

DECLARATION AND GRANT OF ACCESS EASEMENT AGREEMENT

WHEN RECORDED, MAIL TO:

Gigi C. Parke
University of Utah
Office of General Counsel
201 South Presidents Circle, Room 309
Salt Lake City, Utah 84112

ENT **114653**: 2015 PG 1 of 11
Jeffery Smith
Utah County Recorder
2015 Dec 22 04:17 PM FEE 32.00 BY CS
RECORDED FOR Meridian Title Company
ELECTRONICALLY RECORDED

With a copy to:

DECLARATION AND GRANT OF ACCESS EASEMENT AGREEMENT

This DECLARATION AND GRANT OF ACCESS EASEMENT AGREEMENT (the "Easement Agreement") is made and entered into as of the 23rd day of December, 2015 (the "Effective Date"), by and among WESTERLY PROPERTIES, LLC, a Utah limited liability company ("Westerly"), PAUL W. HARDMAN, a Utah resident ("Hardman"), together with Westerly, "Seller", and the UNIVERSITY OF UTAH, a body politic and corporate of the State of Utah ("Buyer"). Each a "Party" and, collectively, the "Parties".

WHEREAS, in accordance with the Agreement of Sale and Purchase and Joint Escrow Instructions, dated July 6, 2015 ("Purchase Agreement"), by and between Seller and Buyer, Buyer is the record owner of certain real property consisting of approximately 12.489 acres located in Lehi, Utah County, Utah, as more particularly described and depicted as "Lot 1" in attached Exhibit "A" (the "University Parcel");

WHEREAS, Seller owns a parcel adjacent to the University Parcel, which consists of approximately 2.897 acres, as more particularly described and depicted as "Lot 2" in attached Exhibit "A" (the "Southern Parcel");

WHEREAS, the Buyer intends to develop the University Parcel and construct a building to be used as an outpatient medical clinic and other purposes on the University Parcel and, therefore, wishes to construct a shared entrance roadway for access to and from the University Parcel (the "Southern Entrance Roadway") over the Southern Parcel to that certain public thoroughfare known as Hardman Way, as more generally depicted in attached Exhibit "A";

WHEREAS, Seller acknowledges that development of the University Parcel and construction of the Southern Entrance Roadway will benefit the adjacent land, therefore, Seller desires to grant to Buyer a non-exclusive, perpetual access easement, for the benefit of the University Parcel, for two-way vehicular and pedestrian ingress and egress over, across, upon, and through a portion of the Southern

Parcel, as more particularly described and depicted as "Access Easement" in attached Exhibit "A" (the "Easement Property"), upon which the Southern Entrance Roadway shall be constructed, all subject to and in accordance with the terms and conditions of this Easement Agreement and the Purchase Agreement;

NOW, THEREFORE, to these ends and in consideration of the covenants contained in this Easement Agreement and the Purchase Agreement, as well as the mutual benefits to be derived therefrom, the Parties agree as follows:

1. Grant of Access Easement; General Maintenance. Subject to the terms and conditions of this Easement Agreement and the Purchase Agreement, Seller hereby grants and conveys to Buyer, for the benefit of the University Parcel, a nonexclusive, perpetual easement upon, over, and across the Easement Property for the purposes of vehicular and pedestrian access, ingress and egress to and from Hardman Way and the University Parcel (the "Southern Easement"). Exclusive use of the Southern Easement and Southern Entrance Roadway is not hereby granted, and the right and easement for ingress and egress in common with the University is expressly reserved by Seller. Seller hereby reserves the right to make any use of the Southern Easement and Southern Entrance Roadway, so long as any such use does not unreasonably interfere with the right and easement for use and related ingress and egress which is herein granted to the University.

2. Easement Appurtenant. Subject to the terms, limitations and conditions set forth in this Easement Agreement and the Purchase Agreement, the Southern Easement shall (i) constitute a covenant running with the land; (ii) be appurtenant to, and inure to the benefit of, the University Parcel and its owner and successors and assigns, all of which persons may enforce any obligation created by this Easement Agreement; and (iii) bind and burden the Southern Parcel and every person having any fee, leasehold or other interest in any portion of the Southern Parcel, however acquired.

3. Maintenance and Repair of the Southern Entrance Roadway. The University shall (i) keep the entire Southern Entrance Roadway, including all sections located upon the Southern Parcel, in a good, clean, attractive, safe and sanitary condition, order and repair; (ii) remove all debris, snow, ice, and refuse to the extent reasonably necessary to keep the area in a safe, clean and orderly condition; and (iii) otherwise maintain and repair the Southern Entrance Roadway in a good and workmanlike manner, consistent with good construction practices and as required by applicable law.

4. Purchase Agreement. Upon completion of the construction of the Southern Entrance Roadway over the Southern Easement in accordance with the Purchase Agreement, all references herein to the Purchase Agreement shall be deemed to be automatically removed. Seller and the University shall, upon the request of the other party, execute such documents as may be necessary to remove such references to the Purchase Agreement, which documents shall be in recordable form.

5. Miscellaneous.

(a) Term. The Southern Easement and all rights granted hereunder shall run with the real property benefitted and burdened by this Easement Agreement and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns and successors in title and may be terminated only upon written agreement of the Parties; provided, however, this Easement Agreement shall automatically terminate and be of no further force and effect if the Buyer (or an entity controlled by or affiliated with Buyer) purchases the Southern Parcel.

(b) No Waiver. A delay in enforcing or a failure to enforce any breach or violation of any restriction herein contained shall not be deemed to be a waiver or abandonment of any such restriction, or a waiver of the right to enforce any subsequent breach or violation of such

restriction. The foregoing shall apply regardless of whether any person affected hereby (or having the right to enforce these restrictions) had knowledge of the breach or violation.

(c) Severability. If any one or more of the provisions of this Easement Agreement or the applicability of any such provision to a specific situation shall be held invalid or unenforceable by a court of competent jurisdiction, the validity and enforceability of all other provisions of this Easement Agreement and all other applications of such provisions shall not be affected thereby.

(d) Captions. Any captions contained in this Easement Agreement are inserted as a matter of convenience, and in no way define, limit, extend or describe the scope of this Easement Agreement or the intent of any provision hereof. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural, and vice versa.

(e) Governing Law. This Easement Agreement shall be construed and enforced in accordance with the laws of the State of Utah.

(f) Incorporation of Recitals and Exhibits. The above Recitals and the attached Exhibit are true, accurate and correct and by this reference incorporated into and are intended to be material terms and conditions of this Easement Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Easement Agreement as of the day and year written above.

Seller: **WESTERLY PROPERTIES, LLC**

By: _____

Name:

Title:

PAUL W. HARDMAN

Buyer: **UNIVERSITY OF UTAH**

By: Arnold B. Combe

Name: Arnold B. Combe

Title: Vice President for Administrative Services

STATE OF UTAH)
 : ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of December, 2015, by _____, the _____ of Westerly Properties, LLC.

NOTARY SIGNATURE AND SEAL

STATE OF UTAH)
 : ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of December, 2015, by Paul W. Hardman, a Utah resident.

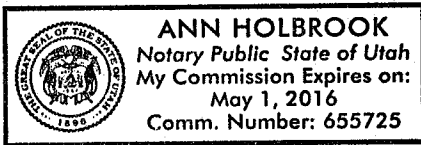
NOTARY SIGNATURE AND SEAL

STATE OF UTAH)
 : ss.
COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 18th day of December, 2015, by Arnold B. Combe, the Vice President for Administrative Services of the University of Utah, a body politic and corporate of the State of Utah.

Ann Holbrook

NOTARY SIGNATURE AND SEAL



IN WITNESS WHEREOF, the parties have executed this Easement Agreement as of the day and year written above.

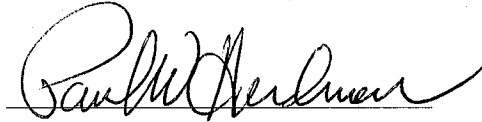
Seller: **WESTERLY PROPERTIES, LLC**

By: 

Name: *Lora M. Hardman*

Title: *Manager*

PAUL W. HARDMAN



Buyer: **UNIVERSITY OF UTAH**

By: _____

Name: Arnold B. Combe

Title: Vice President for Administrative Services

STATE OF UTAH)
)
COUNTY OF Salt Lake)
)
: ss.

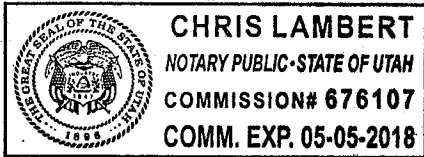
The foregoing instrument was acknowledged before me this 22 day of December, 2015, by Core Hardman, the Manager of Westerly Properties, LLC.



[Signature]
NOTARY SIGNATURE AND SEAL

STATE OF UTAH)
)
COUNTY OF Salt Lake)
)
: ss.

The foregoing instrument was acknowledged before me this 22 day of December, 2015, by Paul W. Hardman, a Utah resident.



[Signature]
NOTARY SIGNATURE AND SEAL

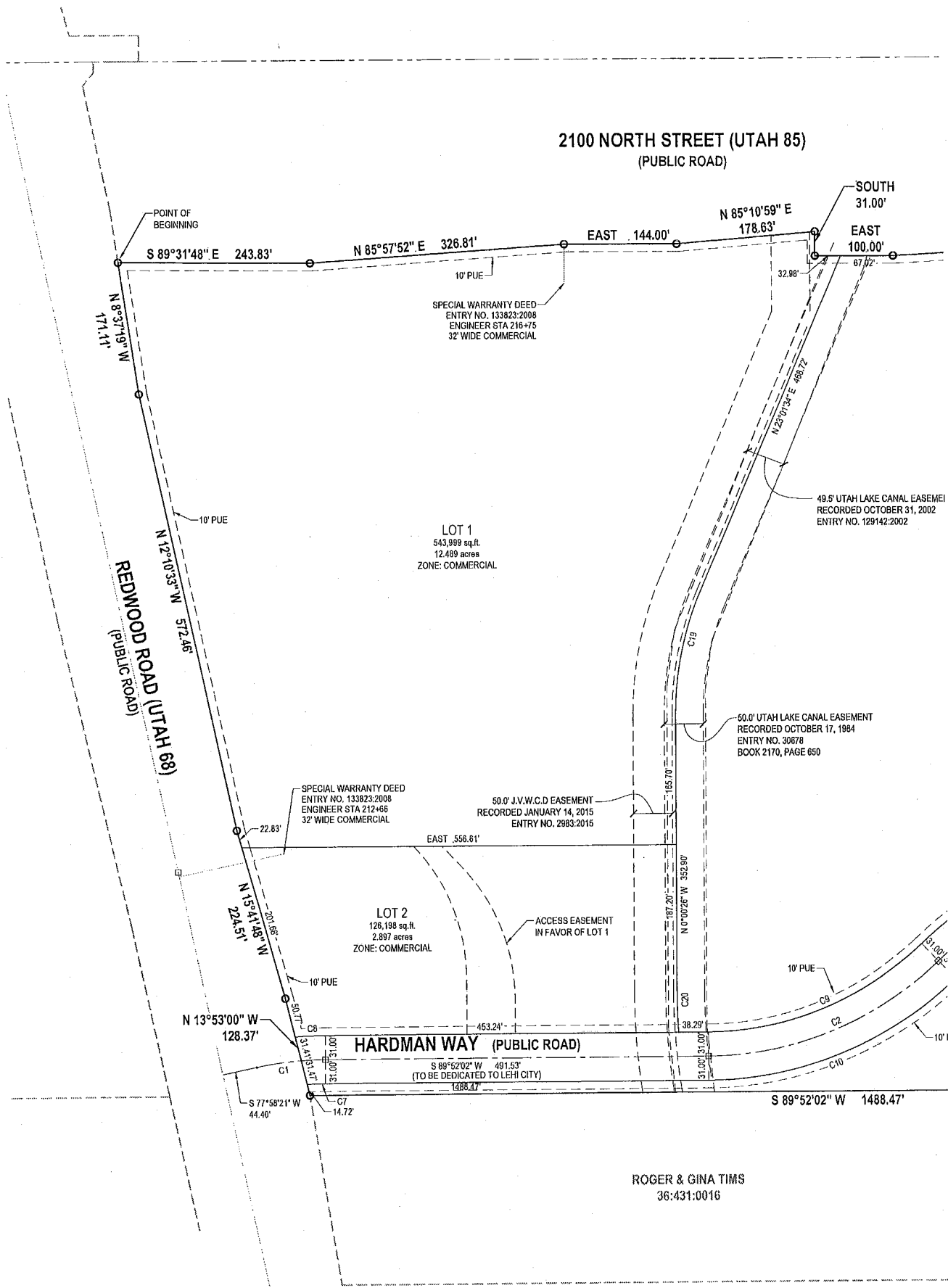
STATE OF UTAH)
)
COUNTY OF _____)
)
: ss.

The foregoing instrument was acknowledged before me this ____ day of December, 2015, by Arnold B. Combe, the Vice President for Administrative Services of the University of Utah, a body politic and corporate of the State of Utah.

NOTARY SIGNATURE AND SEAL

Exhibit "A"

Description and Depiction of
University Parcel, Southern Parcel and Easement Property



2100 NORTH STREET (UTAH 85)
(PUBLIC ROAD)

REDWOOD ROAD (UTAH 68)
(PUBLIC ROAD)

HARDMAN WAY (PUBLIC ROAD)
(TO BE DEDICATED TO LEHI CITY)

LOT 1
543,999 sq.ft.
12.489 acres
ZONE: COMMERCIAL

LOT 2
126,198 sq.ft.
2.897 acres
ZONE: COMMERCIAL

ROGER & GINA TIMS
36:431:0016

POINT OF BEGINNING

SPECIAL WARRANTY DEED
ENTRY NO. 133823:2008
ENGINEER STA 216+75
32' WIDE COMMERCIAL

SPECIAL WARRANTY DEED
ENTRY NO. 133823:2008
ENGINEER STA 212+68
32' WIDE COMMERCIAL

50.0' J.V.W.C.D. EASEMENT
RECORDED JANUARY 14, 2015
ENTRY NO. 2983:2015

49.5' UTAH LAKE CANAL EASEMENT
RECORDED OCTOBER 31, 2002
ENTRY NO. 129142:2002

50.0' UTAH LAKE CANAL EASEMENT
RECORDED OCTOBER 17, 1984
ENTRY NO. 30878
BOOK 2170, PAGE 650

ACCESS EASEMENT
IN FAVOR OF LOT 1

S 89°31'48" E 243.83'

N 85°57'52" E 326.81'

EAST 144.00'

N 85°10'59" E 178.63'

SOUTH 31.00'

EAST 100.00'

N 8°37'19" W 171.11'

N 12°10'33" W 572.46'

N 15°41'48" W 224.51'

N 13°53'00" W 128.37'

S 77°58'21" W 44.40'

S 88°52'02" W 491.53'

1488.47'

S 89°52'02" W 1488.47'

22.83'

EAST .556.61'

453.24'

165.70'

187.20'

352.80'

38.29'

31.00'

10' PUE

C9

C2

C10

10' PUE

C1

C7

C8

C3

C4

C5

C6

C10

10' PUE

C10

University Parcel**Hardman Lehi Subdivision Plat 'A' – Lot 1**

Beginning at the intersection of the Easterly Right-of-Way Line of Redwood Road and the Southerly Right-of-Way Line of 2100 North Street, said point being North 89°48'50" East 929.38 feet along the section line and South 257.20 feet from the West Quarter Corner of Section 2, Township 5 South, Range 1 West, Salt Lake Base and Meridian; and running

thence South 89°31'48" East 243.83 feet along the Southerly Right-of-Way Line of said 2100 North Street;

thence North 85°57'52" East 326.81 feet along the Southerly Right-of-Way Line of said 2100 North Street;

thence East 144.00 feet along the Southerly Right-of-Way Line of said 2100 North Street;

thence North 85°10'59" East 178.63 feet along the Southerly Right-of-Way Line of said 2100 North Street;

thence South 31.00 feet along the Southerly Right-of-Way Line of said 2100 North Street;

thence East 32.98 feet along the Southerly Right-of-Way Line of said 2100 North Street;

thence South 23°01'34" West 468.72 feet;

thence Southwesterly 163.01 feet along the arc of a 405.50 foot radius curve to the left (center bears South 66°58'26" East and the chord bears South 11°30'34" West 161.92 feet with a central angle of 23°02'00");

thence South 00°00'26" East 165.70 feet;

thence West 556.61 feet to the Easterly Right-of-Way Line of Redwood Road;

thence North 15°41'48" West 22.83 feet along the Easterly Right-of-Way Line of said Redwood Road

thence North 12°10'33" West 572.46 feet along the Easterly Right-of-Way Line of said Redwood Road;

thence North 08°37'19" West 171.11 feet along the Easterly Right-of-Way Line of said Redwood Road to the point of beginning.

Contains 543,999 Square Feet or 12.489 Acres

Southern Parcel**Hardman Lehi Subdivision Plat 'A' – Lot 2**

Beginning at a point on the Easterly Right-of-Way Line of Redwood Road, said point being North 89°48'50" East 1,081.94 feet along the section line and South 1,008.44 feet from the West Quarter Corner of Section 2, Township 5 South, Range 1 West, Salt Lake Base and Meridian; and running

thence East 556.61 feet;

thence South 00°00'26" East 187.20 feet;

thence Southeasterly 53.52 feet along the arc of a 805.50 foot radius curve to the left (center bears North 89°59'33" East and the chord bears South 01°54'39" East 53.51 feet with a central angle of 03°48'25");

thence South 89°52'02" West 453.24 feet;

thence Southwesterly 38.48 feet along the arc of a 456.00 foot radius curve to the left (center bears South 00°07'58" East and the chord bears South 87°26'58" West 38.47 feet with a central angle of 04°50'08") to the Easterly Right-of-Way Line of said Redwood Road;

thence North 13°53'00" West 50.77 feet along the Easterly Right-of-Way Line of said Redwood Road;

thence North 15°41'48" West 201.68 feet along the Easterly Right-of-Way Line of said Redwood Road to the point of beginning.

Contains 126,198 Square Feet or 2.897 Acres

Easement Property

Hardman Lehi Subdivision Plat 'A' – Access Easement across Lot 2

Beginning at a point being North 89°48'50" East 1,302.62 feet along the section line and South 1,009.15 feet from the West Quarter Corner of Section 2, Township 5 South, Range 1 West, Salt Lake Base and Meridian; and running

thence East 36.09 feet;

thence Southeasterly 35.76 feet along the arc of a 4,850.00 foot radius curve to the right (center bears South 46°15'17" West and the chord bears South 43°32'03" East 35.76 feet with a central angle of 00°25'21");

thence Southeasterly 189.03 feet along the arc of a 250.00 foot radius curve to the right (center bears South 46°40'38" West and the chord bears South 21°39'41" East 184.56 feet with a central angle of 43°19'22");

thence South 43.71 feet;

thence South 89°52'02" West 62.00 feet;

thence North 71.14 feet;

thence Northwesterly 187.17 feet along the arc of a 250.00 foot radius curve to the left (center bears West and the chord bears North 21°26'51" West 182.82 feet with a central angle of 42°53'42") to the point of beginning.

Contains 12,780 Square Feet or 0.293 Acres