

WHEN RECORDED, MAIL TO:

Wm. Shane Topham
JONES WALDO
170 South Main Street, 15th Floor
Salt Lake City, UT 84101

13383700
9/3/2020 11:04:00 AM \$40.00
Book - 11012 Pg - 5336-5344
RASHELLE HOBBS
Recorder, Salt Lake County, UT
JONES WALDO HOLBROOK MCDONOUGH
BY: eCASH, DEPUTY - EF 9 P.

SPACE ABOVE FOR RECORDER'S USE

Boundary Agreement

THIS BOUNDARY AGREEMENT (this "*Agreement*") is made effective 1 September 2020 by and between **PATRICIA L. TOPHAM** as trustee of the **PATRICIA L. TOPHAM REVOCABLE TRUST** dated March 31, 1995, whose address is 2520 Haven Lane, Holladay, UT 84117 ("*Topham*"), as the owner of the Topham Parcel (defined below), and **THOMAS D. ROSENBERG** as trustee of the **THOMAS D. ROSENBERG TRUST** dated April 20, 1993, whose address is 2540 Haven Lane, Holladay, UT 84117 ("*Rosenberg*"), as the owner of the Rosenberg Parcel (defined below). In this Agreement, Topham and Rosenberg are each a "*Party*" and collectively are the "*Parties*."

RECITALS:

A. Topham owns fee title to an approximately 1.93 acres parcel of improved, residential realty that is known as 2520 Haven Lane, Holladay, Salt Lake County, UT and is particularly described on attached Exhibit "A" (the "*Topham Parcel*").

B. Rosenberg owns fee title to an approximately 1.90 acres parcel of improved, residential realty that is known as 2540 Haven Lane, Holladay, Salt Lake County, UT and is particularly described on attached Exhibit "B" (the "*Rosenberg Parcel*").

C. The Topham Parcel and the Rosenberg Parcel (collectively, the "*Parcels*") are contiguous, with the Topham Parcel lying immediately to the West of the Rosenberg Parcel. Consequently, the Easterly deed line of the Topham Parcel and the Westerly deed line of the Rosenberg Parcel should be the same line.

D. In fact, based on various surveys over time, the Parties believe that a gap exists between the Parcels. The Parties' uncertainty about the actual dividing line between the Parcels has led them to construct and allow to remain in place for many years—far exceeding Utah's 20-year prescriptive period—various fences (the "*Prior Fencing*") to mark the mutually-agreed upon division between the Easterly boundary of the Topham Parcel and the Westerly boundary of the Rosenberg Parcel.

E. Rosenberg now is completing construction of a new residence on the Rosenberg Parcel and, in connection with that construction, desires to erect new fencing (the "*New Fencing*") to replace the Prior Fencing marking the agreed-upon division between the Parcels.

F. Under the circumstances, the Parties believe it prudent—for themselves and their successors—to formally agree in this Agreement that the legal boundary line between the Parcels is and henceforth shall be the location of the New Fencing now being erected in the same location as, and in replacement of, the Prior Fencing.

A G R E E M E N T:

NOW THEREFORE, in consideration of the foregoing, and the mutual covenants and agreements set forth herein, the Parties agree as follows:

1. **Construction of New Fencing.** Rosenberg may at his cost construct the New Fencing (and any future replacement(s) thereof) in the location of the Prior Fencing, which location is particularly described on attached Exhibit "C" (the "*Agreed Boundary Line*").

2. **Agreed Boundary Line.** The Agreed Boundary Line is the legal boundary line between the Topham Parcel and the Rosenberg Parcel. The Agreed Boundary Line is based on a boundary survey map prepared by Byron T. Curtis and filed with the Salt Lake County Surveyor's Office on or about 5 June 2020, a copy of which is attached as Exhibit "D." The file number of the record boundary survey map is S2020060389.

3. **Effect of Agreement.** This Agreement is a boundary line agreement for purposes of UTAH CODE ANN. 10-9a-523, 10-9a-524, and 57-1-45.

4. **Covenants Run with Land.** Each Party's obligations under this Agreement shall (a) create an equitable servitude on such Party's Parcel in favor of the other Parcel and its owner(s); (b) constitute a covenant running with the land; (c) bind every person having any fee, leasehold or other interest in any portion of the Parcels affected by this Agreement at any time or from time to time; and (d) inure to the benefit of and be binding upon the Parties and their respective successors and assigns.

5. **Term.** The term of this Agreement is perpetual.

6. **Default.** If either party fails to perform any of its obligations hereunder and such condition is not cured within ten days after written notice thereof by the other, such party shall be in default hereunder and the non-defaulting party shall be entitled to proceed at law and in equity to enforce its rights under this Agreement.

7. **Claims and Disputes.** Claims, disputes and other issues between the parties arising out of or related to this Agreement shall be decided by litigation in the Third Judicial District Court of Salt Lake County, Utah.

8. **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 Parties.

(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) 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.

(d) 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.

(e) Cumulative Remedies. The rights and remedies of the Parties 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.

(f) Amendment. This Agreement may not be modified except by an instrument in writing signed by the Parties or their successor-in-interest.

(g) Time of Essence. Time is the essence of this Agreement.

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

(i) 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.

DATED effective the date first-above written.

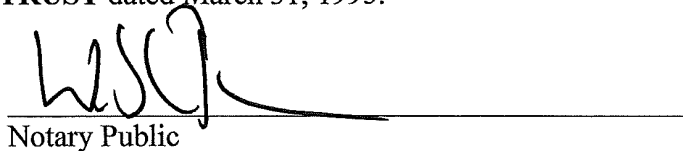
TOPHAM:



PATRICIA L. TOPHAM as trustee of the
PATRICIA L. TOPHAM REVOCABLE TRUST
dated March 31, 1995

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

On 2 September 2020, personally appeared before me **PATRICIA L. TOPHAM**, who duly acknowledged to me that she executed the foregoing Boundary Agreement as trustee of the **PATRICIA L. TOPHAM REVOCABLE TRUST** dated March 31, 1995.



Notary Public

TOPHAM:

T Rosenberg

THOMAS D. ROSENBERG as trustee of the
THOMAS D. ROSENBERG TRUST dated April 20,
1993

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

On 2 September 2020, personally appeared before me **THOMAS D. ROSENBERG**, who
duly acknowledged to me that he executed the foregoing Boundary Agreement as trustee of the
THOMAS D. ROSENBERG TRUST dated April 20, 1993.

W. Sh. Topham

Notary Public

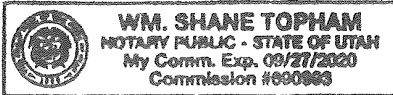


Exhibit "A" to Boundary Agreement

(Legal Description of Topham Parcel Before Boundary Line is Changed)

The following tract of land located in Salt Lake County, Utah:

Beginning 495.9 feet North and 1449.2 feet East from the Southwest corner of the Southeast Quarter of Section 10, Township 2 South, Range 1 East, Salt Lake Base & Meridian; thence South 51°10' West 449.8 feet; thence South 20°03'07" East 109.97 feet; thence East 138.94 feet; thence North 43° East 398.83 feet; thence North 46°20' West 135.7 feet to the beginning.

Also, beginning South 89°21'33" West 1440.6 feet from the Southeast corner of Section 10, Township 2 South, Range 1 East, Salt Lake Base & Meridian; thence North 2°20' West 34.08 feet; thence North 43° East 83.607 feet; thence West 138.94 feet; thence South 20°03'07" East 92.2 feet; thence North 89°21'33" East 52.14 feet to the beginning.

SUBJECT TO easements, covenants, restrictions, rights-of-way and reservations appearing of record.

Containing approximately 1.93 acres.

Parcel No. 22-10-452-026-0000

Exhibit "B" to Boundary Agreement

(Legal Description of Rosenberg Parcel Before Boundary Line is Changed)

The following real property located in Salt Lake County, Utah:

PARCEL 1:

BEGINNING AT A POINT 401.71 FEET NORTH AND 1547 FEET EAST FROM THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, SAID POINT BEING MARKED BY AN IRON PIPE IN THE CENTER OF A 2 ROD DRIVEWAY, THENCE SOUTH 60° EAST 185 FEET TO AN IRON STAKE IN THE CENTER OF SAID DRIVEWAY AND ON THE WEST LINE OF HILLSDEN ADDITION; THENCE SOUTH 43° WEST 303.1 FEET; THENCE NORTH 38°14' WEST 28.7 FEET; THENCE WEST 207.75 FEET TO AN IRON PIPE; THENCE NORTH 43° EAST 398.83 FEET TO BEGINNING.

PARCEL 2:

BEGINNING AT A POINT SOUTH 89°21'33" WEST 1134.13 FEET FROM THE SOUTHEAST CORNER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTH 89°21'33" WEST ON SECTION LINE BETWEEN SECTIONS 10 AND 15, AS SURVEYED AND RE-ESTABLISHED BY THE COUNTY SURVEYOR ON MAY 29, 1929, 251.27 FEET; THENCE NORTH 85.41 FEET; THENCE EAST ALONG THE SOUTH BOUNDARY LINE OF LOT 11, WALKER FARM, 207.75 FEET TO THE WEST LINE OF HILLSDEN PLAT; THENCE SOUTH 38°14' EAST 28.7 FEET; THENCE NORTH 43°00' EAST 38.7 FEET; THENCE SOUTH 34°34' EAST 56.49 FEET; THENCE SOUTH 38°03' WEST 53.11 FEET TO THE BEGINNING.

PARCEL 3:

COMMENCING SOUTH 89°21'33" WEST 1385.4 FEET FROM THE SOUTHEAST CORNER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE SOUTH 89°21'33" WEST 55.2 FEET; THENCE NORTH 2°20' WEST 34.0875 FEET; THENCE NORTH 43° EAST 83.607 FEET; THENCE SOUTH 2°44'09" WEST 9.134 FEET; THENCE SOUTH 85.41 FEET TO THE POINT OF BEGINNING.

Parcel No. 22-10-478-001-0000

Exhibit "C" to Boundary Agreement

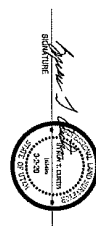
(Legal Description of Agreed Boundary Line)

BEGINNING at a point North, 399.65 feet and East, 1550.97 feet from the Southwest corner of the Southeast quarter of Section 10, Township 2 South, Range 1 East, Salt Lake Base and Meridian, said point also being West, 1075.38 feet and South, 385.67 feet, and North 60°00'00" West, 187.00 feet, from a Salt Lake County survey monument at 5310 South on Holladay Boulevard (the Basis of Bearings being North 47°16'12" West, 1169.59 feet, along said Holladay Boulevard to a Salt Lake County survey monument at 5168 South, as shown on the Salt Lake County Surveyors Area Reference Plat), and running thence along an agreed to line the following two (2) courses: South 42°55'37" West, 209.86 feet; thence South 43°29'00" West, 274.48 feet, and leaving the agreed to line; thence South 02°22'29" East, 32.33 feet, to the South line of the Southeast quarter of Section 10 and TERMINATING.

Exhibit "D"
to Boundary Agreement

(Attach Copy of Record Boundary Survey Map)

SURVEYORS CERTIFICATE
 I, **THOMAS ROSENBERG**, a duly licensed Professional Land Surveyor, do hereby certify that the above described land is the property of **THOMAS ROSENBERG**, and that the same is located in the County of **DAKOTA**, State of **NEBRASKA**. The above described land is shown on the ground plan of the property described and shown on this plan.



MADE AND DATED
 12/31/2024

LEGAL DESCRIPTIONS

PARCEL 1: A certain lot or parcel of land, more or less, situated in the County of Dakota, State of Nebraska, containing approximately 1.25 acres, bounded as follows: North by the 1/4 Section 16, East by the 1/4 Section 17, South by the 1/4 Section 18, and West by the 1/4 Section 15.

PARCEL 2: A certain lot or parcel of land, more or less, situated in the County of Dakota, State of Nebraska, containing approximately 0.75 acres, bounded as follows: North by the 1/4 Section 16, East by the 1/4 Section 17, South by the 1/4 Section 18, and West by the 1/4 Section 15.

PARCEL 3: A certain lot or parcel of land, more or less, situated in the County of Dakota, State of Nebraska, containing approximately 0.50 acres, bounded as follows: North by the 1/4 Section 16, East by the 1/4 Section 17, South by the 1/4 Section 18, and West by the 1/4 Section 15.

PARCEL 4: A certain lot or parcel of land, more or less, situated in the County of Dakota, State of Nebraska, containing approximately 0.25 acres, bounded as follows: North by the 1/4 Section 16, East by the 1/4 Section 17, South by the 1/4 Section 18, and West by the 1/4 Section 15.

ADJUSTED AND CORRECTED ROSENBERG PROPERTY
 BEING AND CONTAINING ROSENBERG PROPERTY... (Detailed description of the adjusted and corrected property boundaries and areas.)

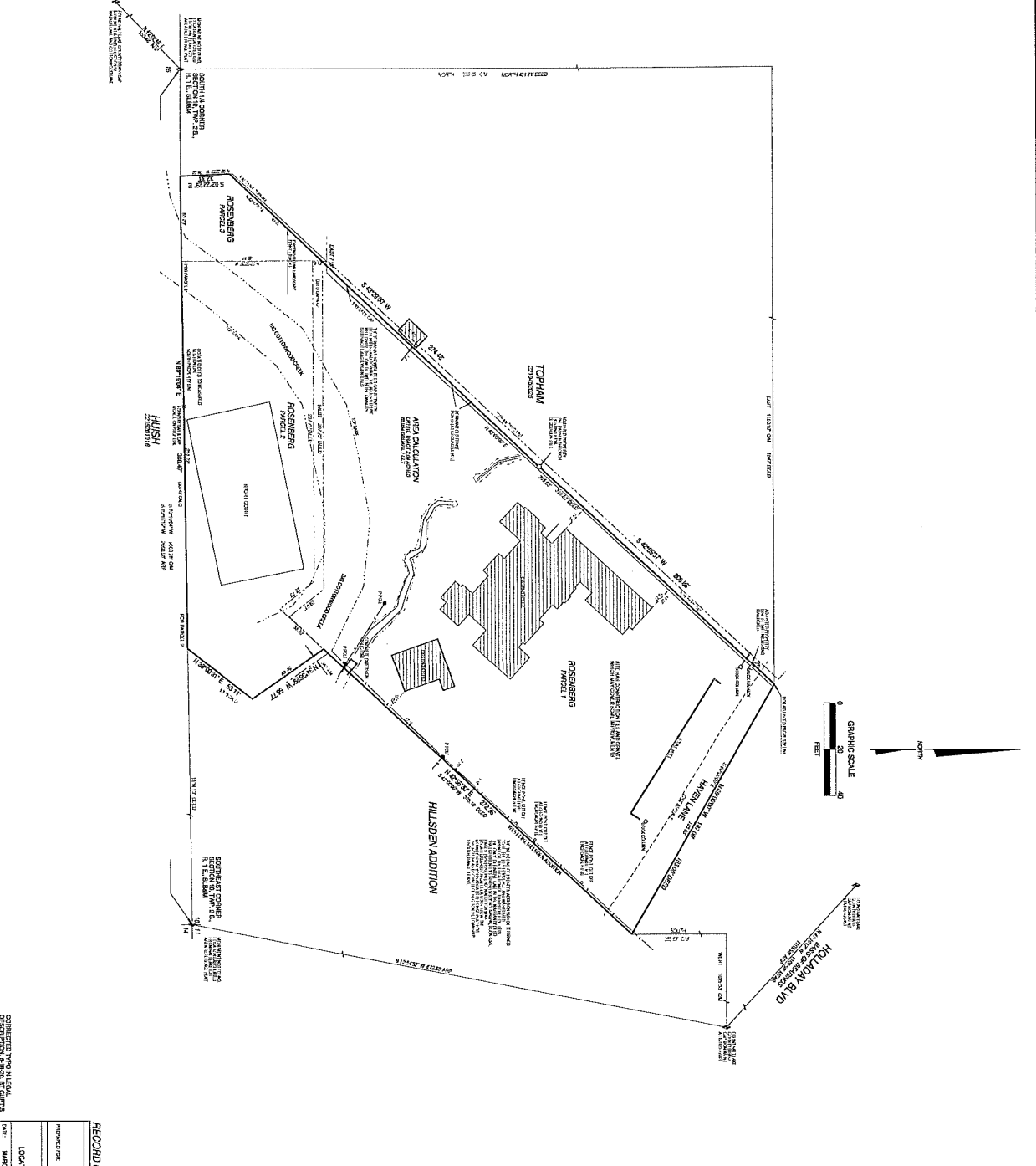
NARRATIVE
 A certain lot or parcel of land, more or less, situated in the County of Dakota, State of Nebraska, containing approximately 1.00 acres, bounded as follows: North by the 1/4 Section 16, East by the 1/4 Section 17, South by the 1/4 Section 18, and West by the 1/4 Section 15.

LEGEND
 - - - - - BOUNDARY OF PROPERTY LINE
 - - - - - RIGHT OF WAY LINE
 - - - - - CENTERLINE
 - - - - - INTERPOL LINE
 - - - - - EDGE OF FURNISHMENT ASPHALT OR GRAVEL
 - - - - - CALCULATED FROM MEASUREMENTS

RECORD OF SURVEY

PROJECT	BOUNDARY LINE ADJUSTMENT SURVEY	CURTIS & ASSOCIATES
PREPARED BY	THOMAS ROSENBERG	LAND SURVEYORS
FOR	THOMAS ROSENBERG	LAND SURVEYORS
DATE	12/31/2024	
LOCATION	LOCATED IN THE SOUTHWEST 1/4 OF SECTION 16, T24S, R11E, S18W	

ADJUSTED AND CORRECTED ROSENBERG PROPERTY
 BEING AND CONTAINING ROSENBERG PROPERTY... (Detailed description of the adjusted and corrected property boundaries and areas.)



ADJUSTED AND CORRECTED ROSENBERG PROPERTY
 BEING AND CONTAINING ROSENBERG PROPERTY... (Detailed description of the adjusted and corrected property boundaries and areas.)

ADJUSTED AND CORRECTED ROSENBERG PROPERTY
 BEING AND CONTAINING ROSENBERG PROPERTY... (Detailed description of the adjusted and corrected property boundaries and areas.)