

WHEN RECORDED, PLEASE RETURN TO:

00810989 B: 1861 P: 0527

Easy Street Partners, LLC
c/o William Shoaf
4780 Winchester Court
Park City, Utah 84098

Page 1 of 12
Alan Spriggs, Summit County Utah Recorder
04/25/2007 04:22:06 PM Fee \$32.00
By EQUITY-PARK CITY
Electronically Recorded by Simplifile

SA-400-E-1-A

**GRANT OF NONEXCLUSIVE EASEMENTS
(UTILITIES)**

THIS GRANT OF NONEXCLUSIVE EASEMENTS (UTILITIES) ("Agreement") is made this 25th day of April, 2007, by and between Mountain West Bankers Association, a Utah non-profit organization, having its principal place of business located at 780 Main Street, Park City, UT 84060 ("Grantor"), and the EASY STREET PARTNERS, LLC, a Utah limited liability company, having its principal place of business located at 201 Heber Avenue, Park City, Utah 84060 ("Grantee").

RECITALS

- A. Grantor is the owner in fee simple of certain improved land located in Summit County, State of Utah, which is more particularly described on Exhibit A attached hereto and incorporated herein by reference ("Grantor Property").
- B. Grantee is the owner in fee simple of certain real property located adjacent to the Grantor Property, which is more particularly described on Exhibit B attached hereto and incorporated herein by reference ("Grantee Property").
- C. Grantee desires to utilize certain property owned by Grantor for utility installation and maintenance purposes in accordance with the provisions of this Agreement.
- D. In accordance with and subject to the terms and conditions of this Agreement, Grantor has agreed to grant and convey to Grantee certain perpetual nonexclusive easements and rights of way (the "Easements") to use, operate, repair and maintain utilities under that certain property within the Grantor Property described in Exhibit C attached hereto and incorporated herein for all purposes (collectively, "Easement Property"). The Easement Property also is depicted on a Site Plan attached to Exhibit C.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the sum of Ten Dollars paid by Grantee to Grantor, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Grantor and Grantee hereby agree as follows:

ACCOMMODATION RECORDING ONLY, EQUITY
TITLE INSURANCE AGENCY, INC. MAKES NO REP-
RESENTATION AS TO CONDITION OF TITLE, NOR
DOES IT ASSUME ANY RESPONSIBILITY FOR
VALIDITY, SUFFICIENCY OR EFFECTS OF
DOCUMENT.

1. **Grant of Easement.** Subject to the terms and conditions set forth in this Agreement, and subject to all matters of record, Grantor hereby grants and conveys to Grantee, for the use and benefit of the Benefited Parties (as defined below), a perpetual nonexclusive easement and right of way to install, operate, repair and maintain the utilities located within the Easement Property ("Utility System"). Grantee shall not disturb the surface of the Easement Property without obtaining Grantor's prior written consent. For purposes of this Agreement, "Benefited Parties" shall mean: (a) Grantee and their respective successors and assigns; and (b) all tenants, subtenants, guests, employees, agents, customers, invitees and concessionaires of Grantee.

2. **Easements Appurtenant to the Grantee Property.** The Easements shall be appurtenant to and run with the land and constitute a portion of the Grantee Property and each part thereof. Any Benefited Party's right to utilize such Easements shall be subject to the management and control of the Grantor. Grantor may enact such reasonable rules and regulations as it sees fit to regulate the use of the Easement Property, and such rules shall be binding upon the Benefited Parties.

3. **Grantee's Use of Easement Property.** Grantee shall have the right, at its sole cost and expense, to use the Easement Property to install, operate, repair and maintain the Utility System. Grantee shall provide Grantor with ten (10) days advance written notice of any connection, repair or maintenance activities and shall endeavor to undertake such activities at times convenient and reasonably acceptable to Grantor. Grantee's access to the Easement Property shall not unreasonably interfere with the development or continuing use of the Grantor Property or disrupt the transmission of utilities to the Grantor Property. Grantee shall connect to the Utility System so as not to adversely impact the aesthetics of the Grantor Property and to minimize its impact on the Easement Property and the Grantor Property. Grantee shall also repair all aspects of the Easement Property, the Utility System, as well as any displaced ground and landscaping to as good or better condition as existed immediately prior to any such displacement or excavation.

4. **No Mechanic's Liens.** All activities by Grantee with respect to the Easement Property shall be pursued diligently to completion. Grantee shall not permit any lien or claim of mechanics or laborers to be filed against the Easement Property or the Grantor Property, or any part or parts thereof, for any work, labor or materials furnished, alleged to have been furnished or to be furnished pursuant to any agreement by Grantee. Within thirty (30) days after the date of the filing or recording of any such lien, Grantee shall cause the same to be paid and discharged of record.

5. **Grantor's Reservation of Rights.** Grantor reserves unto itself forever, the right to cross over or under the Easement Property, to place or grant other easements along, across or over the Easement Property so long as such other easements and uses do not prevent Grantee's use of the Easement Property for the limited purposes herein granted. In the event that any Easement improvement is condemned by a municipal authority with jurisdiction over the Grantor Property or is destroyed by casualty, Grantor reserves unto itself forever, the right to determine whether or not to repair, restore, construct or replace such Easement improvement. Grantor further reserves the right to service the utilities in the Easement Property by utilizing the Grantee

Property and its utilities as may be reasonably necessary to ensure proper functioning of Grantor's utility system.

6. **Repair, Restoration and Damages.** Grantee shall in all instances immediately repair and restore the Easement Property and adjacent land together with any improvements and personal property located thereon to as good or better condition as existed immediately prior to any access, use and enjoyment of the Easements, or caused by the access, maintenance, repair or replacement of the Utility System. Grantee shall also dispose of any garbage and refuse related to Grantee's use, access and improvement of the Easement Property. Grantee agrees to promptly compensate Grantor for any damage to Grantor's personal property and improvements on or off the Easement Property that is caused by Grantee's use, connection, maintenance or repair on the Easement Property and is not immediately repaired or restored by Grantee pursuant to this Section 6.

7. **Covenants to Run With the Land.** Subject to the terms of this Agreement, the Easements shall constitute covenants running with the land, and shall burden the Easement Property as the servient estate, and benefit the Grantee Property as the dominant estate, and shall be binding upon the Grantor, its successors, assigns, and any person acquiring, leasing, or otherwise owning an interest in the Easement Property. Furthermore, all obligations of Grantee and the Benefited Parties shall burden the Grantee Property for the benefit of the Grantor and the Easement Property.

8. **Not a Public Dedication.** Nothing contained in this Agreement shall be deemed to be a gift or a dedication of any portion of the Easement Property to or for the general public or for any public purpose whatsoever, it being the intent of the parties that this Agreement be strictly limited to and for the purposes expressed herein.

9. **Hazardous Materials.** Grantee shall not create, generate, use, bring, allow, emit, dispose of or permit to be used, brought, emitted or disposed of on, over or under the Easement Property, or any part thereof or any property adjacent thereto, any toxic or hazardous gaseous, liquid or solid material or waste or any material which is defined as "Hazardous Substances", "Hazardous Materials" or "Toxic Substances" or the like pursuant to any federal, state or local law, rule, regulation or ordinance or which has been determined by any state, federal or local governmental or public authority to be capable of posing a risk of injury to health, safety or property (collectively, the "Toxic Materials"). Grantee, at its sole cost, shall immediately take all steps necessary to effect a clean up of any Toxic Materials in the event of a breach of this Section and to obtain appropriate governmental agency certification of such clean up. Grantee shall and does hereby indemnify and hold Grantor harmless from any and all claims, liabilities, costs or expenses incurred or suffered by Grantor arising from a breach of this Section 9.

10. **Indemnity.** In addition to the specific indemnity described in Section 9 above, Grantee covenants and agrees to indemnify and hold Grantor and its respective officers, members, agents, representatives, associates and employees harmless from and against any and all claims, actions, liabilities, costs and expenses (including reasonable attorneys' fees) arising from the breach by Grantee of any term or condition of this Agreement. The indemnity set forth in this Section 10 shall be in addition to, and not in limitation of, any rights to indemnity at law or in equity.

11. **Notice.** Any notice, demand, request, consent, submission, approval, designation, or other communication which either party is required or desires to give to any other shall be in writing and shall be sent by United States registered or certified mail, return receipt requested, addressed to the other party at address set forth in the preamble, or such other address as indicated in writing by such party.

12. **No Relationship.** The parties hereto do not, by this Agreement nor by any parties' acts, become principal and agent, limited or general partners, joint venturers or of any other similar relationship of each other in the conduct of their respective businesses, or otherwise.

13. **Cooperation.** The parties hereto agree to cooperate reasonably to attempt to resolve any disputes that may arise in the future between them with respect to the use of the Easement Property by Grantee and use of the Easement Property by Grantor.

14. **No Waiver.** Failure of a party hereto to insist upon strict performance of any provisions hereof shall not be construed as a waiver for future purposes with respect to any such provision or option. No provision of this instrument shall be deemed to have been waived unless such waiver is in writing and signed by the party alleged to have waived its rights.

15. **Costs and Expenses.** In the event of a breach in any of the covenants or agreements contained herein, the breaching party shall pay all costs and expenses, including reasonable attorneys' fees, which may arise or accrue from enforcing this Agreement or in pursuing any remedy provided by the laws of the State of Utah, whether such remedies are pursued by filing suit or otherwise. Grantor and Grantee acknowledge that in the event of any default hereunder, it would be difficult to ascertain the exact money damages suffered by the non-defaulting party. Accordingly, the parties agree that such non-breaching party is entitled to appropriate equitable remedies in the event of any such default.

16. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, successors, legal representatives, and assigns. For so long as the Grantee owns any portion of the Grantee Property, Grantee shall be responsible for the acts and omissions of the Benefitted Parties hereunder, including but not limited to those described in Sections 5, 11 and 12 hereof. At such time as Grantee no longer owns any portion of the Grantee Property, all of the owners of the Grantee Property and any association created to manage the Grantee Property shall be responsible for the acts and omissions of the Benefitted Parties under this Agreement.

17. **Interpretation.** The Section headings in this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation and construction. The use of the singular in this Agreement shall include the plural, where the context is otherwise appropriate.

18. **Duration and Amendment.** This Agreement and the Easements shall be perpetual. Notwithstanding anything within this Agreement to the contrary, the parties may terminate this Agreement only by a written notice of termination executed by the parties, and recorded in the office of the Summit County Recorder, Utah. The parties may amend this Agreement only by a

written instrument executed by the parties, and recorded in the office of the Summit County Recorder, Utah.

19. **Counterparts.** This Agreement may be executed in on or more counterparts which together shall constitute the Agreement.

20. **Applicable Law.** This Agreement shall be governed by and construed in accordance with and interpreted under the laws of the State of Utah.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

GRANTOR:

Mountain's Asset Owners Association
a Utah non-profit organization

By: [Signature]
Name: Bruna Negel
Its: General Manager - representative for Mountain's Asset Owners Association

GRANTEE:

EASY STREET PARTNERS, LLC,
a Utah limited liability company

By: Easy Street Mezzanine LLC,
a Delaware limited liability company
Its: Sole Member and Manager

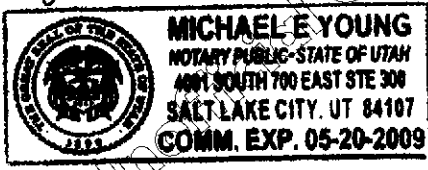
By: Easy Street Holding, LLC,
a Utah limited liability company
Its: Sole Member and Manager

By: AVG-SL, LLC,
a Utah limited liability company
Its: Manager

By: [Signature]
William Shoaf
Its: Manager

STATE OF Utah)
)
) :ss.
COUNTY OF Summit)

The foregoing instrument was acknowledged before me this 25th day of April, 2007, by Brenda Nagle, the General Manager of Marriott Resort Owners Assoc., a Utah non-profit corporation



Michael E Young
NOTARY PUBLIC

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

The foregoing Grant of Nonexclusive Easements (Utilities) was acknowledged before me this _____ day of _____, 2007, by William Shoaf, the Manager of AVG-SL, LLC, the Manager of Easy Street Holding, LLC, a Utah limited liability company, the sole Member and Manager of Easy Street Mezzanine, LLC, a Delaware limited liability company, the sole Member and Manager of Easy Street Partners, LLC, a Utah limited liability company, who signed on behalf of said company.

NOTARY PUBLIC

EXHIBIT A

LEGAL DESCRIPTION OF GRANTOR PROPERTY

BEG AT A PT THAT IS N 200.58 FT AND W 129.40 FT FR THE SW COR OF THE SE ¼ OF THE NE ¼ OF SEC 16, T2SR4E, SLBM, SD PT BEING THE NE COR OF LOT A-1 OF THE TOWN LIFT SITE, PHASE A SUBD, ACCORDING TO THE OFFICIAL PLAT OF RECORDED AND ON FILE IN OFFICE OF THE SUMMIT COUNTY RECORDER; ENTRY NO 380364; & RUN 76*17'14" E 42.72 FT; TH S 66*46'30" E 27.04 FT TO A 109.67 FT RAD CUR TO THE LEFT, WHOSE RAD PT BEARS N 10*15'59" W; TH NE'LY ALG THE ARC OF SD CUR 69.33 FT THRU A CENTRAL ANGLE OF 36*13'20"; TH N 9*01'08" E 19.44 FT TO A PT ON A 30.00 FT RAD CUR TO THE RIGHT, WHOSE RAD PT BEARS S 24*11'00" E; TH ALG THE ARC OF SD CUR 40.53 FT THRU A CENTRAL ANGLE OF 77*24'00"; TH S 36*47'00" E 81.79 FT; TH S 06*47'00" E 94.81 FT; TH N 66*46'30" W 166.90 FT; TH S 19*54'00" W 8.32 FT; TH N 66*11'00" W 24.80 FT; TH N 66*11'33" W 51.53 FT; TH N 65*56'00" E 20.98 FT; TH N 24*04'00" W 44.32 FT TO THE PT OF BEG
CONT 0.43 ACRES 668.437 851-674

SA-400-E-1-A

EXHIBIT B

LEGAL DESCRIPTION OF GRANTEE PROPERTY

A parcel of land located within the South half of the Northeast quarter and North half of the Southeast quarter of Section 16, Township 2 South, Rang 4 East, Salt Lake Base and Meridien, Park City, summit County, Utah, more particularly described as follows:

Beginning at the Southwest corner of Lot 16, Block 50, Amended Park City Survey, on file and of record in the office of the summit county Recorder, said point lies West, 90.71 feet and South, 58.93 feet from Southwest corner of the Southeast quarter of the Northeast quarter of said Section 16; thence along the westerly line of said lot 16 and the easterly right-of-way of Main Street, North 23° 38' 00" West a distance of 64.32 feet the Northwest corner of said Lot 16; thence leaving said Block 50, West a distance of 14.14 feet along said right-of-way to a point on the boundary of the First Amended Subdivision Plat of The Town Lift Site; thence, continuing along said right-of-way and said boundary North 32° 25' 56" West a distance of 126.50 feet; thence leaving said right-of-way, along said boundary North 58° 02' 07" East a distance of 81.41 feet; thence leaving said boundary South 66° 11' 22" East a distance of 77.33 feet; thence North 19° 54' 00" East a distance of 8.32 feet; thence south 66° 46' 30" East a distance of 166.95 feet; thence North 06° 43' 16" West a distance of 1/21 feet to a point on the boundary of Poison Creek Marcantile condominium Project, on file and of record in the office of the Summit County Recorder; thence along said boundary South 66° 42' 46" East a distance of 30.01 feet; thence continuing along said boundary South 07° 12' 16" East a distance of 85.18 feet; thence continuing along said boundary South 60.64 feet to a point on the northerly right-of-way of Heber Avenue; thence leaving said Poison Creek boundary and along said right-of-way North 81° 17' 00" West a distance of 227.98 feet; to the point of beginning.

Contains 49,435.83 square feet 1.13 acres

Prior Serial #'s ESB-1, ESB-2, SA-400-A
SA-400F, SA-400-406, & SA-425-UPL

New Serial # not yet assigned.

EXHIBIT C

LEGAL DESCRIPTION AND SITE PLAN OF EASEMENT PROPERTY



PARK CITY SURVEYING
P.O. Box 682993
Park City, Utah 84068
435.649.2918 • (fax) 435.649.4637

11-28-2006

Union Square Utility Easement #1 from Marriot

A parcel of land for a non-exclusive utility easement for the benefit of the Union Square Condominium Project, located within the Northeast quarter of Section 16, Township 2 South, Range 4 East, Salt Lake Base & Meridian, Park City, Summit County, Utah, more particularly described as follows:

Beginning at a point on the boundary of the Union Square Condominium Plat, said plat on file and of record in the Office of the Summit County Recorder, Entry Number 774532, dated 04/12/2006, said point being North 58°02'07" East a distance of 5.72 feet along said boundary from the Northwesterly corner of the said Union Square Condominium Plat; thence leaving said point of beginning and said boundary North 53°47'58" East a distance of 2.71 feet; thence North 55°27'55" East a distance of 1.66 feet; thence North 30°52'59" West a distance of 0.21 feet; thence North 57°36'38" East a distance of 16.34 feet; thence South 33°24'38" East a distance of 0.34 feet; thence North 55°29'28" East a distance of 1.96 feet; thence North 33°24'38" West a distance of 0.29 feet; thence North 57°51'41" East a distance of 14.84 feet; thence North 58°24'39" East a distance of 1.16 feet; thence South 31°37'00" East a distance of 0.38 feet; thence North 57°26'53" East a distance of 1.98 feet; thence North 31°37'00" West a distance of 0.29 feet; thence North 60°08'14" East a distance of 0.13 feet; thence North 65°51'39" East a distance of 4.43 feet to a point on said Union Square Condominium Plat; thence along said boundary South 58°02'07" West a distance of 45.17 feet to said point of beginning.

Containing 23 square feet, more or less.



PARK CITY SURVEYING

P.O. Box 682993
Park City, Utah 84068
435.649.2918 • (fax) 435.649.4637

11-28-2006

Union Square Utility Easement #2 from Marriot

A parcel of land for a non-exclusive utility easement for the benefit of the Union Square Condominium Project, located within the Northeast quarter of Section 16, Township 2 South, Range 4 East, Salt Lake Base & Meridian, Park City, Summit County, Utah, more particularly described as follows:

Beginning at a point on the boundary of the Union Square Condominium Plat, said plat on file and of record in the Office of the Summit County Recorder, Entry Number 774532, dated 04/12/2006, said point being North 68°45'37" West a distance of 29.43 feet from the Northeasterly corner of the said Union Square Condominium Plat; thence leaving said point of beginning and along said boundary North 66°46'30" West a distance of 166.96 feet; thence South 19°54'00" West a distance of 8.32 feet; thence North 66°11'22" West a distance of 26.35 feet to a point on a 63.97 foot radius non-tangent curve to the to the right, center bears South 88°23'46" East; thence leaving said plat boundary and along the arc of said curve through a central angle of 1°50'56", a distance of 2.06 feet to a point on a 21.50 foot radius reverse curve to the to the left; thence along the arc of said curve through a central angle of 38°30'41", a distance of 14.45 feet to a point on a 60.16 foot radius reverse curve to the to the right; thence along the arc of said curve through a central angle of 3°27'30", a distance of 3.63 feet; thence South 67°33'00" East a distance of 59.52 feet; thence South 24°23'49" West a distance of 6.43 feet; thence South 66°47'20" East a distance of 104.02 feet; thence North 23°20'02" East a distance of 5.78 feet; thence South 66°51'43" East a distance of 22.25 feet; thence North 23°12'22" East a distance of 15.33 feet; thence North 06°43'16" West a distance of 25.79 feet; thence North 83°16'44" East a distance of 6.00 feet; thence South 06°42'45" East a distance of 55.15 feet to said point of beginning.

Containing 1,388 square feet, more or less.

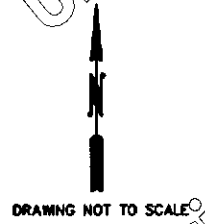
MARRIOTT EASEMENT EXHIBIT

LOT A-1
AMENDED TOWN LIFT SITE,
PHASE A

PROPOSED NON-EXCLUSIVE
UTILITY EASEMENT TO
ACCOMMODATE UNION SQUARE
(UNION SQUARE #1)

EX EASEMENT
BK 942 PG 317

PROPOSED NON-EXCLUSIVE
UTILITY EASEMENT TO
ACCOMMODATE UNION SQUARE
(UNION SQUARE #2)



MARRIOTT AQUACADE

PROPOSED NON-EXCLUSIVE
UTILITY EASEMENT TO
ACCOMMODATE UNION SQUARE
(UNION SQUARE #2)

PROPOSED
NON-EXCLUSIVE
UTILITY EASEMENT
TO ACCOMMODATE
MARRIOTT
(MARRIOTT #1)

PROPOSED NON-EXCLUSIVE
UTILITY EASEMENT TO
ACCOMMODATE MARRIOTT

PROPOSED
NON-EXCLUSIVE
UTILITY EASEMENT
TO ACCOMMODATE
MARRIOTT
(MARRIOTT #2)

MAIN STREET

SKY LODGE
CONDOMINIUM PLAT

POISON CREEK MERCANTILE
CONDOMINIUM PLAT

BLOCK 7

HEBER AVE.

HEBER AVE.

BLOCK 25

BLOCK 56