

When recorded please return to:

Jeffrey S. Nielson  
San Tropez West Holdings, LLC  
299 South Main Street, Suite 2400  
Salt Lake City, Utah 84111

Tax Parcel No. 27-20-351-026  
Tax Parcel No. 27-20-351-027

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6/14/2013 2:16:00 PM \$23.00  
Book - 10149 Pg - 6380-6386  
Gary W. Ott  
Recorder, Salt Lake County, UT  
LANDMARK TITLE  
BY: eCASH, DEPUTY - EF 7 P.

### **PRIVATE ROAD EASEMENT**

THIS PRIVATE ROAD EASEMENT is made and entered into this 10<sup>th</sup> day of June, 2013 by THE DISTRICT-SOUTH, L.C., a Utah limited liability company (the "Grantor") in favor of SAN TROPEZ WEST HOLDINGS, LLC, a Utah limited liability company ("San Tropez") and THE DISTRICT-SOUTH ST TIC HOLDINGS, L.C., a Utah limited liability company ("District-South"; and together with San Tropez, the "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 District Parcel as more particularly described on Exhibit "B" attached hereto and made a part hereof (the "San Tropez West Parcel").

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

D. The District Parcel consists of a private road that runs along the east border of the San Tropez West Parcel. This private road is known as "District Drive." District Drive shall be sometimes referred to herein as the "Private Road." This Private Road is necessary and convenient to provide access to the San Tropez West 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 West Parcel, the Grantor has agreed to provide to Grantee a private road easement over District Drive, which is located on the District Parcel.

F. Grantor is willing to grant such easement for the benefit of the San Tropez West 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 District Drive, located on the District Parcel as more particularly described on Exhibit "A" which is incorporated herein by this reference (the "Easement Area"). The Easement shall also include Grantee's right to install, at Grantee's sole cost and expenses and in accordance with all applicable legal requirements, two crosswalks (the "Crosswalks") on the north and south boundary lines of the Property, as required by the City of South Jordan, that will be constructed after the date of this Agreement, and that shall cross District Drive, which Crosswalks shall be for pedestrian access across District Drive. The Easement Area shall also include the Crosswalks.

2. Property to Benefit from Easement. The San Tropez West Parcel is the property that shall receive the non-exclusive beneficial effect of the Easement. The San Tropez West 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 Grantees for vehicle and pedestrian ingress and egress.

4. Maintenance of the Easement Area. Unless Grantor elects, in Grantor's sole discretion, to have the Easement Area dedicated to the City of South Jordan and such Easement Area 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 Easement Area, including, without limitation, all paved areas, curbs, and landscaping, in a condition acceptable to Grantee and consistent with other roads in the vicinity. In the event Grantor fails to maintain the Easement Area, Grantee may, but shall not be obligated to, perform such maintenance. If Grantee incurs any costs or expenses in connection with the maintenance of the Easement Area, Grantee shall provide Grantor with written notice of such costs (together with invoices, receipts, and other supporting documentation), and Grantor shall pay the same to Grantee within ten (10) days after receipt of such notice.

5. Priority Over Declaration of Access and Utility Easements. Grantor hereby expressly agrees that the terms of Section 4, above, relating to the maintenance of the Easement Area, shall supersede, override, and prevail over any conflicting provision contained in that certain Declaration of Access and Utility Easements, recorded December 30, 2010 as Entry No. 11107309, in Book 9893, at Page 6507 of the Official Records of Salt Lake County.

6. 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 West Parcel, and all parties having or acquiring any right, title or interest in or to the District Parcel or the San Tropez West 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 West

Parcel shall not affect the enforceability of this Easement against any future owner of the District Parcel.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

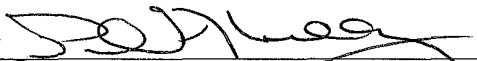
[Signature Page Follows]

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

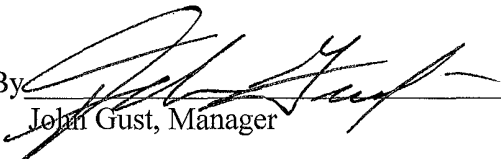
**GRANTOR:**

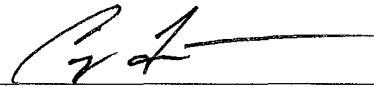
THE DISTRICT-SOUTH, L.C.  
A Utah Limited Liability Company

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

By:   
Paul Kelly, Manager

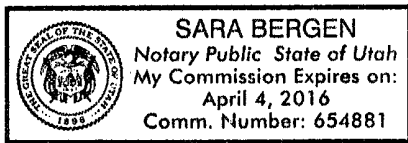
By: ARBOR COMMERCIAL REAL ESTATE, L.L.C.  
Its Manager

By:   
John Gust, Manager

By:   
Corey Gust, Manager

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

On the 6<sup>th</sup> day of June, 2013, personally appeared before me Paul D. Kelley, Manager of THE BOYER COMPANY, L.C., a Utah limited liability company, the 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.



Sara Bergen  
NOTARY PUBLIC

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

On the 7<sup>th</sup> day of June, 2013, personally appeared before me John Gust and Corey Gust, the Managers of ARBOR COMMERCIAL REAL ESTATE, L.L.C., a Utah limited liability company, a Manager of THE DISTRICT\*, 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.

\* - SOUTH



V. Fleming  
NOTARY PUBLIC

## EXHIBIT "A"

### DISTRICT PARCEL DESCRIPTION

#### District Drive Easement (West):

All of District Drive, being also portions of Lots 1 and 2 of The South District Subdivision as recorded in Book 2009P at Page 2 in the Salt Lake County Recorder's Office, located in the Southwest Quarter of Section 20, Township 3 South, Range 1 West, Salt Lake Base and Meridian, said parcel being more particularly described as follows:

Beginning at a point on the Easterly Right-of-Way Line of said District Drive, said point being also on the North Right-of-Way Line of 11800 South Street, said point being also on the South Boundary Line of said The South District Subdivision, said point being also North 89°50'48" West 1570.32 feet, along the Section Line, and North 55.50 feet from the South Quarter Corner of said Section 20; and running thence, along said North Right-of-Way Line and South Boundary Line, North 89°50'48" West 53.29 feet to the Westerly Right-of-Way Line of said District Drive; thence, along said Westerly Right-of-Way Line the following six (6) courses: (1) Northeasterly 8.85 feet along the arc of a 19.50 foot radius curve to the left, chord bears North 12°59'53" East 8.77 feet, (2) North 125.52 feet, (3) Northeasterly 263.27 feet along the arc of a 270.00 foot radius curve to the right, chord bears North 27°56'00" East 252.96 feet, (4) North 55°52'00" East 117.50 feet, (5) Northeasterly 142.41 feet along the arc of a 180.00 foot radius curve to the left, chord bears North 33°12'04" East 138.73 feet, (6) Northwesterly 46.49 feet along the arc of a 30.00 foot radius curve to the left, chord bears North 35°17'24" West 41.97 feet to the North Boundary Line of said The South District Subdivision; thence, along said North Boundary Line the following two (2) courses: (1) South 89°59'18" East 17.85 feet, (2) South 84°59'59" East 77.18 feet to the Easterly Right-of-Way Line of said District Drive; thence, along said Easterly Right-of-Way Line, the following seven (7) courses: (1) South 00°00'42" West 8.29 feet, (2) Southwesterly 31.41 feet along the arc of a 22.00 foot radius curve to the left, chord bears South 49°06'25" West 28.81 feet, (3) Southwesterly 189.67 feet along the arc of a 228.00 foot radius curve to the right, chord bears South 32°02'04" West 184.25 feet, (4) South 55°52'00" West 117.50 feet, (5) Southwesterly 216.46 feet along the arc of a 222.00 foot radius curve to the left, chord bears South 27°56'00" West 207.99 feet, (6) South 125.73 feet, (7) Southeasterly 9.31 feet along the arc of a 12.50 foot radius curve to the left, chord bears South 21°21'13" East 9.10 feet to the Point of Beginning.

*27-20-351-029*

**EXHIBIT "B"**

SAN TROPEZ WEST PARCEL DESCRIPTION

Real property situated in Salt Lake County, State of Utah and described as follows:

Portions of Lots 1 and 2 of The South District Subdivision as recorded in Book 2009P at Page 2 in the Salt Lake County Recorder's Office, located in the Southwest Quarter of Section 20, Township 3 South, Range 1 West, Salt Lake Base and Meridian, said parcel being more particularly described as follows:

Beginning at a point on the North Right-of-Way Line of 11800 South Street, said point being also on the South Boundary Line of said The South District Subdivision, said point being also North 89°50'48" West 1623.61 feet, along the Section Line, and North 55.50 feet from the South Quarter Corner of said Section 20; and running thence, along said North Right-of-Way Line and South Boundary Line, North 89°50'48" West 310.20 feet to the Easterly Right-of-Way Line of Bangerter Highway and the Southwest Boundary Corner of said The South District Subdivision; thence, along said Easterly Right-of-Way Line and the Westerly Boundary Line of said The South District Subdivision, North 02°00'49" West 573.47 feet to the Northwest Boundary Corner of said The South District Subdivision; thence along the North Boundary Line of said The South District Subdivision, South 89°59'18" East 599.79 feet to the Westerly Right-of-Way Line of District Drive; thence along said Westerly Right-of-Way Line, the following six (6) courses: (1) Southeasterly 46.49 feet along the arc of a 30.00 foot radius curve to the right, chord bears South 35°17'24" East 41.97 feet, (2) Southwesterly 142.41 feet along the arc of a 180.00 foot radius curve to the right, chord bears South 33°12'04" West 138.73 feet, (3) South 55°52'00" West 117.50 feet, (4) Southwesterly 263.27 feet along the arc of a 270.00 foot radius curve to the left, chord bears South 27°56'00" West 252.96 feet, (5) South 125.52 feet, (6) Southwesterly 8.85 feet along the arc of a 19.50 foot radius curve to the right, chord bears South 12°59'53" West 8.77 feet to the Point of Beginning.

*27-20-351-028*