

13516029
12/29/2020 4:18:00 PM \$40.00
Book - 11090 Pg - 2538-2548
RASHELLE HOBBS
Recorder, Salt Lake County, UT
COTTONWOOD TITLE
BY: eCASH, DEPUTY - EF 11 P.

After Recording, Return to:
Steve D. Friedland, Attorney
Applegate & Thorne-Thomsen
425 S. Financial Place, Suite 1900
Chicago, IL 60605
CTA 196761/196778 (eo)

Space above for Recorder's use

CONSTRUCTION EASEMENT AGREEMENT

Dated as of DECEMBER 29, 2020

EXECUTED BY AND BETWEEN:

**BROADWAY CENTRE INVESTMENT LIMITED PARTNERSHIP,
a Delaware limited partnership**

AND

**BRINSHORE UTAH, LLC,
a Utah limited liability company**

PARENT
TAX ID NO.: 16-06-154-010, 16-06-154-049, 16-06-154-048, 16-06-157-001, 16-06-157-002, 16-06-157-003, 16-06-157-004 (for reference purposes only)

CONSTRUCTION EASEMENT AGREEMENT

THIS CONSTRUCTION EASEMENT AGREEMENT (this “**Agreement**”) is made as of the 29 day of DECEMBER, 2020, by and between **Broadway Centre Investment Limited Partnership**, a Delaware limited partnership (“**Grantor**”) and **Brinshore Utah, LLC**, a Utah limited liability company (“**Developer**”).

RECITALS:

A. Grantor is the owner of certain real property located in the City and County of Salt Lake City, State of Utah, having a street address of 111 East Broadway, Salt Lake City, Utah 84111, and legally described on Exhibit A attached hereto and incorporated herein by this reference (the “**Servient Estate**”).

B. Developer is the owner of certain real property proximate to the Servient Estate that is legally described on Exhibit B attached hereto and incorporated herein by this reference (the “**Project Property**”). Developer intends to commence the development and construction on the Project Property of a mixed-use residential and commercial real estate project (the “**Project**”).

C. The construction of the Project necessitates various easements under, on and over portions of the Servient Estate. Grantor has determined to grant, and Developer has determined to accept, the Easements in accordance with and subject to the terms and provisions of this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the above premises, the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Developer covenant and agree as follows:

1. Grant of Tieback Easement. Grantor hereby grants and conveys to Developer, as an appurtenance benefitting the Project Property, an irrevocable, temporary, non-exclusive construction easement under the surface of the Servient Estate for the construction, installation, operation, testing, inspection, maintenance and use of soil screws, tieback anchors and/or other components of a construction shoring system that will provide interim support for and stabilize construction, excavation and installation for the Project (collectively the “**Tiebacks**”) in conjunction with the construction and development of the Project (the “**Tieback Easement**”). The Tiebacks shall be instituted underneath the surface of the Servient Estate as shown on engineering plans hereafter established for the Project, as the same may be modified, which when available will be provided to Grantor promptly upon request. Developer covenants to Grantor that the Tiebacks will not interfere with surface access to the Servient Estate; will not be visible on the surface of the Servient Estate; and will not touch, damage, destroy, or interfere with any existing subsurface utilities, structures, or other improvements on the Servient Estate.

2. Grant of Tower Crane Easement. Grantor hereby grants and conveys to Developer, as an appurtenance benefitting the Project Property, an irrevocable, temporary, non-exclusive

easement to operate (and utilize the boom of) and swing a tower crane over the Servient Estate (the "**Tower Crane Easement**").

3. Construction Overhang Easement. Grantor hereby grants and conveys to Developer, as an appurtenance benefitting the Project Property, an irrevocable, temporary, non-exclusive easement over the portion of the Servient Estate shown on Exhibit C attached hereto for the purpose of overhanging scaffolding and other construction equipment related to the construction of the Project (the "**Construction Overhang Easement**", collectively with the Tieback Easement and the Tower Crane Easement, the "**Easements**").

4. Term and Compensation. The Easements granted herein shall have a term commencing as of the date of the mutual execution and delivery of this Agreement, and continuing until (i) Developer obtains, from the City and/or County of Salt Lake City, a permanent certificate or certificates of occupancy which authorize the ongoing occupancy, use and enjoyment of all building improvements within the Project, or (ii) any earlier time that Developer at its election voluntarily relinquishes its rights under the Easements by a recorded written instrument to that effect executed by Developer, or (iii) Developer ceases its construction activities for a period of three (3) months. The Easements may be used and enjoyed by Developer and Developer's agents, employees, contractors and designees, and any parties acting by, through or under any of them (collectively with the Developer, the "**Permittees**"). As consideration for the Easements, Developer agrees to pay Grantor the sum of \$2,500, payable upon full execution of this document.

5. Termination. At the end of the term of the Easements, as the term is set forth in paragraph 4 above, the Easements shall terminate, and the Developer will have no further right to the use and enjoyment of the Easements and will be deemed to have abandoned the Easements on the Servient Estate. Upon termination, the Tiebacks may be abandoned in place on the Servient Estate, and Developer will have no obligation or duty to remove, or any other obligation or liability, with respect to the Tiebacks. Following such abandonment, the Grantor may, at its election and without obligation to Developer, leave the Tiebacks in place or otherwise manage, treat and/or dispose of the Tiebacks in any manner permitted by applicable laws, rules and regulations. Upon the termination of the Easements, either party, upon the request of the other, shall execute and deliver a recordable instrument confirming that such termination has occurred, which confirmation will further serve to confirm that the parties are released from any further obligations and duties hereunder.

6. Insurance; Indemnity.

(a) During the term of the Easements, Developer shall carry and maintain or cause one of its contractors or other Permittees to carry and maintain in full force and effect, at no cost or expense to Grantor, commercial general liability insurance insuring on an occurrence basis against liability for personal injury, death or physical property damage arising out of the use and enjoyment of the Easements during the term of the Easements, with a single occurrence limit of not less than \$5,000,000.00. Developer agrees to provide or cause the applicable Permittee to provide Grantor with a certificate of insurance evidencing this required coverage prior to the commencement of any Construction under the surface of the Servient Estate or installation of any overhead crane.

(b) Developer shall indemnify the Grantor, its members, partners, shareholders, officers, directors, employees, guests, invitees and licensees (collectively the “**Indemnified Parties**”), from and against any and all claims, actions, causes of action, liabilities, losses and damages in connection with any death, personal injury or physical property damage or any mechanic’s lien claims arising out of the Easements or other related Construction under the Servient Estate pursuant to the Easements, together with any actual costs or expenses incurred by any Indemnified Parties in connection therewith, including reasonable attorneys’ fees. This indemnity shall be applied in accordance with generally prevailing laws governing contract rights, remedies and liabilities. This indemnity shall not apply, however, to matters stemming from the negligence, willful misconduct or breach of this Agreement by the Grantor or any other Indemnified Party.

7. Quiet Enjoyment. Grantor warrants to the Developer that Grantor is vested with the ownership of and title to the Servient Estate, and the Grantor will warrant and defend the Developer in the quiet and peaceful use, enjoyment and possession of the Easements in accordance with the terms and provisions of this Agreement, without interference or disturbance by any party claiming any title or interest in the Servient Estate. Grantor specifically agrees that Grantor and the Indemnified Parties shall not do anything which physically disturbs or impairs the function of the Tiebacks during the term of the Easements, or which otherwise violates or materially interferes with the use and enjoyment of the Easements by the Developer or the other Permittees.

8. Successors in Interest. The rights, interests and obligations of the parties under this Agreement, including the Easements, shall touch and concern and run with the land as a benefit and burden to the ownership of the Servient Estate and the Project Property. If the Grantor comprises more than one party, they shall be jointly and severally liable for Grantor’s obligations and duties hereunder.

9. Severability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

10. Captions. The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provision of this Agreement or modify any such provision.

11. Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah. Venue for any dispute shall be in the Third Judicial District Court for the County of Salt Lake, State of Utah.

12. Modification and Waiver. The terms of this Agreement may be modified only by a written instrument mutually executed by the parties and recorded in the Records (hereinafter defined). Any purported waiver by either party of any of its rights and interests hereunder shall be effective and binding only to the extent specifically set forth in a written instrument executed by the party against whom enforcement of the purported waiver is sought.

13. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument and agreement.

14. Attorneys' Fees. In the event any legal proceedings arise out of the subject matter of this Agreement and are prosecuted to final judgment, the prevailing party shall be entitled to recover from the non-prevailing party all of the prevailing party's costs and expenses incurred in connection with the prosecution of such action, including, without limitation, reasonable attorneys' fees.

15. Recording. This Memorandum of this Agreement may be recorded in the real property records for the County of Salt Lake, State of Utah (the "**Records**") at the election and expense of the Developer.

IN WITNESS WHEREOF, Grantor and Developer have made this Construction Easements Agreement as of the day, month and year first above written.

[Signature Pages Follow]

GRANTOR:

Broadway Centre Investment Limited Partnership, a
Delaware limited partnership

Bruce Bingham
Name: Bruce Bingham

[Signature]
Name: _____

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

The foregoing instrument was acknowledged before me this 17 day of
December, 2020, by Bruce Bingham and by N/A.

Witness my hand and official seal.

My commission expires: 8/19/2021

[Signature]
Notary Public

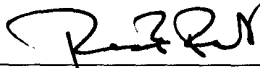
[Signature Blocks Continue on Next Page]



DEVELOPER:

By: Brinshore Development, L.L.C.,
An Illinois limited liability company

By: Brint Development, Inc., an Illinois
corporation, a member

By: 
Name: David Brint
Its: President

STATE OF Illinois)
COUNTY OF Cook) : ss.

On this 21 day of December, 2020 personally appeared before me David Brint the President of Brint Development, Inc., an Illinois corporation, a member of Brinshore Development, L.L.C., an Illinois limited liability company the sole member of Brinshore Utah, LLC, a Utah limited liability company.

Witness my hand and official seal.

My commission expires: 2/17/22


Notary Public

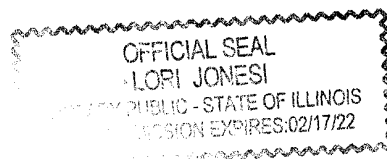


EXHIBIT A

Parcel 1:

A part of Lots 3, and 4 of Block 56, Plat 'A' Salt Lake City Survey, in Salt Lake City, Salt Lake County, Utah:

Beginning at the Southwest Corner of Lot 4, said Block 56 and running thence North 0°02'30" East 188.03 feet (North 188 feet record) along the West Line of said Block 56; thence North 89°58'38" East 254.94 feet (East Record) to an angle point in the Westerly Line of Warranty Deed recorded 8 March 1991 as entry number 5036165 in Book 6296, Page 1271, records of Salt Lake County, Utah; thence South 0°00'25" West 188.04 feet (South 188 feet record) along the Westerly Line of said Warranty Deed which is also the Westerly edge of an existing multi-story concrete parking structure to the South Line of said Block 56; thence South 89°58'47" West 255.05 feet (West Record) along said South Line to the point of beginning.

Parcel Identification Numbers: 16-06-154-010 and 16-06-154-049

Parcel 2:

A LEASEHOLD ESTATE, as created by that certain Restated Lease Agreement for Parking Facilities dated March 27, 1991 and any amendments, supplements and/or assignments thereto, executed by the REDEVELOPMENT AGENCY OF SALT LAKE CITY, a public entity, as Lessor and BROADWAY CENTRE LIMITED, a Utah limited partnership, as Lessee, disclosed by that certain Memorandum of Lease recorded June 6, 1991, as Entry No. 5077645 in Book 6323 at Page 1789 of Official Records, as to the following:

A part of Lots 2 and 3 of Block 56, Plat 'A' Salt Lake City Survey, in Salt Lake City, Salt Lake County, Utah:

Beginning at the Southeast Corner of Lot 3, said Block 56 and running thence South 89°58'47" West 75.16 feet (South 89°58'22" West 75.11 feet record) along the South Line of said Block 56 to the Southwest Corner of Warranty Deed recorded 8 March 1991 as entry Number 5036165 in Book 6296, Page 1271, records of Salt Lake County, Utah; thence along the Westerly Line of said Warranty Deed the following three courses: North 0°00'25" East 188.04 feet (North 188 feet record) along the Westerly Edge of an existing multi-story concrete parking structure; South 89°58'38" West 6.77 feet (South 89°58'22" West 6.75 feet record) to the centerline of vacated Floral Street; and North 0°02'42" East 8.00 feet (North 0°02'31" East record) along said centerline; thence North 89°58'37" East 82.05 feet (North 89°58'22" East 82 feet record) to the Lot Line common to Lots 2 and 3 of said Block 56; thence North 0°02'45" East 1.00 feet (North 0°02'31" East record) along said common Lot Line; thence North 89°58'37" East 50.33 feet (North 89°58'22" East 50.35 feet record) to the West Line of Edison Street as it exists at 30.00 foot Right-of-way width; thence South 0°08'00" West 197.05 feet (South 0°07'44" West 197 feet record) along said West Line of Edison Street to the South Line of said Block 56; thence South 89°58'47" West 50.03 feet (South 89°58'22" West 50.00 feet record) along said South Line of Block 56 to the point of beginning.

Parcel Identification Number: 16-06-154-048

EXHIBIT B

All of SCM-A Unit, SCM-B Unit, SCM-C Unit, Parking Unit 1 and Parking Unit 2, contained within the State Street Condominiums as the same is identified in the Plat of Condominium recorded in Salt Lake County, Utah, on December 29, 2020 as Entry No. 13515728 (as said Record of Survey Plat shall have heretofore been amended or supplemented) and in the Declaration of Condominium for State Street Condominiums, recorded in Salt Lake County, Utah on December 29, 2020 as Entry No. 13515729, in Book No. 11090 at Page 567 (as said Declaration may have heretofore been amended or supplemented). TOGETHER WITH the undivided ownership interest in said Project's Common Elements that is appurtenant to said Units as more particularly described in said Declaration.

EXHIBIT C

Construction Overhang Easement

[Attached]



ARCHITECTURE & PLANNING
12558 W. Jefferson Blvd.
Suite 100
Los Angeles, CA 90066
310.334.2623



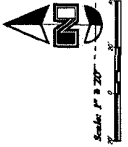
ANDERSON WHALEN & ASSOCIATES
DEVELOPER
BRINKSHORE DEVELOPMENT LLC
666 DUNDEE ROAD, SUITE 1102
NORTHBROOK, IL
PHONE NO. 847.480.1100
FAX NO. 847.480.1101

STATE STREET
SALT LAKE CITY, UT

No.	Date	Description
1.	08/20/2008	PRELIMINARY
2.	08/20/2008	30% PLAN CHECK
3.	10/28/2008	40% PLAN CHECK
4.	10/28/2008	FOR CONSTRUCTION



C10
Overall Site Plan



Site Plan - See Arch. Cover Sheet
Lot 2, Salt Lake City Public Safety Building
Subdivided, Amended & Extended
Containing 32,130 S.F. / 0.657 Acres

Legend	Symbol	Description
Proposed Building	[Hatched Box]	Proposed Building
Proposed Parking	[Dotted Box]	Proposed Parking
Proposed Driveway	[Line with Arrow]	Proposed Driveway
Proposed Alley	[Dashed Line]	Proposed Alley
Proposed Easement	[Hatched Box]	Proposed Easement
Proposed Right-of-Way	[Dashed Line]	Proposed Right-of-Way
Proposed Street	[Dashed Line]	Proposed Street
Proposed Utility	[Line with Cross-Ticks]	Proposed Utility
Proposed Landmark	[Star]	Proposed Landmark
Proposed Survey	[Circle]	Proposed Survey
Proposed Easement	[Hatched Box]	Proposed Easement
Proposed Right-of-Way	[Dashed Line]	Proposed Right-of-Way
Proposed Street	[Dashed Line]	Proposed Street
Proposed Utility	[Line with Cross-Ticks]	Proposed Utility
Proposed Landmark	[Star]	Proposed Landmark
Proposed Survey	[Circle]	Proposed Survey

- NOTES:**
1. See the site plan for a complete list of notes.
 2. All work shall be in accordance with the City of Salt Lake Code.
 3. All work shall be in accordance with the Utah State Building Code.
 4. All work shall be in accordance with the Utah State Fire Code.
 5. All work shall be in accordance with the Utah State Electrical Code.
 6. All work shall be in accordance with the Utah State Mechanical Code.
 7. All work shall be in accordance with the Utah State Plumbing Code.
 8. All work shall be in accordance with the Utah State Gas Code.
 9. All work shall be in accordance with the Utah State Energy Code.
 10. All work shall be in accordance with the Utah State Accessibility Code.
 11. All work shall be in accordance with the Utah State Environmental Code.
 12. All work shall be in accordance with the Utah State Health Code.
 13. All work shall be in accordance with the Utah State Safety Code.
 14. All work shall be in accordance with the Utah State Security Code.
 15. All work shall be in accordance with the Utah State Sign Code.
 16. All work shall be in accordance with the Utah State Tree Code.
 17. All work shall be in accordance with the Utah State Water Code.
 18. All work shall be in accordance with the Utah State Sewer Code.
 19. All work shall be in accordance with the Utah State Stormwater Code.
 20. All work shall be in accordance with the Utah State Solid Waste Code.

General Site Notes:

1. The proposed building shall be constructed in accordance with the City of Salt Lake Code.
2. The proposed parking shall be constructed in accordance with the City of Salt Lake Code.
3. The proposed driveway shall be constructed in accordance with the City of Salt Lake Code.
4. The proposed alley shall be constructed in accordance with the City of Salt Lake Code.
5. The proposed easement shall be constructed in accordance with the City of Salt Lake Code.
6. The proposed right-of-way shall be constructed in accordance with the City of Salt Lake Code.
7. The proposed street shall be constructed in accordance with the City of Salt Lake Code.
8. The proposed utility shall be constructed in accordance with the City of Salt Lake Code.
9. The proposed landmark shall be constructed in accordance with the City of Salt Lake Code.
10. The proposed survey shall be constructed in accordance with the City of Salt Lake Code.

Legend:

Proposed Building
Proposed Parking
Proposed Driveway
Proposed Alley
Proposed Easement
Proposed Right-of-Way
Proposed Street
Proposed Utility
Proposed Landmark
Proposed Survey

