

When recorded, mail to:  
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Rhonda Francis Summit County Recorder  
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By Prince, Yeates & Geldzahler  
Electronically Recorded

## ***CORRECTED\****

### **GRANT OF EASEMENT, CONVEYANCE OF EASEMENT RIGHTS, AND MAINTENANCE AGREEMENT**

THIS GRANT OF EASEMENT, CONVEYANCE OF EASEMENT RIGHTS, AND MAINTENANCE AGREEMENT ("*Agreement*") is made and entered into as of this 16<sup>th</sup> day of January, 2019 ("*Effective Date*") by and between G. ALDEN PADFIELD, SUCCESSOR TRUSTEE OF THE BONNIE L. PADFIELD FAMILY LIVING TRUST, and TRUSTEE OF THE G. ALDEN PADFIELD FAMILY LIVING TRUST ("*Padfield*") on the one hand, and LEONA GONZALEZ ("*Gonzalez*") on the other hand. Padfield and Gonzalez may be referred to herein individually as a "Party" or collectively as the "Parties".

#### **RECITALS**

**WHEREAS**, Padfield is the owner in trust of certain real property (the "*Padfield Property*") located in Summit County, State of Utah with an address of 545 West 5880 North, Oakley, Utah, 84055, and which is more particularly described as follows:

**The SE1/4SE1/4SW1/4 of Section 17, Township 1 South, Range 6 East, Salt Lake Base and Meridian.**

**Together with a 50 foot right of way running South along the North-South centerline of the SE1/4SW1/4 of Section 17 and the NE 1/4NW1/4 of Section 20, Township 1 South, Range 6 East, to the County Road. (Entry # 563032, book 1314, page 696);**

**Tax ID Number: OTNB2-209-A-3**

**WHEREAS**, the Padfield Property was conveyed to the Bonnie L. Padfield Family Living Trust by warranty deed on April 5, 2000;

**WHEREAS**, the northern boundary of the Padfield Property has been further defined in the Summit County Property Records as follows:

**Beginning at a point which is West 2670.73 feet along the Section Line and North 614.10 feet from the Southeast Corner of Section 17, Township 1 South, Range 6 East, Salt Lake Base and Meridian and having a Basis of Bearing taken as West between the Southeast Corner of the Southwest Corner of said Section 17 (said point being located on the westerly boundary of the "Five Bar Dash Subdivision" and the center 1/16 Section Line) and running thence N 78° 44' 51" W 225.15 feet; thence N 76° 03' 07" W 180.65**

feet; thence S 13° 46' 35" W 43.39 feet; thence S 89° 30' 12" W 147.59 feet; thence N 75° 52' 25" W 47.84 feet; thence S 12° 30' 59" W 21.72 feet; thence N 79° 03' 01" W 59.85 feet more or less to the easterly line of Parcel OTNB2-209-A-1 and the westerly line of the SE1/4 of the SE1/4 of the SW1/4 of said Section 17, T1S R6E, SLB&M (Entry # 734945, book 01697, pages 512-514);

WHEREAS, Gonzalez is the owner of certain real property (the "*Gonzalez Property*") located in Summit County, State of Utah with an address of 495 West 5880 North, Oakley, UT 84055, and which is more particularly described as follows:

**Parcel 1:**

**LOTS 1 & 2, FIVE BAR DASH SUBDIVISION, according to the official plat thereof as recorded in the Summit County Recorder's Office.**

Excepting therefrom any portion of the above lying within the bounds of the following 2 parcels.

Commencing at the Northwest corner of Lot 1 of the Five Bar Dash Subdivision, (a part of Section 17, T 1 S. R 6 E., SLB&M) according to the official plat thereof on file in the office of the Summit County Recorder and running thence North 88° 58' 2" E. a distance of 1334.51 ft. more or less to an existing line of fence located at or near the Northeast corner of a tract of land owned by Stephen E. and Brenda L. Paull (Summit County Parcel No. OTNB-208-B); thence Southwesterly along said line of fence to the West line of Lot 1 of said Five Bar Dash Subdivision; thence North 0° 18' 54" West 26.8 ft. more or less along the West line of said Lot 1 to the point of beginning.

Beginning at a point located 2669.68 feet S. 89° 46' 56" W. along the Section line from the Southeast corner of section 17 Township 1 South, Range 6 East, Sale Lake Base and Meridian thence 193.32 feet N. 0° 18' 54" to point of beginning thence 250 feet N. 0° 18' 54" thence East 20 feet thence South 250 feet thence West 20 feet to point of Beginning.

**Parcel 2:**

Together with the following described Right of Way:

Commencing at the Southeast corner of said Lot 3 and running thence South 89° 46' 56" West 238.20 feet; thence South 30 feet; thence North 89° 46' 56" East 891.14 feet; thence South 0° 10' 13" East along a fence line 1246.11 feet more or less to a point on the North line of North Bench Road; thence North 88° 23' 23" East 30 feet; thence North 0° 10' 13" West 1270.18 feet more or less to the South line of the Stephen E. Paull and Brenda L. Paull Property, as described in that certain Warranty Deed recorded August 30, 1988, Entry No. 296307, in book 491, at page 416; thence South 89° 46' 56"

**West 652.7 feet; thence North 5.08 feet more or less to the point of commencement. (Entry # 591210, Book 1376, Page 1416)**

**Tax Parcel Nos. FBD-1 & FBD-2**

**WHEREAS**, the Gonzalez Property was conveyed to Gonzalez by Martin Larry Wardle and Patsy Barrus Wardle via warranty deed on June 13, 2001.

**WHEREAS**, Padfield, as trustee of The G. Alden Padfield Family Living Trust, has also purchased via Quit-Claim Deed from Martin Larry Wardle and Patsy Barrus Wardle (“Wardle Quit Claim Deed”) the following described rights-of-way:

**Beginning about ½ mile north of the Oakley Cemetery along the main north-south county road of Oakley and extending in an easterly direction ½ mile, entering the Southwest quarter of Section 17, Township 1 South, Range 6 East, Salt Lake Base and Meridian, at the west boundary in the approximate middle thereof, said right-of-way having been a prescriptive easement and converted to a deeded right-of-way and Quit-claimed to Grantors in that certain Quit-Claim Deed recorded August 26, 1977, as Entry No. 139822, in Book M98, at Page 709 (OTNB2-209-A-3);**

**Together with all rights of the Grantors in an easement agreement dated March 31, 1973, with Arotec Engineering Company recorded July 19, 1973, as entry no. 120291 at Book M-49, pages 90-93, of the records of the Summit County Recorder.;**

**WHEREAS**, the Padfield Property and the Gonzalez Property are adjacent parcels of property sharing one, and only one, common boundary that is defined by a portion of the Padfield Property’s EASTERN LINE and a portion of the Gonzalez Property’s WESTERN LINE;

**WHEREAS**, there is a partially-improved roadway along the entire Northern boundary of the Padfield Property (the “*Padfield Roadway*”) for access to the Padfield Property;

**WHEREAS**, the easement agreement dated March 31, 1973 and recorded July 19, 1973 as entry no. 120291 at Book M-49, pages 90-93 in the records of the Summit County Recorder established a roadway that is now commonly referred to as Stahr Lane or Starr Lane (“*Stahr Lane Easement*”);

**WHEREAS**, there is a portion of the old roadway, approximately 290 feet in length, that originally ran from the Gonzalez Property to the main north-south county road about ½ mile north of the Oakley Cemetery, which turns onto Stahr Lane, and which converges into the Padfield Roadway at the border of the Padfield Property (“*Cemetery Roadway*”);

**WHEREAS**, Gonzalez has used a portion of the Padfield Roadway – from the Cemetery Roadway to the Gonzalez Property – to access the Gonzalez Property since conveyance of the Gonzalez Property to Gonzalez on or about June 13, 2001;

**WHEREAS**, no recorded or deeded easement or right-of-way across the any portion of the Padfield Roadway has been granted to Gonzalez;

**WHEREAS**, Gonzalez owns other deeded property, easements, and rights-of-way across other neighboring property for ingress and egress to the Gonzalez Property, but also claims a right to use the Padfield Roadway to access the Gonzalez Property;

**WHEREAS**, Padfield wishes to restrict access to all portions of the Padfield Roadway;  
and

**WHEREAS**, the Parties wish to set forth the rights and terms of use related to the Padfield Roadway, the Cemetery Roadway, and Stahr Lane.

### **AGREEMENT**

**NOW THEREFORE**, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, do hereby agree as follows:

1. **Recitals Incorporated.** The foregoing recitals are incorporated herein by this reference.

2. **Abandonment, Termination and Release of any Easement or Right-of-Way.** The Parties recognize that, pursuant to the property records and history of their neighboring parcels, there appears to be no current easement or right-of-way across any portion of the Padfield Roadway, the Cemetery Roadway or Stahr Lane ("***the Roadways***") in favor of Gonzalez or the Gonzalez Property. Nevertheless, by this Agreement, Gonzalez hereby forever abandons, terminates, releases, and/or conveys and warrants all right, title and interest in any portion of the Padfield Roadway, the Cemetery Roadway, and Stahr Lane to Padfield, and hereby discharges the Padfield Property from any benefits and burdens that may exist under law, whether by grant or prescription, over the Padfield Roadway in favor of the Gonzalez Property or Gonzalez, individually and collectively. Gonzalez also hereby forever abandons, terminates, releases, and/or conveys and warrants all right, title and interest in any portion of the Padfield Property to Padfield, and hereby discharges the Padfield Property from any benefits and burdens that may exist under law, whether by grant or prescription, over any other portion of the Padfield Property in favor of the Gonzalez Property or Gonzalez, individually and collectively.

3. **Grant of New Easement.** Padfield hereby grants to Gonzalez an exclusive perpetual ingress, egress and utility easement 16 feet in width that runs along the Northern Boundary of the Padfield Property west from the point where the Northern Boundary of the Padfield Property intersects with the Western Boundary of the Gonzalez Property to the approximate point where the Northern Boundary of the Padfield Property crosses over the Cemetery Road (the "Easement"), which Northern Boundary is more particularly described as follows:

**Beginning at a point which is West 2670.73 feet along the Section Line and North 614.10 from the Southeast Corner of Section 17, Township 1 South, Range 6 East, Salt Lake Base and Meridian and having a Basis of Bearing taken as West between the Southeast Corner of the Southwest Corner of said**

**Section 17 (said point being located on the westerly boundary of the “Five Bar Dash Subdivision” and the center 1/16 Section Line) and running thence N 78° 44’ 51” W 225.15 feet; thence N 76° 03’ 07” W 180.65 feet.**

4. **Scope and Limitations of New Easement.** The Easement granted herein shall be for the purpose of allowing the owners of the Gonzalez Property and their guests to access the Gonzalez Property from the west, and for the purpose of running an underground natural gas line to the Gonzalez Property. The Easement shall be subject to the following scope and limitations:

- a. *Dimensions.* The Easement shall run along a portion of the Northern Boundary of the Padfield Property as described herein. The length of the Easement is approximately 406 feet and the width of the Easement shall be 16 feet measured from the Northern Boundary of the Padfield Property.
- b. *Maintenance of Easement.* Gonzalez shall have the right to improve the roadway in the Easement at her own expense. Gonzalez shall be responsible for the cost of maintenance of the Easement and for snow removal.
- c. *Limitation of Use of Easement.* The Easement shall be used for ingress and egress of the owners of the Gonzalez Property and their guests. Gonzalez agrees to limit the use of the Easement by semi-truck to a maximum of twelve (12) visits per year. A “semi-truck” is understood to be a standard long-haul 18-wheel tractor-trailer. For purposes of the limitations set forth in this subsection 4(c), a “year” shall be measured from the 1<sup>st</sup> day of January to the 31<sup>st</sup> day of December, and each “visit” shall be understood to be a round-trip visit (ingress and egress) to the Gonzalez Property. In addition, Gonzalez will not permit any overnight parking of any vehicle on the Easement.
- d. *Installation of Gates.* At her own expense, Gonzalez shall, as soon as is practicable under weather conditions, but in no case later than March 30, 2019, install electronic gates at the east and west ends of the Easement to control access to the Easement. The electronic gate at the west of the Easement shall be of a style that 1) permits two-way communication, 2) requires remote opening of the gate from the Gonzalez Property, and 3) remains closed and locked when not in use. By using such a gate at the west end of the Easement, Gonzalez shall direct any guests to travel directly through both gates and not to trespass on the Padfield Property.
- e. *Installation of Fences.* At her own expense, Gonzalez shall, as soon as is practicable under weather conditions, but in no case later than March 30, 2019, install a “stub fence” running approximately east-west along the south edge of the Easement in the locations designated by Padfield. Padfield shall identify the locations where the fence is to be installed no later than January 31, 2019. Gonzalez shall select and install a fence similar in style and appearance to the fence currently running along the north edge of the Easement, which is to say running along the Northern Boundary of the Padfield Property.
- f. *Installation of “Dog” Fencing.* At her own expense, Gonzalez shall, as soon as is practicable under weather conditions, but in no case later than March 30, 2019

improve and install fencing along the Western Boundary of the Gonzalez Property of a type and quality sufficient to prevent animals from the Gonzalez Property from intruding onto the Padfield Property.

- g. *Installation of an Underground Natural Gas Line.* Gonzalez may, at her own expense, install an underground natural gas line along and within the Easement (“Gas Line”). In the event that Gonzalez does install a Gas Line, Gonzalez will permit Padfield to connect to the Gas Line without requiring Padfield to pay for the connection or reimburse Gonzalez for any costs associated with the installation of the Gas Line.

5. **Conveyance of Interest in Easement Agreement Governing Stahr Lane.**

Padfield hereby conveys to Gonzalez all right, title, and interest that Padfield holds in the Stahr Lane Easement and the Cemetery Roadway, extending from the Padfield Property to North Bench Road of Oakley City, inclusive of those rights that Padfield was granted under the Wardle Quit Claim Deed. Padfield hereby expressly retains an interest in the Stahr Lane Easement for the benefit of the Padfield Property.

6. **Liens.** Gonzalez shall keep the Easement free from any liens arising out of any work performed, materials furnished, or obligations incurred by, through, for or under Gonzalez. Gonzalez shall indemnify, hold harmless and defend Padfield from any liens that may be placed on the Easement and/or the property pertaining to any work performed, materials furnished or obligations incurred by, through, for, or under Gonzalez or any agent of Gonzalez. Any such liens must be released of record within thirty (30) days.

7. **Reservation of Rights.** Nothing herein shall be construed to change, qualify, restrict, or limit, in anyway, Padfield’s title to or interest in the Padfield Property, and particularly in the portion of the Padfield Property subject to the Easement. Padfield hereby reserves the right to use the portion of the Padfield Property subject to the Easement for any use not inconsistent with Gonzalez’s permitted use of the Easement. Without limiting the foregoing, Padfield reserves the right: (a) for pedestrian and vehicular ingress to and egress from and over the Easement; (b) for the placement and maintenance of landscaping, trees, signs, light standards, sidewalks, curbs and gutters, ditches, irrigation pipes and related appurtenances, fences, gates, asphalt roadways and parking lots, utilities of any type or nature, and driveways and other similar improvements (except that Padfield shall not construct any permanent buildings, or plant any trees or shrubs, or otherwise do anything or take any action that would obstruct or interfere with the rights of Gonzalez and her guests to use of the Easement and freely access the Gonzalez Property; (c) and (d) to convey or transfer any or all of its interests in the Padfield Property or the Easement to any party at any time.

8. **Condition of the Padfield Property.** Gonzalez accepts the portion of the Padfield Property subject to the Easement and all aspects thereof in an “as is,” “where is” condition, “with all faults,” including but not limited to both latent and patent defects, and the existence of hazardous materials, if any.

9. **Amendment.** This Agreement cannot be extended, terminated, modified or amended except according to the terms herein or by written agreement signed by each of the Parties.

10. **Notices**. Any notice required or permitted under this Agreement shall be considered given: (a) when delivered in person to the recipient named below, (b) when delivered by a reputable overnight delivery service, or (c) three (3) days after deposit in the United States mail in a sealed envelope or container, either registered or certified mail, return receipt requested, postage prepaid, and addressed by name to the person and Party intended. All notices shall be given at the following address:

If to Padfield:

Alden Padfield  
1819 Vintage Oak Lane  
Salt Lake City, UT 84180

If to Gonzalez:

Randal Castona or Leona Gonzalez  
495 West 5880 North  
Oakley, UT 84055

Either party may designate a different individual or address for the delivery of notices hereunder by giving written notice thereof in the manner described above.

11. **Integration**. This Agreement specifically incorporates and supplements the Settlement Agreement and Mutual Release executed by the parties at the conclusion of mediation on December 11, 2018.

12. **Agreement to Run With the Land; Successors and Assigns**. The rights, conditions and provisions of this Agreement shall run with the Padfield and Gonzalez Properties and shall be binding upon and inure to the benefit of the Parties and their respective successors, heirs and assigns.

13. **Interpretation**. Section titles and captions to this Agreement are for convenience only and shall not be deemed part of this Agreement and in no way define, limit, augment, extend, or describe the scope, content, or intent of any part of this Agreement. This Agreement has been arrived at through negotiation between Padfield, Gonzalez, and their respective representatives. As a result, the normal rule of contract construction that any ambiguities are to be resolved against the drafting party shall not apply in the construction or interpretation of this Agreement.

14. **Severability**. If any provision of this Agreement is, to any extent, declared by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement will not be affected thereby, and each provision of this Agreement will be valid and enforceable to the fullest extent permitted by law.

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

16. **Rights and Remedies**. The rights and remedies of any of the Parties stated herein are not intended to be exclusive, and the exercise of one or more of the provisions of this

Agreement does not preclude the exercise of any other provision. Each of the Parties confirms that damages at law may be an inadequate remedy for a breach or threatened breach of any provision hereof. The respective rights and obligations hereunder may be enforceable by specific performance, injunction, or other equitable remedy, but nothing herein contained is intended to or will limit or affect any rights at law or by statute or otherwise of any party aggrieved as against the other party for a breach or threatened breach of any provision hereof, it being the intent of this paragraph to make clear the intent and agreement of the Parties that the respective rights and obligations of the Parties hereunder will be enforceable in equity as well as at law or otherwise.

17. **Attorney’s Fees, Enforceability and Litigation Expenses.** If any action, suit, or proceeding is brought by a Party hereto with respect to a matter or matters covered by this Agreement, or if a Party finds it necessary to retain an attorney to enforce its rights under this Agreement, all costs and expenses of the prevailing Party incident to such proceeding or retention, including court costs and reasonable attorney’s fees, and including all fees and costs incurred upon appeal or in bankruptcy court, will be paid by the non-prevailing Party.

18. **No Dedication.** The provisions hereof are not intended to, and do not, constitute a dedication for public use and the rights and licenses herein created are private.

19. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be an original but all of which will constitute one and the same instrument.

20. **Recordation.** Upon the execution of this Agreement by the Parties, Gonzalez shall be authorized to record this Agreement in the office of the Summit County Recorder.

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IN WITNESS HEREOF, the undersigned parties have duly exercised this Agreement to become effective as of the Effective Date listed above.

THE BONNIE L. PADFIELD FAMILY  
LIVING TRUST

THE G. ALDEN PADFIELD FAMILY  
LIVING TRUST

G. Alden Padfield  
G. Alden Padfield, Successor Trustee

G. Alden Padfield  
G. Alden Padfield, Successor Trustee

LEONA GONZALEZ

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

On this 15<sup>th</sup> day of JANUARY, 2019, personally appeared before me G. Alden Padfield, known or satisfactorily proved to me to be the successor trustee of the Bonnie L. Padfield Family Living Trust and trustee of the G. Alden Padfield Family Living Trust, who acknowledged to me that he signed the foregoing instrument in such capacities and for such entity.

Kurt O. Hawes  
Notary Public



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

On this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, personally appeared before me Leona Gonzalez, known or satisfactorily proved to me to be the party to the foregoing instrument, who acknowledged to me that she signed the foregoing instrument.

\_\_\_\_\_  
Notary Public

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IN WITNESS HEREOF, the undersigned parties have duly exercised this Agreement to become effective as of the Effective Date listed above.

THE BONNIE L. PADFIELD FAMILY  
LIVING TRUST

THE G. ALDEN PADFIELD FAMILY  
LIVING TRUST

\_\_\_\_\_  
G. Alden Padfield, Successor Trustee

\_\_\_\_\_  
G. Alden Padfield, Successor Trustee

LEONA GONZALEZ



STATE OF UTAH            )  
                              :SS            )  
COUNTY OF SALT LAKE )


On this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, personally appeared before me G. Alden Padfield, known or satisfactorily proved to me to be the successor trustee of the Bonnie L. Padfield Family Living Trust and trustee of the G. Alden Padfield Family Living Trust, who acknowledged to me that he signed the foregoing instrument in such capacities and for such entity.

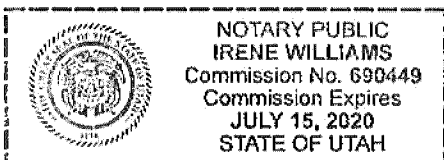
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Notary Public

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STATE OF UTAH            )  
                              :SS            )  
COUNTY OF ~~SALT LAKE~~ ) *Summit*

On this 16 day of January, 2019, personally appeared before me Leona Gonzalez, known or satisfactorily proved to me to be the party to the foregoing instrument, who acknowledged to me that she signed the foregoing instrument.

  
\_\_\_\_\_  
Notary Public



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***\*THIS CORRECTED GRANT OF EASEMENT, CONVEYANCE OF EASEMENT RIGHTS, AND MAINTENANCE AGREEMENT IS BEING RECORDED TO CORRECT THE GRANT OF EASEMENT, CONVEYANCE OF EASEMENT RIGHTS, AND MAINTENANCE AGREEMENT OF WHICH PAGES 2-5 WERE MISSING, RECORDED ON JANUARY 10, 2019 AS ENTRY NO. 01104543, IN BOOK 2493, AT PAGES 0276-0281.***

4851-1005-5045, v. 2