

167373-DMP
When recorded, please return to:

DEER PARK LLC
Attn: Michael B. Horan
520 South 850 East Suite A3
Leni, UT 84043
37-365-0001 & 37-365-0002

ENT 46139:2023 PG 1 of 10
Andrea Allen
Utah County Recorder
2023 Jul 17 03:08 PM FEE 40.00 BY TM
RECORDED FOR Cottonwood Title Insurance Agency, Inc.
ELECTRONICALLY RECORDED

RECIPROCAL ACCESS EASEMENT AGREEMENT
(Deer Park Subdivision)

THIS RECIPROCAL ACCESS EASEMENT AGREEMENT (“**Agreement**”) is made and executed effective as of the 17th day of JULY, 2023 (“**Effective Date**”), by and between DEER PARK, LLC, a Utah limited liability company and its successors and assigns (“**Deer Park**”), and DEER PARK 2, LLC, a Utah limited liability company and its successors and assigns (“**Deer Park 2**”). Deer Park and Deer Park 2 may be referred to herein individually as a “**Owner**” and collectively as the “**Property Owners**”.

RECITALS

(A) Deer Park is the owner of record of certain real property located in Utah County, Utah, as more particularly described in Exhibit A attached hereto and incorporated herein by reference (“**Lot 1**”).

(B) Deer Park 2 is the owner of record of certain real property located adjacent to Lot 1 as more particularly described in Exhibit B attached hereto and incorporated herein by reference (“**Lot 2**”); Lot 1 and Lot 2 may be referred to hereafter individually as a “**Property**” and together as the “**Parcels**” or the “**Properties**”.

(C) The Parties intend to develop, construct and maintain a portion of the Parcels where Lot 1 and Lot 2 adjoin for use as access for the Deer Park Subdivision development (the “**Project**”). The Project includes the subdivision of developed and improved land, which has been, is being, and will be developed to overlap on both Lot 1 and Lot 2.

(D) Deer Park desires to obtain from Deer Park 2 a perpetual, non-exclusive access easement on, over and across a portion of Lot 2, and Deer Park 2 desires to obtain from Deer Park a perpetual, non-exclusive access easement on, over and across a portion of Lot 1, as more particularly described and depicted in Exhibit C, attached hereto and incorporated herein by this reference (collectively, the “**Easement Area**”).

(E) The Property Owners are hereby willing to grant such a reciprocal access easement over the Easement Area for the purposes more particularly described herein, which easement shall be appurtenant to both Parcels and for the mutual beneficial use and enjoyment of both Parcels, their owners, their successors, assigns, tenants, invitees and guests, and to establish and set forth their respective maintenance obligations related to the same.

AGREEMENT

NOW, THEREFORE, in consideration of these purposes and other good and valuable consideration, the Property Owners agree as follows:

1. Recitals. The foregoing Recitals are true and correct and are incorporated into this Agreement by this reference as if fully set forth herein.

2. Grant of Easement. Subject to the terms and conditions of this Agreement, the Property Owners hereby grant and convey to each other, their successors, assigns, tenants, invitees and guests a non-exclusive, perpetual, access easement appurtenant to both Parcels for ingress and egress over and across those portions of the Easement Area located on each Owner's respective Property, subject to the terms and conditions of this Agreement and any rules and regulations applicable to the Properties (the "**Easement**"). The Easement shall permit unobstructed vehicular and pedestrian ingress, egress, and access over, across and upon the Easement Area for the mutual benefit of the Properties, the owners thereof and their respective successors, assigns, residents, invitees and guests.

a. *No Obstruction of Easement Area*. There shall not be any obstructions (except for ordinary maintenance and repair, for which five (5) days prior written notice to the Party not performing the repair shall be required), fences, curbs or landscaping that would in any way impede vehicular or pedestrian traffic between the Properties over the Easement Area, it being the intent of the Property Owners to provide for the free flow of pedestrian and vehicular traffic through the Easement Area to and from the Properties and public rights of way. Without limiting the generality of the foregoing, the parties agree that neither party shall have the right to cause, allow, or permit any stacking or lining of cars within the Easement Area, including without limitation, from a drive-thru stacking (or similar) lane or lanes on a Property.

3. Reservations by Property Owners

a. *Reservation by Deer Park*. Deer Park reserves the right to use that portion of the Easement Area located on Lot 1 for any use not inconsistent with the terms of this Agreement and Deer Park's rights granted herein, including modifications to Lot 1 as Deer Park deems appropriate.

b. *Reservation by Deer Park 2*. Deer Park 2 reserves the right to use that portion of the Easement Area located on Lot 2 for any use not inconsistent with the terms of this Agreement and Deer Park 2's rights granted herein, including modifications to Lot 2 as Deer Park 2 deems appropriate.

4. Condition of the Easement Area. The Property Owners, collectively and individually, each accept the Easement Area and all aspects thereof in their "AS IS", "WHERE IS" condition, without warranties, either express or implied, "WITH ALL FAULTS", including but not limited to both latent and patent defects, and the existence of hazardous materials, if any, and any other easements, rights, or other encumbrances affecting the Easement Area.

5. Maintenance and Repairs. Unless the Property Owners agree to the contrary, each Owner, including its successors and assigns, shall be responsible, at its sole cost and expense, for the repair and upkeep of its Property, including that portion of the Easement (including any related utility located in the same) located on its Property, which repair and upkeep shall be performed in a workmanlike, diligent and efficient manner and shall include maintenance of paved surfaces in a level and smooth condition, free of potholes, with the type of material as originally used or a substitute equal in quality; plowing of snow and ice from paved surfaces; and restriping as required to keep the same clearly visible. All such maintenance, repair and replacement shall be accomplished in a first-class, lien-free manner in accordance with standards pursuant to similarly situated property of similar size maintained in Utah County, Utah, and consistent with any covenants, conditions and restrictions applicable to the Properties. If either Owner causes damage to the Easement Area, that Owner agrees to promptly repair the same at its expense to the condition existing immediately prior to the damage, without right to or expectation of reimbursement on the part of the other Owner. In the event the Property Owners agree that one Owner, specifically, will be responsible for the routine maintenance, upkeep and repair of the Easement, the Property Owners (or their successors and/or assigns) will share the costs for such maintenance, upkeep and repair on a pro-rata basis based upon the number of completed units in the Project. In the event an Owner fails to maintain the Easement (including any related utility located in the same) located on its Property as required herein, or fails to reimburse an Owner who the Property Owners mutually agree will be solely responsible for the same, an Owner, including a lender or third party with a secured interest against the Project, may, following five (5) days written notice to the defaulting Owner, but without obligation to do so, enter upon the Properties to perform such necessary maintenance. Further, if such action is needed, such Owner shall be entitled to reimbursement of the necessary and reasonable costs incurred in performing said maintenance.

6. Rules. The Property Owners may mutually establish reasonable rules and restrictions with regard to the time, place, and manner of access to and use of the Easement within the Easement Area. Neither the Property Owners nor their successors, assigns, residents, invitees and guests can acquire any right, title or interest in and to the Easement Area by adverse possession, prescriptive easement or other legal theories.

7. Insurance. Each Owner shall maintain comprehensive general liability insurance, including contractual liability coverage, naming the other Owner as an additional insured and providing coverage with a combined bodily injury, death and property damage limit of Two Million and 00/100 Dollars (\$2,000,000.00) or more per occurrence. Each Owner shall provide the other with a certificate of insurance, which certificate shall provide that the coverage referred to therein shall not be modified or cancelled without at least thirty (30) days written notice to each named insured thereunder.

8. Damage or Condemnation.

a. Damage. In the event that any portion of the Easement Area is destroyed or damaged by fire, casualty or force majeure, the Owner's Property upon which the Easement

Area is so damaged shall, at its sole cost and expense, forthwith repair and restore such area to the condition that existed immediately prior to such damage.

b. **Condemnation.** In the event that any part of a Property is condemned, the owner of the affected Property, at its sole cost and expense, shall restore such area as much as practicable to provide the same approximate configuration, size and location of the drives, and driveways, together with existing curb cuts to adjacent roadways existing prior to the condemnation. Unless the owner of the affected Property has otherwise provided for the cost of restoration, any award on account of a condemnation on the affected Property first shall be used in the restoration of the same, and any claim to the award made by a Property owner, or its tenants or licensees hereunder shall be expressly subject and subordinate to its use in such restoration. The term "condemnation" as used herein shall include all conveyances made in anticipation or lieu of an actual taking. Nothing in this Section shall be construed to give any Owner an interest in any award or payment made to the other Owner in connection with any exercise of the power of eminent domain or any transfer in lieu thereof affecting said Owner's Property or giving the public or any government any rights in said Property except as may be provided by applicable law.

9. **Remedies and Enforcement.** In the event of a default or threatened default by any Owner hereunder, and/or any such Owner's respective successors and/or assigns, of any of the terms, easements, covenants, conditions or restrictions hereof, the non-defaulting Owner shall be entitled to pursue all available legal and equitable remedies from the consequences of such breach, including but not limited to specific performance. The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity. Notwithstanding the foregoing, no default hereunder shall entitle either Party to cancel, rescind, or otherwise terminate this Agreement.

10. **Indemnification.** Each Owner ("**Indemnifying Party**") agrees to indemnify, release and defend, with counsel of the other Owner's choice, and hold the other Owner and its employees, officers, divisions, subsidiaries, partners, members and affiliated companies and entities and its and their employees, officers, shareholders, members, directors, agents, representatives, and professional consultants and its and their respective successors and assigns (collectively, "**Indemnitees**") harmless from and against any loss, damage, injury, accident, fire, or other casualty, liability, claim, cost, or expense (including, but not limited to, reasonable attorney fees) of any kind or character to any person or property, including the property of the Indemnitees (collectively "**Claims**", or a "**Claim**") from or by any unaffiliated third party or the Indemnifying Party, arising from or relating to (i) any use of the Easement Area, the other Owner's Property, and/or adjacent areas by the Indemnifying Party, (ii) any act or omission of Indemnifying Party, (iii) any bodily injury, property damage, accident, fire or other casualty to or involving Indemnifying Party and its property on the Easement Area and/or adjacent areas, and (iv) any enforcement by the other Owner of any provision of this Agreement and any cost of removing the Indemnifying Party's employees or its property or equipment from the Easement Area or restoring the same as provided herein; provided, however, that the foregoing indemnity shall not apply to the extent any such Claim is ultimately established by a court of competent jurisdiction to have been caused solely by gross negligence or willful misconduct of the

Indemnitees. The terms and conditions of this indemnification provision shall remain effective, notwithstanding the expiration or termination of this Agreement.

11. Covenant Running with the Land. The provisions of this Agreement shall run with the land and shall apply to, bind and inure to the benefit of the Property Owners their successors and assigns.

12. Modification. This Agreement may not be amended, expanded or modified except by a further agreement in writing and in recordable form by the Parties or their successors or assigns. No amendment, change, or modification of any provision contained in this Agreement shall be effective unless fully set forth in a writing signed by both Deer Park, its successor or assignee; and Deer Park 2 or its successor or assignee. Notwithstanding any conflicting preference or precedent established by statute, common law or in equity, the Property Owners waive all defenses to the enforcement of this provision, together with the right to claim that this Agreement was amended, changed or modified in any way by reason of the Property Owners' course of dealing, industry standard, promise, representation, statement, reliance, passage of time, or other theory.

13. Recordation. This Agreement shall be recorded in the Utah County Recorder's Office.

14. Governing Law. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Utah.

15. No Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication to the general public or for the general public or for any public purpose whatsoever, it being the intention of the parties that this Agreement be strictly limited to and for the purposes herein expressed.

[Signatures and Acknowledgments Follow]

IN WITNESS WHEREOF, the Property Owners have executed this Easement Agreement as of Effective Date.

DEER PARK, LLC

By: Michael B. Horan
Print: Michael B. Horan
Its: Manager

STATE OF UTAH)
: ss
COUNTY OF UTAH)

On the this 12th day of July, 2023, personally appeared before me Michael B Horan, who being by me duly sworn, says that she/he is the authorized managing member of DEER PARK, LLC, the limited liability company that executed the above and foregoing instrument and that said instrument was signed in behalf of said limited liability company by authority of its operating agreement and said Michael Meneger acknowledged to me that said limited liability company executed the same.

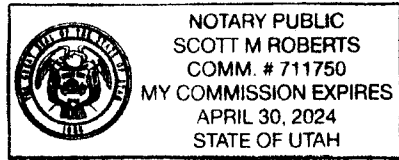
Michael Meneger

NOTARY PUBLIC

DEER PARK 2, LLC

By: Michael B. Horan
Print: Michael B. Horan
Its: Manager

STATE OF UTAH)
: ss
COUNTY OF UTAH)



On the this 12th day of July, 2023, personally appeared before me Michael B Horan, who being by me duly sworn, says that she/he is the authorized managing member of DEER PARK 2, LLC, the limited liability company that executed the above and foregoing instrument and that said instrument was signed in behalf of said limited liability company by authority of its operating agreement and said Meneger acknowledged to me that said limited liability company executed the same.

Michael Meneger

NOTARY PUBLIC

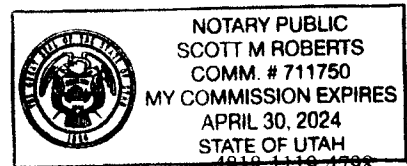


EXHIBIT "A"

(Legal Description of Lot 1)

Real Property located in Utah County, State of Utah, described as follows:

Tax Id No.: 37:365:0001

LOT 1, DEER PARK SUB AREA 6.683 AC, according to the official plat thereof recorded April 5, 2022, as Entry No. 42674:2022 in the office of the Utah County Recorder.

EXHIBIT "B"

(Legal Description of Lot 2)

Real Property located in Utah County, State of Utah, described as follows:

Tax Id No.: 37:365:0002

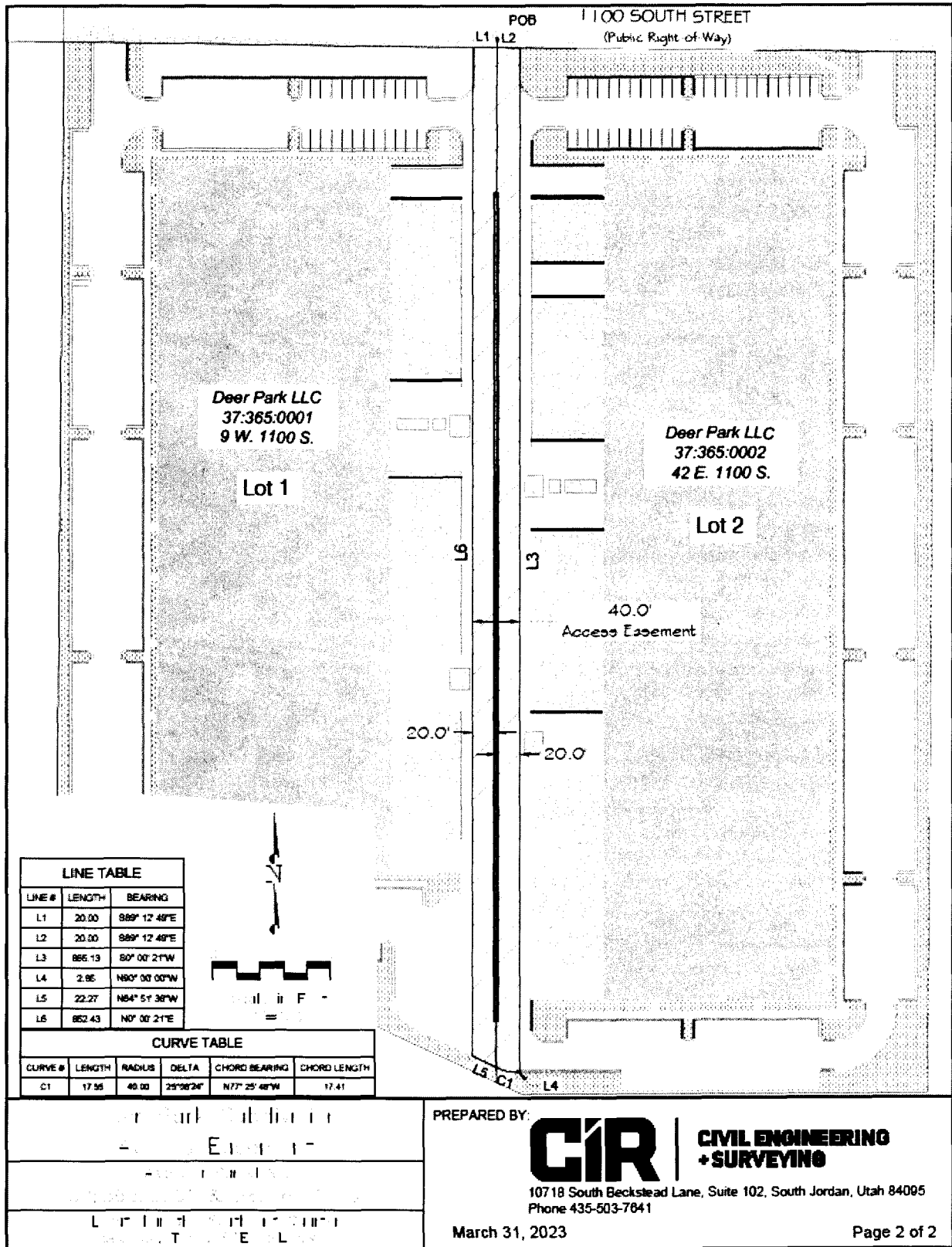
LOT 2, DEER PARK SUB AREA 7.430 AC, according to the official plat thereof recorded April 5, 2022, as Entry No. 42674:2022 in the office of the Utah County Recorder.

EXHIBIT "C"**(Description and Depiction of the Easement Area)**

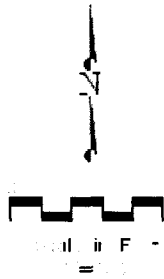
A parcel of land being part of Lot 1 and Lot 2 of Deer Park Subdivision, Recorded April 05, 2022 as Entry No. 42674 Map No. 18261 in the Office of the Utah County Recorder. Said parcel of land is located in the Southeast Quarter of Section 26, Township 5 South, Range 1 East, Salt Lake Base and Meridian and is described as follows:

Beginning at the northerly corner common to said Lots 1 & 2, which is 1004.14 feet S. 89°00'19" E. along a monument line and 2674.06 feet North from a Reference Monument to the South Quarter Corner of said Section 26; said point also being 920.68 feet S. 89°48'53" E. along the Section line and 2597.93 feet North from said South Quarter Corner of Section 26; thence S.89°12'49"E. 20.00 feet along the said northerly line of Lot 2; thence S.00°00'21"W. 865.13 feet; thence N.00°00'00"W. 2.85 feet to a point of tangency with a 40.00 feet radius to the right, concave North; thence westerly 17.55 feet along the arc of said curve, through a central angle of 25°08'24" (Chord bears N.77°25'48"W. 17.41 feet); thence N.64°51'36"W. 22.27 feet; thence N.00°00'21"E. 852.43 feet to the northerly line of said Lot 1; thence S.89°12'49"E. 20.00 feet along the northerly line of said Lot 1 to the **Point of Beginning**.

The above-described parcel of land contains 34,424 square feet in area or 0.79 acre, more or less.



LINE TABLE		
LINE #	LENGTH	BEARING
L1	20.00	S89° 12' 48"E
L2	20.00	S89° 12' 48"E
L3	866.13	S0° 00' 21"W
L4	2.95	N90° 00' 00"W
L5	22.27	N84° 51' 38"W
L6	852.43	N0° 00' 21"E



CURVE TABLE					
CURVE #	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	17.35	40.00	25° 58' 24"	N77° 25' 48"W	17.41

Deer Park LLC
 37:365:0001
 9 W. 1100 S.
 Lot 1

Deer Park LLC
 37:365:0002
 42 E. 1100 S.
 Lot 2

40.0'
 Access Easement

20.0'

20.0'

1100 SOUTH STREET
 (Public Right of Way)

POB
 L1, L2

L6

L3

L5, C1

L4

PREPARED BY:

CIR | **CIVIL ENGINEERING + SURVEYING**

10718 South Beckstead Lane, Suite 102, South Jordan, Utah 84005
 Phone 435-503-7641

March 31, 2023

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