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9/1/2009 10:38:00 AM \$31.00
Book - 9759 Pg - 8958-8966
Gary W. Ott
Recorder, Salt Lake County, UT
MOUNTAINSIDE TITLE INS AGCY
BY: eCASH, DEPUTY - EF 9 P.

When Recorded, Return to:

Arbor Park Associates
45 W. 10000 S. #301
Sandy, UT 84070
Attn: Chris Drent

MTN#12313

Parcel Nos. 14-32-201-039
14-32-201-070

Space above for Recorder's use

ACCESS EASEMENT AGREEMENT

This Access Easement Agreement ("**Agreement**") is entered into as of August ~~20~~ 2009, by Arbor Park Associates, L.C., a Utah limited liability company ("**Grantor**"), whose address is 90 S 400 W, Ste 200, Salt Lake City, UT 84101-1365, and Local Building Authority of Salt Lake Valley Fire Service Area, Utah, a nonprofit corporation duly organized under the laws of the State of Utah ("**Grantee**") whose address is 3380 S 900 W, Salt Lake City, UT 84119. Grantor and Grantee are sometimes referred to individually as a "**Party**" and collectively as the "**Parties**".

BACKGROUND

A. Grantor owns certain real property located in Salt Lake County, Utah, which real property is more particularly described on Exhibit A ("**Grantor Property**").

B. On or around the date of this Easement, Grantee purchased certain real property located adjacent to the Grantor Property in Salt Lake County, Utah, from Grantor, which real property is more particularly described on Exhibit B ("**Benefited Property**").

C. In connection with the purchase of the Benefited Property, Grantor agreed to grant to Grantee a perpetual, nonexclusive easement and right of way upon, over, and across a portion of the Grantor Property, for pedestrian and vehicular ingress and egress from and to the Benefited Property and a public street known as 3500 South Street, situated in Magna Township, Salt Lake County, Utah ("**Public Street**").

In consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. **Grant of Access Easement.** Grantor hereby grants, establishes, and creates for the benefit of Grantee, as an appurtenance to the Benefited Property, a perpetual nonexclusive easement and right-of-way ("**Easement**") upon, over, and across the portion of the Grantor Property legally described on Exhibit C ("**Easement Area**") for pedestrian and vehicular ingress and egress from and to the Benefited Property and the Public Street.

2. **Maintenance.** Grantor will keep and maintain the road currently situated upon the Easement Area in good condition and repair and otherwise in such condition as may be required by any and all covenants, conditions, restriction, rules, ordinances, laws, or statutes applicable to

applicable to the Grantor Property; provided, however, all costs and expenses reasonably incurred by Grantor in connection with the maintenance and repair of the road (collectively, the “**Road Maintenance Costs**”) will be apportioned between Grantor and Grantee based upon the number of square feet contained within all buildings situated on the Grantor Property and all buildings situated on the Benefited Property, respectively, and accordingly, Grantee will be responsible for and will reimburse to Grantor, within 30 days after written notice thereof, Grantee’s proportionate share of such Road Maintenance Costs. If Grantee fails to reimburse Grantor for Grantee’s proportionate share of Road Maintenance Costs within the 30-day period, Grantor may assess an administrative fee equal to 5% of the past-due payment, and such past-due amounts will accrue interest at the rate of 18.0% per annum until fully paid.

3. **Indemnity.** To the fullest extent provided by law, Grantee will defend and indemnify and hold harmless Grantor from and against liability, damage, loss, costs, and expenses, including reasonable attorneys’ fees, on account of injury to persons or damage to property occasioned by or arising out of Grantee’s and Grantee’s affiliates, employees, and contractors’ use and occupation of the Easement Area, except to the extent arising out of Grantor’s gross negligence or willful misconduct.

4. **Enforcement.** Enforcement of this Agreement may be by proceedings at law or in equity against any person or persons violating or attempting to violate any easement or covenant herein, either to restrain violation, or to recover damages, or otherwise or both. In the event any such enforcement action results in a judgment or award against the Party against whom enforcement is sought, such judgment or award will also include reasonable attorneys’ fees and costs of the Party seeking enforcement.

5. **Notices.**

(a) Each party giving any notice, consent, or approval, or making any request, demand, reply, advice, or other communication provided for or permitted by this Agreement (each, a “**Notice**”) will give the Notice in writing and will use one of the following methods of delivery: (i) hand delivery to an authorized agent of the other party; (ii) USPS Certified Mail™ with Return Receipt, postage prepaid, and addressed to the other party as set forth in Section 5(c); (iii) nationally recognized delivery service, with all fees prepaid, and addressed to the other party as set forth in Section 5(c); (iv) fax, sent to the other party as set forth in Section 5(c); or (v) email, sent to the other party as set forth in Section 5(c).

(b) Except as provided elsewhere in this Agreement, a Notice is effective as to one party only if the party making or giving the Notice (“**Sender**”) has complied with Section 5(a) and only if the other party (“**Addressee**”) has received the Notice. A Notice is deemed to have been received as follows: (i) if Notice is delivered in person, or sent by USPS Certified Mail™ or nationally recognized delivery service, upon receipt as indicated by the date and time on the signed receipt; (ii) if a Notice is sent by fax, upon receipt by the Sender of an acknowledgment or transmission report generated by the machine from which the fax was sent indicating that the fax was sent in its entirety to the Addressee’s fax number; (iii) if a Notice is sent by email, upon receipt by the Sender of a reply email (whether electronically generated or otherwise) from the Addressee acknowledging receipt of the email; (iv) if the Addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a

change in address, fax number, or email address for which no Notice was given, then upon the rejection, refusal, or inability to deliver; and (v) notwithstanding the foregoing, if any Notice is received after 5:00 p.m. Mountain Time, or on a day that is not a business day in the State of Utah, then the Notice will be deemed received at 9:00 a.m. on the next business day in the State of Utah.

(c) The contact persons, addresses, fax numbers, and email addresses of the parties for Notice purposes will, until changed upon at least two business days' Notice to the other party pursuant to this Section 5, be as follows:

Grantor:

Arbor Park Associates, L.C.
45 W 10000 S, Ste 301
Sandy, UT 84070
Attention: Chris Drent
Fax: (801) 561-8647
Email: chris@arborutah.com

Grantee:

Local Building Authority of Salt Lake Valley Fire
Service Area, Utah, a nonprofit corporation duly
organized under the laws of the State of Utah
3380 S 900 W
Salt Lake City, UT 84119
Attention: Michael Jensen
Fax: (801) 747-7211
Email: mjensene.ufa-slco.org

6. **Entire Document.** This Agreement contains the entire understanding of Grantor and Grantee and supersedes all prior oral or written understandings relating to the subject matter set forth herein.

7. **Counterpart Signatures.** This Agreement may be executed in counterparts, each of which will be deemed an original. An executed counterpart of this Agreement transmitted by facsimile will be equally as effective as a manually executed counterpart.

8. **Recording.** Upon execution of this Agreement, this Agreement will be recorded by the Parties in Salt Lake County Recorder's Office.

9. **Miscellaneous.** This Agreement will be binding upon and inure to the benefit of Grantor and Grantee and their respective successors and assigns, and the covenants and agreements herein contained will be deemed covenants running with the land.

Remainder of Page Intentionally Left Blank – Signatures, Acknowledgments, and Exhibits Immediately Follow

Grantor:

Arbor Park Associates, L.C.,
a Utah limited liability company
by its manager:

Arbor Commercial Properties, L.C.,
a Utah limited liability company

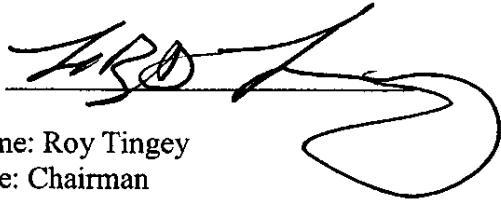
By: _____

Name: _____

Title: Manager

Grantee:

**Local Building Authority of Salt Lake
Valley Fire Service Area, Utah,**
a nonprofit corporation duly organized
under the laws of the State of Utah

By: 
Name: Roy Tingey
Title: Chairman

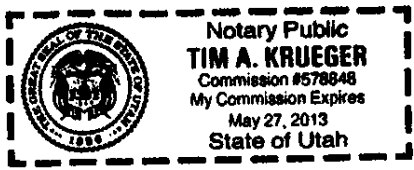
State of Utah)
) ss.
County of Salt Lake)


The foregoing instrument was acknowledged before me on August __, 2009, by _____, a manager of Arbor Commercial Properties, L.C., a manager of Arbor Park Associates, L.C.

Notary Public

State of Utah)
) ss.
County of Salt Lake)

The foregoing instrument was acknowledged before me on August 28th, 2009, by Roy Tingey, Chairman of Local Building Authority of Salt Lake Valley Fire Service Area, Utah, a nonprofit corporation duly organized under the laws of te State of Utah.





Notary Public

Grantor:

Arbor Park Associates, L.C.,
a Utah limited liability company
by its manager:

Arbor Commercial Properties, L.C.,
a Utah limited liability company

By: *[Signature]*

Name: John Gust
Title: Manager

Grantee:

**Local Building Authority of Salt Lake
Valley Fire Service Area, Utah,**
a nonprofit corporation duly organized
under the laws of the State of Utah

By: _____

Name: Roy Tingey
Title: Chairman

State of Utah)
) ss.
County of Salt Lake)

The foregoing instrument was acknowledged before me on August 28th, 2009, by John Gust, a manager of Arbor Commercial Properties, L.C., a manager of Arbor Park Associates, L.C.



[Signature]
Notary Public

State of Utah)
) ss.
County of Salt Lake)

The foregoing instrument was acknowledged before me on August __, 2009, by Roy Tingey, Chairman of Local Building Authority of Salt Lake Valley Fire Service Area, Utah, a nonprofit corporation duly organized under the laws of te State of Utah.

Notary Public

Exhibit A

Legal Description of the Grantor Property

A parcel of land located in the Northeast Quarter of Section 32, Township 1 South, Range 2 West, Salt Lake Base and Meridian, said parcel being more particularly described as follows:

Beginning at a point which lies South 89°49'24" East along the Section Line (monument line in 3500 South Street) 794.38 feet and South 00°10'36" West 40.00 feet from the North Quarter corner of said Section 32, said point being on the South line of the widened 3500 South Street right-of-way; thence South 89°49'24" East 286.38 feet; thence South 00°10'36" West 76.90 feet; thence South 89°49'24" East 18.90 feet; thence South 00°10'36" West 40.55 feet to the projection of the North line of the existing building; thence South 89°49'24" East 198.60 feet along said North line of existing building; thence North 00°10'36" East 38.06 feet to the projection of the North line of a foundation wall; thence North 89°49'24" West 9.50 feet along said projection and North line of foundation wall; thence North 00°10'36" East 79.39 feet to a point on the aforementioned South right-of-way line; thence South 89°49'24" East 31.50 feet (30.95 feet) to a point on an existing fence line; thence more or less following the said fence line South 00°03' East 223.90 feet to the South end of said existing fence; thence South 00°28'58" West 175.97 feet; thence North 89°49'24" West 220.00 feet along the South line of the existing building; thence North 00°10'36" East 38.74 feet; thence North 89°49'24" West 304.54 feet; thence North 00°03'36" East 361.13 feet to the point of beginning.

LESS & EXCEPTING that portion described in a Quit Claim Deed, recorded May 30, 2000, in Book 8364, at Page 6733, as Entry No. 7648970, particularly as follows: A parcel of land lying and situated in the Northeast Quarter of Section 32, Township 1 South, Range 2 West, Salt Lake Base and Meridian, Magna Township, Salt Lake County, Utah. Being described to Quiet Title to a deed gap between the Grantor and Grantee parcels and herein after fix the boundary line of each respective parcel. The basis of bearing for subject parcel being North 89°49'24" West 2656.31 feet, (measured), between the Salt Lake County brass cap well monuments marking the North line of said Northeast Quarter Section. Subject parcel being more particularly described as follows:

Beginning at the Northeast corner of the Smith Food King Properties, a Utah Corporation, parcel as recorded in Book 5692 at Page 737 of the Salt Lake County deed records and a point on the North line of the Northeast Quarter of said Section 32, said point being located North 89°49'24" West 1336.60 feet along said North Quarter Section line from the Salt Lake County brass cap monument marking the Northeast corner of said Section 32; thence the following 3 courses along the East line of said Smith Food King Properties parcel, (1) South 00°10'36" West 40.00 feet; (2) South 00°03'00" East 223.90 feet; (3) South 0°28'58" West 176.06 feet to the Southeast corner thereof and a common corner with Arbor Park Associates, a Utah General Partnership, parcel as recorded in Book 5928, at Page 2381 of the Salt Lake County deed records; thence East 3.98 feet along the extension of the South line of said Smith Food King Properties parcel to a point on the West line of the Heritage Magna L.L.C., a Utah Limited Liability Company, parcel as recorded in Book 8214, at Page 2891 of the Salt Lake County deed records; thence North 439.95 feet along said West line to a point on said North Quarter Section line; thence North 89°49'24" West 2.57 feet along said Quarter Section line to the point of beginning.

LESS & EXCEPTING a part of the Northeast quarter of Section 32, Township 1 South, Range 2 West, Salt Lake Base and Meridian, U.S. Survey, Salt Lake County, Utah, more particularly described as follows:

Beginning at a point on the South line of 3500 South Street as it exists at 40.00 foot half-width located 1319.56 feet South 89°49'24" East along the Section line, and 40.00 feet South 00°03'00" East from the North quarter corner of said Section 32, and running thence South 00°03'00" East 223.90 feet; thence South 00°28'58" West 139.25 feet; thence South 89°57'00" West 178.70 feet; thence North 00°03'00" West 363.86 feet to the South line of said 3500 South Street; thence South 89°49'24" East 180.00 feet along said South line to the point of beginning.

[For Reference Only: Affects Tax Parcel Serial No. 14-32-201-039]

Exhibit B

Legal Description of the Benefited Property

A part of the Northeast quarter of Section 32, Township 1 South, Range 2 West, Salt Lake Base and Meridian, U.S. Survey, Salt Lake County, Utah:

Beginning at a point on the South line of 3500 South Street as it exists at 40.00 foot half-width located 1319.56 feet South 89°49'24" East along the Section line, and 40.00 feet South 00°03'00" East from the North quarter corner of said Section 32, and running thence South 00°03'00" East 223.90 feet; thence South 00°28'58" West 139.25 feet; thence South 89°57'00" West 178.70 feet; thence North 00°03'00" West 363.86 feet to the South line of said 3500 South Street; thence South 89°49'24" East 180.00 feet along said South line to the point of beginning.

[For Reference Only: Affects Tax Parcel Serial No. 14-32-201-070]

Exhibit C

Legal Description of the Easement Area

A part of the Northeast Quarter of Section 32, Township 1 South, Range 2 West, Salt Lake Base and Meridian, U.S. Survey, in Salt Lake County, Utah:

Beginning at a point on the South Line of 3500 South Street as it exists at 40.00 foot half-width located 776.88 feet South 89°49'24" East along the Section Line; and 40.00 feet South 0°10'36" West from the North Quarter Corner of said Section 32; and running thence South 89°49'24" East 30.00 feet along said South Line of 3500 South Street; thence South 0°03'36" West 365.18 feet; thence North 89°57'00" East 402.57 feet; thence South 51°06'23" West 21.39 feet to a point of curvature; thence 50.85 feet Southwesterly along the arc of a 75.00 foot Radius curve to the right through a Central Angle of 38°50'37" (Long Chord bears South 70°31'42" West 49.88 feet) to a point of tangency; thence South 89°57'00" West 368.93 feet; thence North 0°03'36" East 395.30 feet to the point of beginning.

[For Reference Only: Affects Tax Parcel Serial No. 14-32-201-039]