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12/20/2010 2:55:00 PM \$22.00  
Book - 9890 Pg - 6450-6455  
Gary W. Ott  
Recorder, Salt Lake County, UT  
LANDMARK TITLE  
BY: eCASH, DEPUTY - EF 6 P.

When recorded please return to:

Jeffrey S. Nielson  
San Tropez Apartments, LLC  
175 East 400 South, Suite 160  
Salt Lake City, Utah 84111

### **PRIVATE ROAD EASEMENT**

THIS PRIVATE ROAD EASEMENT is made and entered into effective the 19<sup>th</sup> day of September, 2008 by THE DISTRICT-SOUTH, L.C., a Utah limited liability company (the "Grantor") in favor of SAN TROPEZ HOLDINGS, LLC, a Utah limited liability company ("Grantee").

#### **RECITALS:**

A. Grantor is the owner of certain real property located in South Jordan, Utah and located within a project known generally as "The District," which property is more particularly described on Exhibit "A" attached hereto and made a part hereof (the "District Parcel").

B. Grantee is the owner of a parcel of real property located in South Jordan, Utah adjacent to the Grantor Property as more particularly described on Exhibit "B" attached hereto and made a part hereof (the "San Tropez Parcel").

C. Grantee is in the process of developing and improving the San Tropez Parcel by constructing a multifamily housing project to be known as the "San Tropez Apartments."

D. The District Parcel consists of two (2) private roads that run along the east border and the west border, respectively, of the San Tropez Parcel. The private road to the east of the San Tropez Parcel shall be known as "District Boulevard." The private road to the west of the San Tropez Parcel shall be known as the "District Drive." District Boulevard and District Drive shall be sometimes referred to herein as the "Private Roads." These two Private Roads are necessary and convenient to provide access to the San Tropez Parcel from 11800 South Street and other public roads within South Jordan City.

E. In connection with the Grantee's development of the San Tropez Parcel, the Grantor has agreed to provide to Grantee a private road easement over District Boulevard and District Drive, both of which are located on the District Parcel.

F. Grantor is willing to grant such easement for the benefit of the San Tropez Parcel on the terms and conditions more particularly set forth herein.

NOW, THEREFORE, for value received, Grantor hereby agrees as follows:

1. Grant of Easement by Grantor. Grantor hereby grants and conveys to Grantee a non-exclusive perpetual private road easement (the "Easement") over two (2) private roads to be known as District Boulevard and District Drive, both located on the District Parcel as more particularly described on Exhibit "A" which is incorporated herein by this reference (the "Easement Area").

2. Property to Benefit from Easement. The San Tropez Parcel is the property that shall receive the non-exclusive beneficial effect of the Easement. The San Tropez Parcel is more fully described on the attached Exhibit "B" which is incorporated herein by this reference.

3. Use of Easement. The Easement granted herein shall be limited in scope and used by the Grantee for vehicle and pedestrian ingress and egress.

4. Maintenance of the Easement Area. Unless Grantor elects, in Grantor's sole discretion, to have the Private Roads dedicated to the City of South Jordan and such Private Road dedication is accepted by the City of South Jordan, Grantor shall provide all maintenance, repairs, snow removal and related services to preserve and maintain the Private Roads, including, without limitation, all paved areas, curbs, and landscaping, in a condition acceptable to Grantor and consistent with other roads in the vicinity. In the event Grantor fails to maintain the Private Roads, Grantee may, but shall not be obligated to, perform such maintenance.

5. Benefit and Binding Effect. The Easement conveyed by this instrument shall be perpetual and shall run with and bind the District Parcel (over which the Easement runs) and shall benefit the San Tropez Parcel, and all parties having or acquiring any right, title or interest in or to the District Parcel or the San Tropez Parcel, as applicable, shall take title subject to this Easement. This Easement is conveyed for the non-exclusive benefit of Grantee and its successors in interest. Conveyance of title to the District Parcel or the San Tropez Parcel shall not affect the enforceability of this Easement against any future owner of the District Parcel.

6. Further Instruments. Grantor agrees that it will execute any and all other documents or legal instruments that may be necessary or required to carry out and effectuate all of the provisions hereof.

7. Paragraph Headings. The paragraph headings of this Easement are inserted only for convenience and in no way define, limit or describe the scope or intent of this Easement nor affect its terms and provisions.

8. Governing Law. This Easement, and all matters relating hereto, including any matter or dispute arising out of the Easement, shall be interpreted, governed, and enforced according to the laws of the State of Utah, and the parties hereto consent to the jurisdiction of any appropriate court in the State of Utah to resolve such disputes.

9. Severability. In the event that any provision of this Easement, or any operation contemplated hereunder, is found by a court of competent jurisdiction to be inconsistent with or contrary to any law, ordinance, or regulation, the latter shall be deemed to control and the Easement shall be regarded as modified accordingly and, in any event, the remainder of this Easement shall continue in full force and effect.

10. Attorney Fees. If any party brings suit to enforce or interpret this Easement or for damages on account of the breach of any provision of this Easement, the prevailing party shall be entitled to recover from the other party its reasonable attorney fees and costs incurred in any such action or in any appeal from such action, in addition to the other relief to which the prevailing party is entitled.

11. Not a Public Dedication. Nothing contained in this Agreement shall be deemed to be a gift or dedication of all or any portion of the District Parcel for the general public or for any public purpose.

IN WITNESS WHEREOF, Grantor has executed this Easement on the day and year first written above.

**GRANTOR:**

THE DISTRICT-SOUTH, L.C.  
A Utah Limited Liability Company

By: THE BOYER COMPANY, L.C.  
Its: Manager

By  \_\_\_\_\_,  
Dawn, Manager

By: ARBOR COMMERCIAL REAL ESTATE, L.L.C.  
Its Manager

By  \_\_\_\_\_,  
John Gust, Manager

STATE OF UTAH            )  
                                  ): ss.  
County of Salt Lake    )

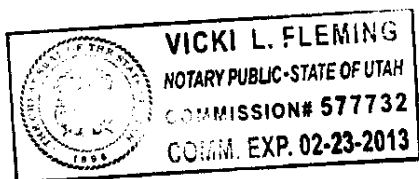
On the 17th day of February, 2010, personally appeared before me Devon M Glenn, Manager of THE BOYER COMPANY, L.C., a Utah limited liability company, a Manager of THE DISTRICT-SOUTH, L.C., a Utah limited liability company, and that the said instrument was signed in behalf of said limited liability company by authority of its operating agreement, and the aforesaid Manager acknowledged to me that said limited liability company executed the same.

Misty Landward  
NOTARY PUBLIC



STATE OF UTAH                    )  
  : ss.  
County of Salt Lake            )

On the 19th day of February, 2010, personally appeared before me John Gust, Manager of ARBOR COMMERCIAL REAL ESTATE, L.L.C., a Utah limited liability company, a Manager of THE DISTRICT-SOUTH, L.C., a Utah limited liability company, and that the said instrument was signed in behalf of said limited liability company by authority of its operating agreement, and the aforesaid Manager acknowledged to me that said limited liability company executed the same.



V Fleming  
NOTARY PUBLIC

## EXHIBIT "A"

### DISTRICT PARCEL DESCRIPTION

#### District Boulevard Easement (East):

Beginning at a point N00°00'42"E 621.52 feet along the Section Line and West 565.01 feet from the South Quarter Corner of Section 20, Township 3 South, Range 1 West, Salt Lake Base and Meridian; and running thence southwesterly 47.12 feet along the arc of a 30.00 foot radius curve to the left, chord bears S45°00'42"W 42.43 feet; thence S00°00'42"W 2.07 feet; thence southeasterly 80.59 feet along the arc of a 81.50 foot radius curve to the left, chord bears S28°19'03 "E 77.35 feet; thence S56°38'49"E 79.10 feet; thence southeasterly 216.61 feet along the arc of a 218.50 foot radius curve to the right, chord bears S28°14'49"E 207.85 feet; thence S00°09'12"W 230.22 feet; thence southerly 8.26 feet along the arc of a 19.00 foot radius curve to the left, chord bears S12°17'50"E 8.19 feet to the Northerly Right-of-Way Line of 11800 South Street; thence, along said Northerly Right-of-Way Line, N89°50'48"W 44.11 feet; thence northerly 9.35 feet along the arc of a 12.50 foot radius curve to the left, chord bears N21°34'31"E 9.13 feet; thence N00°09'12"E 229.72 feet; thence northwesterly 177.95 feet along the arc of a 179.50 foot radius curve to the left, chord bears N28°14'48"W 170.75 feet; thence N56°38'49"W 79.10 feet; thence northwesterly 119.16 feet along the arc of a 120.50 foot radius curve to the right, chord bears N28°19'03"W 114.36 feet; thence N00°00'42"E 2.07 feet; thence northwesterly 35.70 feet along the arc of a 24.00 foot radius curve to the left, chord bears N42°34'55"W 32.50 feet; thence N00°00'42"E 11.08 feet to the Southerly Boundary Line of Lot 14, The District Commercial Subdivision Plat, as recorded in Book 2007P at Page 312 in the Salt Lake County Recorders Office; thence, along the said Southerly Boundary Line of Lot 14 and the Southerly Boundary Line of Lot 17 of said The District Commercial Subdivision Plat, S89°59'18"E 91.00 feet; thence S00°00'42"W 5.00 feet to the Point of Beginning.

Contains 26,137 square feet or 0.60 acres.

#### District Drive Easement (West):

Beginning at a point on the Southerly Boundary Line of Lot 14, The District Commercial Subdivision Plat, as recorded in Book 2007P at Page 312 in the Salt Lake County Recorders Office, said point being also N00°00'42"E 626.95 feet along the Section Line and West 1259.54 feet from the South Quarter Corner of Section 20, Township 3 South, Range 1 West, Salt Lake Base and Meridian; and running thence S00°00'42"W 8.29 feet; thence southwesterly 31.41 feet along the arc of a 22.00 foot radius curve to the left, chord bears S49°06'25"W 28.81 feet; thence southwesterly 189.67 feet along the arc of a 228.00 foot radius curve to the right, chord bears S32°02'04"W 184.25 feet; thence S55°52'00"W 117.50 feet; thence southwesterly 216.46 feet along the arc of a 222.00 foot radius curve to the left, chord bears S27°56'00"W 207.99 feet; thence South 125.73 feet; thence southerly 9.32 feet along the arc of a 12.50 foot radius curve to the left, chord bears S21°21'13"E 9.10 feet to the Northerly Right-of-Way Line of 11800 South Street; thence, along said Northerly Right-of-Way Line, N89°50'48"W 53.29 feet; thence northerly 8.85 feet along the arc of a 19.50 foot radius curve to the left, chord bears N12°59'53"E 8.77 feet; thence North 125.52 feet; thence northeasterly 263.27 feet along the arc of a 270.00 foot radius curve to the right, chord bears N27°56'00"E 252.96 feet; thence N55°52'00"E 117.50 feet; thence northeasterly 166.37 feet along the arc of a 180.00 foot radius curve to the left, chord bears N29°23'15"E 160.51 feet; thence northwesterly 15.40 feet along the arc of a 9.50 foot radius curve to the left, chord bears N43°32'24"W 13.77 feet; thence N00°00'42"E 0.50 feet to the said Southerly Boundary Line of Lot 14, The District Commercial Subdivision Plat; thence, along said Southerly Boundary Line, the following two (2) courses: (1) S89°59'18"E 0.28 feet, (2) S84°59'59"E 77.18 feet to the Point of Beginning.

Contains 33,362 square feet or 0.77 acres.

[For reference only: Part of Tax Parcel Nos. 27-20-351-026; 27-20-351-027; 27-20-376-055 and 27-20-376-058]

## EXHIBIT "B"

### SAN TROPEZ PARCEL DESCRIPTION

#### SAN TROPEZ AT THE SOUTH DISTRICT— OVERALL LEGAL DESCRIPTION

All of Lot 3 of the South District Subdivision, being more particularly described as follows:

A part of Lots 15 and 16 of The District, a Commercial Subdivision, according to the Official Plat thereof; on file in Book 2007P of Plats, at Page 312 of the Official Records of the Salt Lake County Recorder, located in the Southwest Quarter of Section 20, Township 3 South, Range 1 West, Salt Lake Base and Meridian, U. S. Survey, in South Jordan, Salt Lake County, Utah:

Beginning at a point on the Northerly Line of 11800 South Street as it exists at 55.50 foot half-width being 436.86 feet North 89°50'48" West along the Section Line and 55.50 feet North 0°09'12" East from the South Quarter Corner of said Section 20; and running thence North 89°50'48" West 1133.60 feet along said Northerly Line; thence Northwesterly along the arc of a 12.50 foot radius curve to the right a distance of 9.32 feet (Center bears North 47°17'35" East; Central Angle equals 42°42'25" and Long Chord bears North 21°21'13" West 9.10 feet) to a point of tangency, thence North 125.73 feet to a point of curvature; thence Northeasterly along the arc of a 222.00 foot radius curve to the right a distance of 216.46 feet (Central Angle equals 55°52'00" and Long Chord bears North 27°56'00" East 207.99 feet) to a point of tangency; thence North 55°52'00" East 117.50 feet to a point of curvature; thence Northeasterly along the arc of a 228.00 foot radius curve to the left a distance of 189.67 feet (Central Angle equals 47°39'52" and Long Chord bears North 32°02'04" East 184.25 feet) to a point of reverse curvature; thence Northeasterly along the arc of a 22.00 foot radius curve to the right a distance of 31.41 feet (Central Angle equals 81°48'34" and Long Chord bears North 49°06'25" East 28.81 feet); thence North 0°00'42" East 8.29 feet to the Southerly Line of Lot 14 of said District Subdivision; thence along said Southerly Line the following two courses: South 84°59'59" East 3.32 feet; and South 89°59'18" East 243.46 feet; thence South 0°00'48" East 227.13 feet; thence North 89°59'12" East 90.05 feet; thence North 0°00'48" West 227.09 feet to the Southerly Line of said Lot 14; thence South 89°59'18" East 266.73 feet; thence South 0°00'42" West 11.08 feet; thence Southeasterly along the arc of a 24.00 foot radius curve to the right a distance of 35.70 feet (Center bears South 4°47'28" West; Central Angle equals 85°13'14" and Long Chord bears South 42°35'55" East 32.50 feet) to a point of tangency; thence South 0°00'42" West 2.07 feet to a point of curvature; thence Southeasterly along the arc of a 120.50 foot radius curve to the Left a distance of 119.16 feet (Central Angle equals 56°39'30" and Long Chord bears South 28°19'03" East 114.36 feet) to a point of tangency; thence South 56°38'49" East 79.10 feet to a point of curvature; thence Southeasterly along the arc of a 179.50 foot radius curve to the right a distance of 177.95 feet (Central Angle equals 56°48'01" and Long Chord bears South 28°14'48" East 170.75 feet) to a point of tangency; thence South 0°09'12" West 229.72 feet to a point of curvature; thence Southwesterly along the arc of a 12.50 foot radius curve to the right a distance of 9.35 feet (Central Angle equals 42°50'37" and Long Chord bears South 21°34'31" West 9.13 feet) to the Northerly Line of said 11800 South Street and the Point of Beginning.

Contains: 529,418 Square Feet, or 12.15 Acres.

[For reference only: Tax Parcel Nos. 27-20-379-001 through 27-20-379-251, inclusive]