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ANDREA ALLEN
UTAH COUNTY RECORDER
2024 Jan 29 02:06 PM FEE 0.00 BY AR
RECORDED FOR SARATOGA SPRINGS CITY

When Recorded, Mail To:

City of Saratoga Springs
Attn: City Recorder
1307 N. Commerce Drive, Suite 200
Saratoga Springs, UT 84045

(Space Above for Recorder's Use Only)

UTILITY EASEMENT AND AGREEMENT

This UTILITY EASEMENT AND AGREEMENT (this "Agreement") is made and entered into effective as of the 6 day of December, 20 23 (the "Effective Date"), by and between Saratoga Schools Development, LLC, a Utah corporation/limited liability company ("Grantor"), Saratoga Schools Development, LLC, a Utah corporation/limited liability company ("Developer"), and the CITY OF SARATOGA SPRINGS, a Utah municipal corporation ("Grantee").

RECITALS

A. Grantor is the owner of that certain real property located in the City of Saratoga Springs, Utah County, Utah (the "Grantor Property").

B. Developer is constructing the Ascent Academies of Utah project in the City and desires the right to construct utilities on Grantor's Property as necessary to meet the utility needs of Developer's project and the construction standards of Grantee.

C. Grantee and Developer desire to obtain and Grantor is willing to convey a perpetual utility easement over the Grantor Property subject to the terms and conditions of this Agreement.

D. "Utilities" or "utility" are defined herein to include all utility facilities, lines, conduits, pipes, channels, ponds, ditches, valves, structures, boxes, and other similar transmission and distribution structures and facilities, and all related appurtenances owned and operated by Grantee for the provision of services such as water, secondary water, irrigation water, drinking water, culinary water, storm drainage, storm sewer, sanitary sewer, and sewer.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

TERMS AND CONDITIONS

1. **Grant of Easement.** Grantor does hereby convey, without warranty, unto Grantee a perpetual easement and unto Developer a construction easement (the "Utility Easement") under and across that portion of the Grantor Property more particularly described and depicted on Exhibit

A, attached hereto and incorporated herein by this reference (the "Utility Easement Area"). Grantor shall ensure, guarantee, and warrant that no other easements or licenses shall be granted to any other person or entity on, over, or under the Utility Easement Area and that no above or below ground improvements, buildings, or facilities of any kind shall be constructed or maintained on the Utility Easement Area, except as otherwise approved by Grantee in writing. Grantor acknowledges and agrees that the Facilities will be constructed by Developer, and then dedicated to Grantee upon acceptance in writing by Grantee

2. **Access.** Developer and Grantee and their agents, servants, employees, consultants, contractors, and subcontractors shall have the right to enter upon the Utility Easement Area solely for the purposes permitted by this Agreement. Developer shall enter upon the Utility Easement Area at its sole risk and hazard, and Developer hereby releases Grantor from any and all claims relating to the condition of the Utility Easement Area and the entry upon the Utility Easement Area by Developer. Grantee shall enter upon the Utility Easement Area at its sole risk and hazard, and Grantee hereby releases Grantor from any and all claims relating to the condition of the Utility Easement Area and the entry upon the Utility Easement Area by Grantee.

3. **Purposes of the Utility Easement.** The purpose of this Utility Easement is to allow the construction of the Utilities by Developer and its successors, assigns, and agents in order to meet Grantee's development standards for the subdivision and development and to allow Grantee the ability to maintain, repair, and replace the Utilities after Grantee's acceptance in writing. Developer or its successors, associates, assigns, and agents shall be responsible for the proper and timely construction and installation of the Utility Improvements per Grantee's standards. Upon the proper and timely construction of the Utilities by Developer and acceptance in writing by Grantee per Grantee's development standards, Grantee, at its sole cost and expense, shall maintain the Utility Improvements in good order and condition, except for repair of the Utilities during the 1-year warranty period per Grantee's development standards, during which time the Utilities shall be maintained and repaired by the Developer. Grantee shall also have the right to repair, replace, restore, and relocate the Utilities within the Utility Easement Area.

In performing the work permitted by this Agreement, Developer and Grantee respectively shall restore the Grantor Property to the same condition prior to Developer or Grantee's entry respectively. Notwithstanding the obligations of this Section 5, Grantor recognizes that the nature of the utility improvements may result in the inability of Developer and Grantee to fully restore the Grantor Property. So long as Developer or Grantee respectively uses its best efforts to fully restore Grantor Property, Grantor waives the right to require strict performance of Grantee's or Developer's respective restoration requirements under this paragraph.

4. **Replacement of Utility Easement with Subdivision Plat Recordation.** Upon the recordation of a subdivision plat with the Utah County Recorder's Office per Grantee's development standards, which shall provide for the equivalent replacement of the easements in this Agreement in the favor of Grantee, the Utility Easement shall automatically be deemed superceded and replaced, but only with respect to such portion of the Property over which a subdivision plat is recorded. Upon such subdivision plat recordation, the rights and obligations in this Agreement shall be of no force or effect so long as the equivalent rights of Grantee are granted in such recorded subdivision plat. For

the remainder of Grantor’s Property that is not subdivided pursuant to a recorded subdivision plat, this Agreement shall continue in full force and effect.

5. **Notices.** All notices, demands, statements, and requests (collectively, the “Notice”) required or permitted to be given under this Agreement must be in writing and shall be deemed to have been properly given or served as of the date hereinafter specified: (i) on the date of personal service upon the Party to whom the notice is addressed or if such Party is not available the date such notice is left at the address of the Party to whom it is directed, (ii) two business days after the date the notice is postmarked by the United States Post Office, provided it is sent prepaid, registered or certified mail, return receipt requested, (iii) on the date the notice is delivered by a courier service (including Federal Express, Express Mail, Lone Star or similar operation) to the address of the Party to whom it is directed, provided it is sent prepaid, return receipt requested, or (iv) on the date the notice is sent by electronic mail with both a delivery and read receipt received by the sender. The addresses of the signatories to this Agreement are set forth below:

If to Grantor: Saratoga Schools Development, LLC
290 North Flint Street Suite A
Kaysville, UT 84037
sheldon@academicawest.com

With a copy to: _____

If to Developer: Saratoga Schools Development, LLC
290 North Flint Street Suite A
Kaysville, UT 84037
sheldon@academicawest.com

With a copy to: _____

If to Grantee: Jeremey Lapin
Public Works Director
1307 N. Commerce Drive, Suite 200
Saratoga Springs, UT 84045
jlapin@saratogaspringscity.com

With a copy to: Kevin Thurman
City Attorney

1307 N. Commerce Drive, Suite 200
Saratoga Springs, UT 84045
kthurman@saratogaspringscity.com

6. Miscellaneous.

6.1. Binding Effect. Except as expressly stated herein, the provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto, as well as the successors and assigns of such Persons.

6.2. Partial Invalidity. If any term, covenant or condition of this Agreement or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and shall be enforced to the extent permitted by law.

6.3. Captions. The captions and headings in this Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants or conditions contained herein.

6.4. Gender. In construing the provisions of this Agreement and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

6.5. Relationship of the Parties. Nothing contained herein shall be construed to make the parties hereto partners or joint venturers, or render any of such parties liable for the debts or obligations of the other party hereto.

6.6. Amendment. This Agreement may be canceled, changed, modified or amended in whole or in part only by the written and recorded agreement of the Parties or their successor and assigns (as determined by the provisions herein).


6.7. Counterparts. This Agreement may be executed in any number of counterparts and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute but one Agreement.

6.8. Attorney Fees. In the event any legal action or proceeding for the enforcement of any right or obligations herein contained is commenced, the prevailing party in such action or proceeding shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

6.9. Assignment. Grantee may not at any time during this Agreement assign its rights and obligations under this Agreement without the prior written consent of Grantor, which consent may be granted or withheld in Grantors sole and absolute discretion and for any reason or no reason at all.

GRANTEE:

City of Saratoga Springs, a Utah municipal corporation


City Manager *MARK J. CHRISTENSEN*

ATTEST:


City Recorder



State of Utah County of Utah ss
On this 7 day of January, in the year 2024,
before me, Nicolette Fike, a notary public
personally appeared Mark J. Christensen, City Manager
proved on the basis of satisfactory evidence to be the
person(s) whose name(s) (is/are) subscribed to this
instrument, and acknowledged (he/she/they) executed
the same. Witness my hand and official seal.

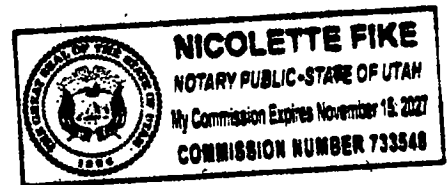


EXHIBIT A

Legal description and depiction of the Utility Easement Area

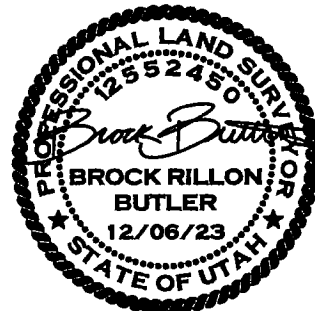
WATERLINE EASEMENT:

A 10-FOOT-WIDE PERPETUAL WATERLINE EASEMENT LOCATED IN LOT 2 OF THE WILDFLOWER VILLAGE 2 SCHOOL PLAT, RECORDED UNDER ENTRY NUMBER 204366:2021 IN THE UTAH COUNTY RECORDER'S OFFICE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

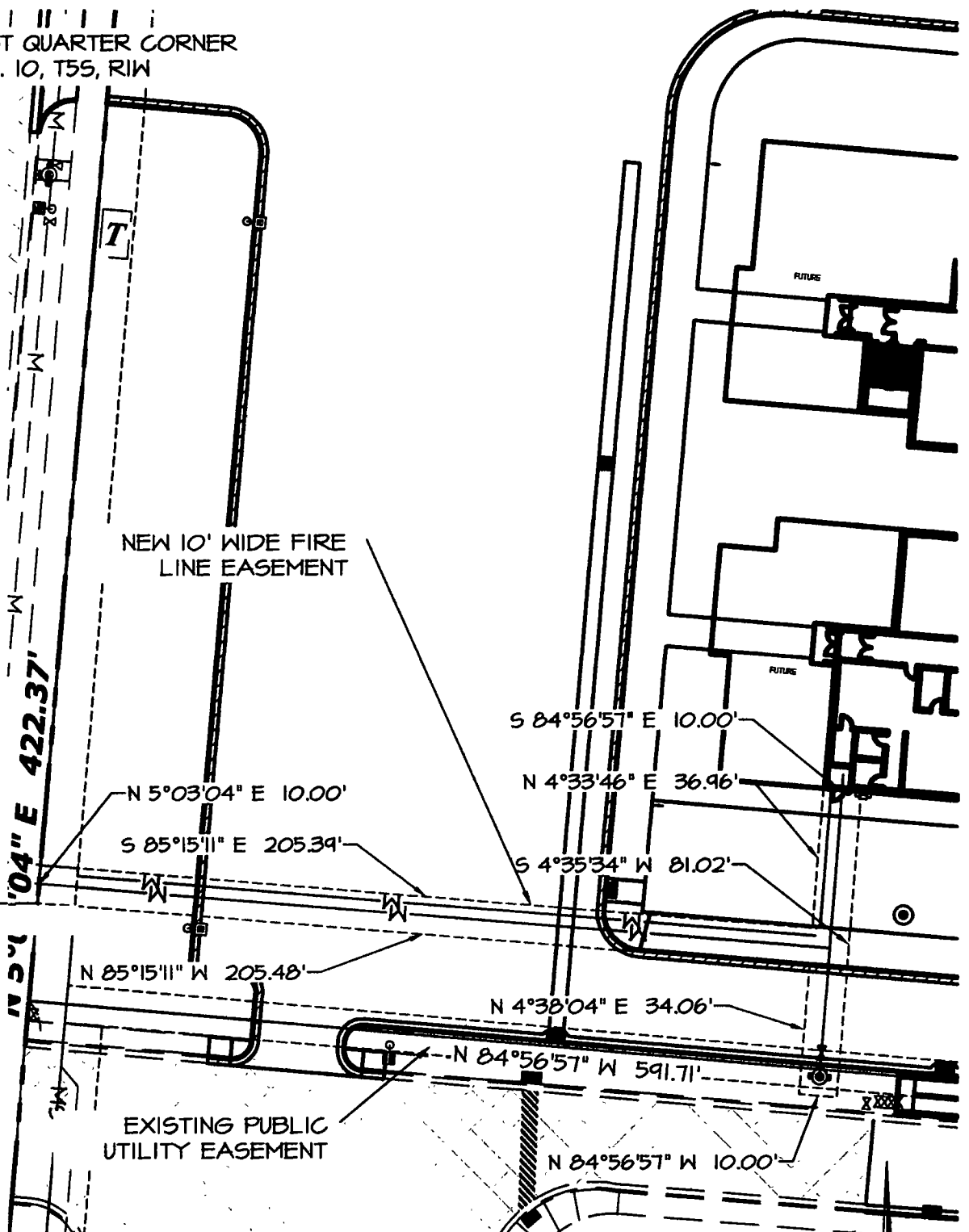
BEGINNING AT A POINT ON THE WEST LINE OF SAID LOT 2 LOCATED NORTH 0°20'24" EAST 496.11 FEET ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 5 SOUTH, RANGE 1 WEST SALT LAKE BASE AND MERIDIAN (BASIS OF BEARINGS) AND EAST 508.87 FEET FROM THE FOUND UTAH COUNTY MONUMENT MARKING THE SOUTHWEST CORNER OF SAID SECTION 10;

RUNNING THENCE NORTH 5°03'04" EAST 10.00 FEET ALONG SAID WEST LINE OF LOT 2; THENCE SOUTH 85°15'11" EAST 205.39 FEET; THENCE NORTH 4°33'46" EAST 36.96 FEET; THENCE SOUTH 84°56'57" EAST 10.00 FEET; THENCE SOUTH 04°33'46" WEST 81.02 FEET; THENCE NORTH 84°56'57" WEST 10.00 FEET; THENCE NORTH 4°33'46" EAST 34.06 FEET; THENCE NORTH 85°15'11" WEST 205.48 FEET TO THE WEST LINE OF SAID LOT 2 AND THE POINT OF BEGINNING.

CONTAINING 2,863 SQUARE FEET OR 0.066 ACRES MORE OR LESS



WEST QUARTER CORNER
SEC. 10, T55, R1W



EAST 508.87'

N 5°04'04" E 422.37'

NEW 10' WIDE FIRE
LINE EASEMENT

N 5°03'04" E 10.00'

S 85°15'11" E 205.39'

S 84°56'57" E 10.00'

N 4°33'46" E 36.96'

S 4°35'34" W 81.02'

N 85°15'11" W 205.48'

N 4°38'04" E 34.06'

EXISTING PUBLIC
UTILITY EASEMENT

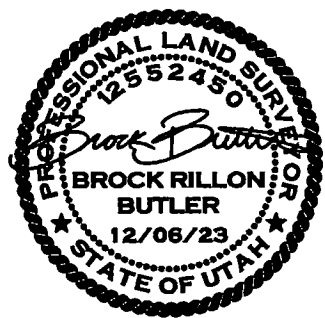
N 84°56'57" W 591.71'

N 84°56'57" W 10.00'

N 0°20'24" E 496.11'

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SOUTHWEST CORNER
SEC. 10, T55, R1W



HORIZONTAL SCALE: 1"=40'

WATERLINE EASEMENT EXHIBIT