

**AFTER RECORDING, RETURN TO:**

(Market Street Parcel)

COTTONWOOD HEIGHTS  
1265 East Fort Union Blvd., Suite 250  
Cottonwood Heights, UT 84047

### Easement Agreement

**THIS EASEMENT AGREEMENT** (this "*Agreement*") is made effective \_\_\_\_\_ 2008 by **MARKET STREET COTTONWOODS, L.L.C.**, a Utah limited liability company whose address is 48 Market Street, Suite 250, Salt Lake City, UT 84101 ("*Grantor*"), and **COTTONWOOD HEIGHTS**, a Utah municipality whose address is 1265 East Fort Union Blvd., Suite 250, Cottonwood Heights, UT 84047 (the "*City*").

#### RECITALS:

- A. Grantor owns Lot 2 of the Cottonwood Corporate Center Subdivision, which is located at or near 2985 East 6580 South in Cottonwood Heights, Salt Lake County, Utah (the "*Property*").
- B. As explained in detail in the urban trails element of its general plan, the City desires to establish a public trail (the "*Trail*") running from the City's boundary near "Knudsen Corner"(intersection of I-215 and Holladay Blvd.) to the Bonneville Shoreline Trail in Big Cottonwood Canyon, as shown on the exhibits annexed hereto. Establishment, construction and maintenance of the Trail likely would occur in conjunction with, or through, Salt Lake County (the "*County*") as part of the County's "Zoo, Arts and Parks" ("*ZAP*") program.
- C. A segment (the "*Segment*") of the proposed Trail runs over the Property as shown and/or described on the attached exhibits.
- D. The City desires to obtain from Grantor, and Grantor desires to grant to the City, an easement across the Property, for the purposes, and on the terms and conditions, specified in this Agreement.

#### AGREEMENT:

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

Section 1. **Grant of Easement.** Grantor hereby irrevocably grants and conveys to the City a non-exclusive right-of-way and easement (the "*Easement*") over and across the Property as shown and described on attached exhibits "A" and "B." The Easement is granted for the purpose of allowing the City to construct, re-construct, install, maintain, use and operate (for public trail purposes), inspect, and repair the Segment of the Trail and associated improvements (the "*Improvements*"), together with all rights of ingress and egress over and across adjacent and contiguous property owned by Grantor, as shown on the attached exhibits.

The City shall have the right to permit the public to pass and repass over the Trail on foot and on non-

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 ISABEL M. OTT  
 REORDER, SALT LAKE COUNTY, UTAH  
 COTTONWOOD HEIGHTS  
 1265 E FORT UNION BLVD STE 240  
 COTTONWOOD HEIGHTS UT 84047  
 BY: BRS. DEPUTY - MA 9 P.

motorized bicycles. Motorized maintenance vehicles also shall be permitted on the Trail. Other motorized vehicles (such as snowmobiles, motorized dirt bikes, motorcycles and all terrain vehicles) shall be prohibited on the Trail.

The Improvements shall be limited to an appropriate surface for the Trail (such as gravel); low-maintenance "canyon" landscaping consistent in appearance with the current surroundings (which may include, for example, ornamental grasses and rock); a 4' split rail (wood) fence (or comparable); unobtrusive, Trail-related signage; any appropriate irrigation/water system; and/or any appropriate electrical system and unobtrusive lighting (collectively, the "Improvements"). The Trail Segment and any Improvements shall be constructed in a manner to provide for easy access to the adjacent Big Cottonwood Stream by Grantor or other authorized persons for stream-maintenance purposes.

The City shall construct any Improvements at its cost, and shall ensure that all related work is performed in a professional and workmanlike manner, and that the balance of the Property, if disturbed by the City or its agents during construction, is returned to similar condition as prior to such disturbance.

Section 2. **Maintenance.** The City shall be solely responsible for maintaining, at its sole cost, the Trail Segment and its other Improvements in good, attractive condition and repair. The City shall patrol the Trail at reasonable intervals and remove from the Property any litter, weeds or graffiti along the Trail. The City disclaims any responsibility to remove snow from the Trail Segment.

Section 3. **Signage.** The City may erect and maintain in place signage on the Property to, *inter alia*, direct users to the Trail; encourage users to stay on the Trail; and prohibit littering, hunting, trapping, building fires, picking or injuring plants or trees, or injuring or harassing wildlife. Such signage also may advise users that the property over which the Trail passes is private and that, in permitting its use by the public, the liability of the landowner is limited. The City may take steps to educate users in trail etiquette by including guidelines for users in maps or other trail publications.

Section 4. **No Interference.** Grantor shall not in any manner obstruct or interfere with the free and unimpeded public use of the Easement for Trail purposes. Grantor reserves and retains for itself and its successors, assigns and designees the right to cross the Easement and to use the Easement for any and all purposes which do not materially interfere with the City's reasonable use of the Easement as provided herein.

Section 5. **Duration.** The Easement granted herein shall be perpetual in duration; provided, however, that the City may terminate the Easement at any time through delivery to Grantor of a quitclaim deed or other written, notarized evidence of the City's termination of the Easement.

Section 6. **Covenants Run with Land.** The Easement shall (a) create an equitable servitude on the Property in favor of the City; (b) constitute a covenant running with the land; (c) bind every person having any fee, leasehold or other interest in any portion of the Property at any time or from time to time; and (d) inure to the benefit of and be binding upon Grantor and the City, their respective successors and assigns.

Section 7. **Assignment.** The City freely may assign its rights and/or delegate its duties under this Agreement to the County, if required by the County as a condition to use of ZAP funds for Trail

purposes. City shall notify Grantor in writing of any such assignment/delegation. No such assignment/delegation shall relieve the City of the responsibility to ultimately assure full and timely performance of the City's obligations hereunder.

Section 8. **Immunity Act; Indemnity.** The City is a governmental entity under the "Utah Governmental Immunity Act" (UTAH CODE ANN. § 63-30d-101, *et seq.*) (the "*Immunity Act*"). Consistent with the terms of the Immunity Act, the City shall be responsible and liable for its own wrongful or negligent acts which are committed by it or by its agents, officials, or employees, but does not waive any (a) defenses otherwise available to the City under the Immunity Act, nor (b) any limits of liability currently provided by the Indemnity Act.

Subject to the foregoing, the City shall indemnify, defend and hold Grantor harmless from and against any and all claims, actions and proceedings (at law or in equity), and all associated costs and fees (including reasonable attorneys fees incurred by counsel reasonably selected by City or its insurers), arising from City's use of the Easement as provided herein.

Section 9. **General Provisions.** The following provisions are also integral parts of this Agreement:

(a) **Binding Agreement.** This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto.

(b) **Captions.** The headings used in this Agreement are inserted for reference purposes only and shall not be deemed to define, limit, extend, describe, or affect in any way the meaning, scope or interpretation of any of the terms or provisions of this Agreement or the intent hereof.

(c) **Counterparts.** This Agreement may be signed in any number of counterparts with the same effect as if the signatures upon any counterpart were upon the same instrument. All signed counterparts shall be deemed to be one original.

(d) **Severability.** The provisions of this Agreement are severable, and should any provision hereof be void, voidable, unenforceable or invalid, such void, voidable, unenforceable or invalid provision shall not affect the other provisions of this Agreement.

(e) **Waiver of Breach.** Any waiver by either party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of or consent to any subsequent breach of this Agreement.

(f) **Cumulative Remedies.** The rights and remedies of the parties hereto shall be construed cumulatively, and none of such rights and remedies shall be exclusive of, or in lieu or limitation of, any other right, remedy or priority allowed by law.

(g) **Amendment.** This Agreement may not be modified except by an instrument in writing signed by the parties hereto.

(h) **Time of Essence.** Time is the essence of this Agreement.

(i) Interpretation. This Agreement shall be interpreted, construed and enforced according to the substantive laws of the state of Utah.

(j) Attorneys' Fees. If any action or proceeding is brought by either party to enforce the provisions of this Agreement, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees, whether such sums are expended with or without suit, at trial, on appeal or in any bankruptcy proceeding.

(k) Notice. Any notice or other communication required or permitted to be given hereunder shall be deemed to have been received (a) upon personal delivery or actual receipt thereof or (b) within three (3) days after such notice is deposited in the United States mail, postage prepaid and certified and addressed to the parties at their respective addresses set forth above.

*[End of text. Signatures to appear on following page].*

DATED effective the date first-above written.



Linda W. Dunlavy  
LINDA W. DUNLAVY, City Recorder

CITY:

COTTONWOOD HEIGHTS, a Utah municipality

By: Kellynn H. Cullimore, Jr.  
KELVYN H. CULLIMORE, JR., Mayor

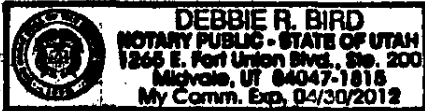
GRANTOR:

MARKET STREET COTTONWOODS, L.L.C.,  
a Utah limited liability company

By: John Williams  
April 10, 2008

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

On July 17th, 2008, personally appeared before me **KELVYN H. CULLIMORE, JR.** and **LINDA W. DUNLAVY**, who duly acknowledged to me that they executed the foregoing Easement Agreement as the mayor and the recorder, respectively, of **COTTONWOOD HEIGHTS**, a Utah municipality.

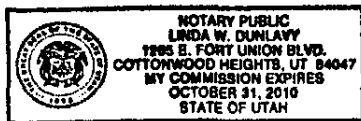


Debbie R. Bird  
Notary Public

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

On April 10, 2008, personally appeared before me John Williams, who duly acknowledged to me that he executed the foregoing Easement Agreement as the managing partner of **MARKET STREET COTTONWOODS, L.L.C.**, a Utah limited liability company.

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Linda W. Dunlavy  
Notary Public

Exhibits  
to Easement Agreement

(Attach Legal Descriptions and Maps of Easement)

## Public Trail Easement

### Exhibit A

Market Street Cottonwoods LLC # 22-23-179-009  
Lot 2 Cottonwood Corporate Center Subdivision

A Public Trail Easement being twenty feet in width, the centerline of which is described as follows.

Beginning at a point on the westerly line of grantors property (lot 2), said point being located North 00°08'51" East along the Quarter Section line 648.06 feet, and east 1999.38 feet from the West Quarter Corner of Section 23 Township 2 South, Range 1 East, Salt Lake Base and Meridian, and running thence South 75°18'15" East 38.99 feet; Thence South 40°59'12" East 9.31 feet to a point of a 26.93 foot non-tangent curve to the right; Thence continuing Southerly 15.43 feet along the arc of said curve through a central angle of 32°49'23" bearing to center being South 65°20'20" West (chord bearing South 08°14'59" East 15.22 feet); Thence South 06°31'15" West 40.73 feet to a point of a 55.00 foot non tangent radius curve to the left; Thence continuing Southeasterly 17.49 feet along the arc of said curve through a central angle of 18°13'28" bearing to center South 89°17'38" East (chord bearing South 08°24'22" East 17.42 feet); Thence South 17°31'06" East 41.40 feet to a point of curvature of a 55.00 foot radius curve to the left; Thence continuing Southeasterly 41.35 feet along the arc of said curve through a central angle of 43°04'41"; Thence South 60°35'46" East 41.69 feet to a point of curvature of a 55.00 foot radius curve to the left; Thence continuing Southeasterly 5.15 feet along the arc of said curve through a central angle of 05°21'46"; Thence South 65°57'33" East 23.05 feet to a point of curvature of a 45.00 foot radius curve to the right; Thence continuing Southeasterly 8.72 feet along the arc of said curve trough a central angle of 11°06'14"; Thence South 54°51'20" East 9.68 feet; Thence South 54°57'40" East 25.43 feet; Thence South 52°58'48" East 23.11 feet; Thence South 57°15'58" East 34.40 feet; Thence South 89°53'11" East 30.30 feet; Thence South 58°06'21" East 21.63 feet; Thence South 34°22'59" East 17.41 feet; Thence South 14°45'07" East 12.73 feet; Thence South 01°30'32" West 23.28 feet; Thence South 01°13'47" West 33.67 feet more or less to east line of grantors property, said point also being the westerly line of 3000 East Street right of way and point of ending. Area = 10,298 sq ft. more or less

Also containing a temporary construction easement across, through, and over grantors property as reasonably necessary and required to construct said trail within grantors property.

Beginning and ending sidelines of described Public Trail Easement to be shortened or extended to begin and terminate on the Grantors property lines. It is the intent of this easements sidelines to coincide with the sidelines of the trail easement documents to northwest adjoining this parcel.

Note: To obtain Gilson Engineering, Inc. Project (CHC.112.07) Bearings rotate clockwise 00°16'13"

## Public Trail Easement

### Exhibit A

Market Street Cottonwoods LLC # 22-23-178-012 & 013

A Public Trail Easement being described as follows.

Beginning at a point on the northerly line of grantors property, said point being located North 00°08'51" East along the Quarter Section line 590.91 feet, and east 1790.75 feet from the West Quarter Corner of Section 23 Township 2 South, Range 1 East, Salt Lake Base and Meridian, and running thence North 52°29'23" East 3.69 feet along grantors northerly line thence North 79°12'42" East along said grantors northerly line 119.00 feet; thence North 57°53'55" East 100.26 feet along said northerly line; thence South 10°59'32" East 32.13 feet along grantors easterly line; thence leaving grantors easterly boundary and following the southerly line of said trail easement the following ten (10 Courses) 1. North 75°18'15" West 30.35 feet to a point of curvature of a 15.00 foot radius curve to the left; 2. Continuing 11.07 feet Southwesterly along the arc of said curve through a central angle of 42°18'02"; 3. South 53°57'08" West 16.57 feet to a point of curvature of a 45.00 foot radius curve to the right; 4. Continuing 5.26 feet southwesterly along the arc of said curve through a central angle of 06°41'48" ; 5. South 60°38'56" West 32.17 feet to a point of curvature of a 45.00 foot radius curve to the right; 6. Continuing Southwesterly 13.59 feet along the arc of said curve through a central angle of 17°18'34" ; 7. South 77°57'30" West 38.76 feet to a point of curvature of a 15.00 foot radius curve to the left; 8. Continuing Southwesterly 0.66 feet along the arc of said curve through a central angle of 2°32'15"; 9. South 75°25'15" West 49.23 feet to a point of curvature of a 45.00 foot radius curve to the right; 10. Continuing southwesterly 26.45 feet along the arc of said curve through a central angle of 33°40'31" to the point of beginning.

Contains: 1,440 sq ft more or less

Also containing a temporary construction easement across, through, and over grantors property as reasonably necessary and required to construct said trail within grantors property.

It is the intent of this easements sidelines to coincide with the sidelines of the trail easement documents to northwest and southeast adjoining this parcel.

Note: To obtain Gilson Engineering, Inc. Project (CHC.112.07) Bearings rotate clockwise 00°16'13"





PROJECT NO.	22-23-177-007
DATE	08/15/2022
CLIENT	OLD MILL CORPORATE CENTER
DESCRIPTION	TRAIL EASEMENT
SCALE	AS SHOWN
DRAWN BY	G. ISON
CHECKED BY	G. ISON

DATE	08/15/2022
BY	G. ISON
REVISION	

3000 E. & COTTONWOOD PARKWAY  
 OLD MILL CORPORATE CENTER  
 COTTONWOOD CANYON TRAIL

EX. A

