken by Old Stone in this Agreement, the Bairs and Bair Investments hereby fully release and discharge any and all claims, debts, liabilities, causes of action, or other rights they may now have or which may hereafter arise, whether known or unknown, against Old Stone and its successors and assigns in the ownership, occupancy or maintenance of the Property by reason of or in connection with:

(a) any actions or omissions, whether intentional, reckless or negligent, of Old Stone or Craigco or any employee or agent of either party, which actions or omissions occurred in connection with the purchase, financing, construction, development or ownership, use or occupancy of the River Oaks Subdivision by either of those parties through and including the date of this Agreement, including, but not limited to, the discharge (and the failure to prevent discharge) of Run-off from the Property onto the Bair Property;

(b) the construction, and completion, from and after the date of this Agreement, the System on the Property and the Bair Property in accordance with the approvals contained in this Agreement and the customary and reasonable requirements of Murray City Corporation;

(c) any additional discharges of Run-off from any point of the Property onto the Bair Property occurring after the date of this Agreement and until the subdivision improvements are completed and the River Oaks Subdivision accepted for maintenance by Murray City;

(d) any and all discharges of sediments and Run-off from the Property onto the Bair Property occurring after the date of this Agreement and after acceptance of the River Oaks Subdivision for maintenance other than at the points of discharge of the System where such Run-off results from water

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volumes on the Property in excess of those for which the System was engineered, it being understood and agreed that System capacities have been designed for a ten-year twenty-four hour storm as required by Murray City Corporation;

(e) any and all discharges of sediments or Run-off on to the Bair Property along the access road between Lots 47 and 48 or along the back property lines of Lots 34 through 53 of River Oaks Subdivision by any Benefitted Party where caused by the natural slope of the terrain and Run-off conditions beyond the control of the Benefitted Party.

10. Assignment. The rights and obligations of Old Stone under this Agreement and the easement contained herein may be assigned by Old Stone without the consent of the Bairs or Bair Investments to any purchaser or purchasers of all or any portion of the Property (to the extent of the Property purchased by any such purchaser) and, upon acceptance of the obligations and rights contained in this Agreement by any such party or parties in writing, Old Stone shall be discharged from its obligations under this Agreement to the extent the obligations are assumed; provided, however that any transfer of title to the Property or any portion thereof shall be subject to the rights of Bair Investments under this Agreement. The rights and obligations of the Bairs or Bair Investments under this Agreement may also be assigned without the consent of Old Stone, provided, however, that any transfer of title to the Bair Property shall be subject to the rights of Old Stone under this Agreement and the easement contained herein.

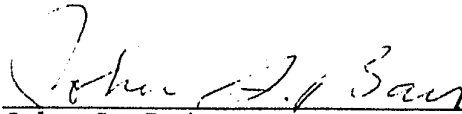
11. Representations. Bair Investments represents and warrants that it is the sole owner of the Bair Property. Bair Investments further represents and warrants that it is the only beneficial user of the water rights and water conveyed by the concrete ditch located on the southerly twenty (20) feet of the Bair Property.

12. Costs of Enforcement and Attorneys Fees. In the event any legal action is required to enforce the terms of this Agreement or any rights and obligations contained herein, the prevailing party in such a case shall be entitled to an award of costs of enforcement, including reasonable attorneys fees.


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13. Interpretation. This Agreement shall constitute the sole agreement between the parties hereto with respect to the subject matter hereof, and all prior discussions, negotiations and Agreements between the parties are merged and integrated into this Agreement. The rights and obligations of the parties under this Agreement shall survive the execution of any formal easement evidencing the terms of this Agreement. This Agreement shall be binding upon the heirs, successors and assigns of the respective parties hereto.

THE PARTIES have caused this Agreement to be executed as of the above stated date.



John S. Bair




Laura G. Bair

BAIR INVESTMENTS, LTD.

By 

General Partner

OLD STONE MORTGAGE CORPORATION

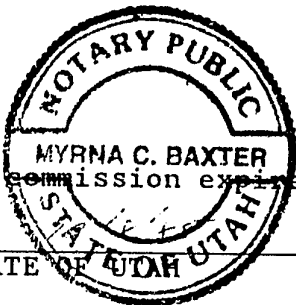
By 

Thomas A. Ellison, Attorney-in-Fact for Old Stone Mortgage

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

On the 28th day of June, 1983, personally appeared before me John S. Bair and Laura G. Bair, the signers of the above instrument, who duly acknowledged to me that they executed the same.

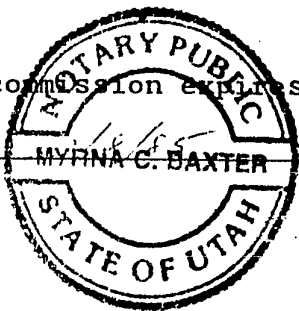


My commission expires:

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

Myrna C. Baxter
NOTARY PUBLIC
Residing at: West Jordan, Ut.

On the 28th day of June, 1983, personally appeared before me John S. Bair, who being by me duly sworn, is general partner of Bair Investments, Ltd., and that said instrument was signed on behalf of said partnership by authority and the said John S. Bair duly acknowledged to me that said partnership executed the same.



My commission expires:

Myrna C. Baxter
NOTARY PUBLIC
Residing at: West Jordan, Ut.

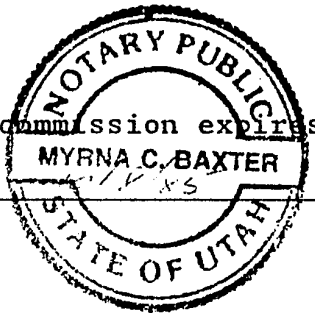
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STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On the 31st day of June, 1983, personally appeared before me Thomas A. Ellison, who being by me duly sworn, did state that he is attorney-in-fact of Old Stone Mortgage Corporation, and that said instrument was signed on behalf of said corporation by authority and the said Thomas A. Ellison as attorney-in-fact duly acknowledged to me that said corporation executed the same.

Myrna C. Baxter
NOTARY PUBLIC
Residing at: West Jordan, ut.

My commission expires:



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EXHIBIT "A"

All of Lots 1-86, River Oaks Subdivision, according to the official plat thereof of record in the Salt Lake County Recorder's Office.

EXHIBIT B

PARCEL ONE:

BEG 88.2 FT N & 2839.38 FT E FR NW COR SEC 23, T2S, R 1W, S L M; N 87° E 537 FT; M OR L; S 67°30' E 335.78 FT; S 52° 39'22" E 375.97 FT; S 375.55 FT; S 82°15'17" E 125.36 FT; S 68°43'52" E 162.32 FT; S 82°17'41" E 131.43 FT; S 86°49'19" E 219.55 FT; S 89°30' E 13.02 FT M OR L; S 17 FT M OR L TO STATE ROAD; N 86°16'45" W 227.12 FT; N 82°17'41" W 131.43 FT; N 68°43'52" W 162.36 FT; N 82°15'17" W 294.09 FT; NW'LY ALG STATE ROAD 1126.19 FT M OR L; N 15°40' E 354.06 FT TO BEG. 13.74 AC M OR L.

PARCEL TWO:

COM 2031.32 FT W & 397.32 FT N & S 1°10' E 305.25 FT & S 87° W 903.2 FT FR NE COR SEC 23, T 2S, R 1W, S L M; S 87° W 91 FT, M OR L TO STATE ROAD; SE'LY ALG SD ROAD 95.98 FT, M OR L N 14°02'30" E 67.2 FT TO BEG. 0.07 AC.