

WHEN RECORDED MAIL TO:

Salt Lake City Department of Airports  
Planning and Environmental  
PO Box 145550  
Salt Lake City, UT 84114-5550

13610271  
3/25/2021 3:53:00 PM \$40.00  
Book - 11143 Pg - 9411-9420  
RASHELLE HOBBS  
Recorder, Salt Lake County, UT  
COTTONWOOD TITLE  
BY: eCASH, DEPUTY - EF 10 P.

## AVIGATION EASEMENT

In Reference to Tax ID Number(s):

08-09-476-029, 08-09-276-022, 08-09-276-021, 08-09-276-016, 08-10-100-002 and 08-09-276-020

After recording, return to:  
Salt Lake City Department of Airports  
Planning and Environmental  
P.O. Box 145550  
Salt Lake City, Utah 84114-5550

## AVIGATION EASEMENT

**Xcel Development, LLC**, a Utah limited liability company, hereinafter referred to as "**Grantor**," hereby grants and conveys to SALT LAKE CITY CORPORATION, hereinafter referred to as "**Grantee**," for good and valuable consideration given by the Grantee to the Grantor, the receipt and sufficiency of which is hereby acknowledged, a perpetual and assignable easement in the airspace above and over the parcel(s) of land owned by Grantor as described in Exhibit "A" attached hereto (the "**Real Property**"), memorializing an existing prescriptive common law avigation easement associated with aircraft activities in and around the Salt Lake City International Airport ("**Airport**"), and the appurtenant rights and benefits described herein for the use and benefit of the Grantee and the public (the "**Easement**"). To the extent the Easement has not been created via historic/prescriptive use, Grantor hereby affirmatively grants the Easement to Grantee, as described herein.

The Easement shall allow the free and unrestricted passage of aircraft of any and all kinds now or hereafter developed regardless of existing or future noise levels for the purpose of transporting persons or property through the air by whoever owned or operated, in, through, across and about the airspace over the Real Property, and all other aeronautical activities therein, including the right of said

aircraft to cause noise, vibrations, fumes, deposits of dust, fuel particles (incidental to the normal operation of aircraft); fear, interference with sleep or communication, and any other effects associated with the normal operation of aircraft taking off, landing or operating in the vicinity of the Airport. The airspace shall mean that space above the Real Property that is more than one hundred (100) feet above 4,225 feet above sea level as determined by U.S.G.S. datum (hereinafter referred to as the "**Airspace**"). For clarification, the "Airspace" is that space higher than 4,325 feet above sea level.

Grantor agrees that the Easement and rights hereby granted to the Grantee in the Airspace above and over the Real Property are for the purpose of insuring that the Airspace shall remain free and clear for the flight of aircraft landing at or taking off from or otherwise using the Airport described in Exhibit "B" attached hereto, and incorporated herein.

Grantor agrees that it, its heirs, successors and assigns shall not hereafter erect or permit the erection or growth of any object within the Airspace. This Easement grants the right of flight for the passage of aircraft in the Airspace, together with the right to cause or create, or permit or allow to be caused or created in the Airspace, and within, above and adjacent to the Real Property, such annoyances as may be inherent in, or may arise or occur from or during the operation of aircraft.

Grantor further agrees that all residential structures to be constructed on the Real Property described on Exhibit "A" shall have air circulation systems and at least twenty-five (25) dBs of sound attenuation, if the proposed residential structure is found to be within the existing or forecasted 60 DNL as shown on an 2020 airport

noise study commissioned by the Grantee. Grantor agrees to keep the Easement free of the following: structures (permanent or temporary) that might create glare or contain misleading lights; fuel handling and storage facilities and smoke generating activities and creation of any means of electrical interference that could affect the movement of Aircraft over the Real Property through the Easement area.

To the extent Grantor fails to comply with any requirement under this Easement, Grantor hereby waives all claims for damages caused or alleged to be caused by the Grantor's failure to comply. Said Easement and the rights appertaining thereto shall be for the benefit of Grantee, its successors, assigns, guests, invitees, including any and all persons, firms or corporations operating aircraft to or from the Airport. In perpetuity, said Easement and the burden thereof, together with all things which may be alleged to be incidental to or to result from the use and enjoyment of said Easement, shall constitute permanent burdens and servient tenements on the Real Property, and the same shall run with the land and be binding upon and enforceable against all successors in right, title or interest to said Real Property and shall be unlimited as to frequency.

WITNESS the hand of the Grantor this 26 day of February, 2021.

GRANTOR(S)

ENTITY:

Excel Development, LLC, a Utah limited Liability company



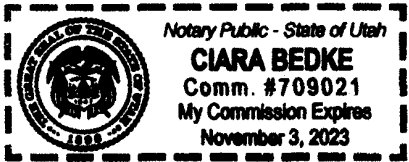
\_\_\_\_\_  
David S. Tolman, Managing Member

LIMITED LIABILITY COMPANY ACKNOWLEDGEMENT

STATE OF UTAH                    )  
  : ss  
COUNTY OF SALT LAKE    )

On the 26 day of February, 2021, personally appeared before me David S. Tolman, who being duly sworn, did say that he is the duly authorized Managing Member of Xcel Development, LLC, a limited liability company existing under the laws of the State of Utah; and that said instrument was signed with proper authority by him on behalf of said limited liability company and said David S. Tolman acknowledged to me that said limited liability company executed the same.

SEAL:



*Ciara Bedke*  
\_\_\_\_\_  
NOTARY PUBLIC, residing in Salt  
Lake County, Utah

## EXHIBIT "A"

The following description is the Grantor's Real Property situated in Salt Lake County, State of Utah, commonly referred to as the "*Misty River Master Plat*" and includes Salt Lake County Tax Parcel number(s): 08-09-476-029; 08-09-276-022; 08-09-276-021; 08-09-276-016; 08-10-100-002; and 08-09-276-020:

A parcel of land situated in the East half of Section 9 and the West half of Section 10, Township 1 North, Range 1 West, Salt Lake Base and Meridian, being more particularly described as follows:

Beginning at a point on the Westerly line of Interstate 215, said point being North 0°20'08" East 870.71 feet along the East section line and East 489.39 feet from the Southeast Corner of Section 9, Township 1 North, Range 1 West, Salt Lake Base and Meridian, and running;

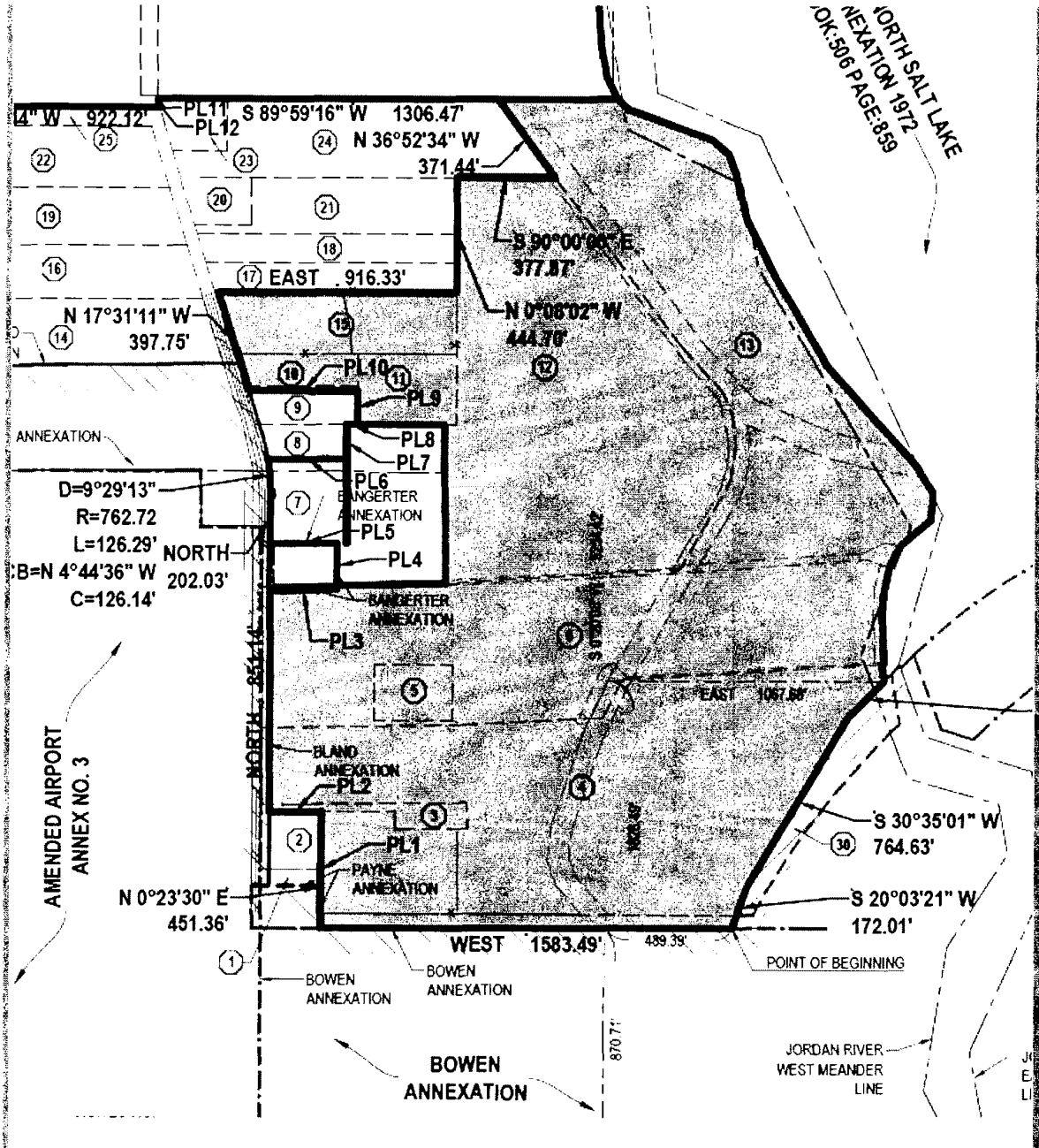
thence West 1,583.49 feet;  
thence North 00°23'30" East 451.36 feet;  
thence South 89°28'53" West 199.09 feet to a point on the Easterly Right-of-Way of 2450 West Street;

thence North 851.14 feet along said Easterly Right-of-Way;  
thence North 88°42'43" East 256.69 feet;  
thence North 13.45 feet;  
thence North 88°25'39" East 416.12 feet;  
thence North 0°31'54" West 607.26 feet;  
thence West 334.82 feet;  
thence North 127.00 feet;  
thence West 415.85 feet to a point on the Easterly Right-of-Way 2450 West Street;  
thence North 17°31'11" West 397.75 feet along said Easterly Right-of-Way;  
thence East 915.29 feet;  
thence North 444.70 feet;  
thence North 89°59'11" East 377.87 feet;  
thence North 36°53'03" West 371.37 feet;  
thence North 89°50'36" East 460.37 feet;

thence along the West line of said Jordan River the following (19) nineteen courses: 1) South 48°43'40" East 59.16 feet; 2) South 70°26'19" East 342.08 feet; 3) South 50°03'26" East 84.02 feet; 4) South 20°33'11" East 87.08 feet; 5) South 12°51'50" East 174.97 feet; 6) South 26°39'56" East 264.33 feet; 7) South 31°54'01" East 130.80 feet; 8) South 29°47'30" East 251.13 feet; 9) South 42°13'22" East 510.57 feet; 10) South 31°32'22" East 123.74 feet; 11) South 03°38'50" West 107.46 feet; 12) South 49°54'48" West 148.28 feet; 13) South 31°08'13" West 41.88 feet; 14) South 25°47'36" West 55.13 feet; 15) South 12°01'22" West 101.95 feet; 16) South 03°53'10" West 92.25 feet; 17) South 01°58'47" East 181.01 feet; 18) South 86°38'36" West 9.00 feet; 19) South 10°12'09" East 63.43 feet a point being the intersection of the West line of said Jordan River and the West line of Interstate 215;

thence along the West line of said Interstate 215 the following (3) three courses: 1) South 44°59'20" West 192.17 feet; 2) South 30°35'01" West 764.63 feet; 3) South 20°03'21" West 172.01 feet to the point of beginning. (Contains 5,617,069 square feet or 128.950 acres)

The Grantor's Real Property is depicted as follows:



**EXHIBIT "B"**  
**Salt Lake City International Airport**  
**Boundary Description**

Beginning at a point 806.03 feet N. 0°02'38" E. of the South 1/4 corner of Section 33, Township 1 North, Range 1 West, Salt Lake Base and Meridian, said point being on the northerly right-of-way line of North Temple Street, and running thence S. 89°58'38" W. 340.71 feet along said right-of-way line; thence S. 0°02'38" W. 805.75 feet to the south line of Section 33; thence N. 89°58'33" E. 340.71 feet along said section line to the south 1/4 corner of Section 33 (said 1/4 corner is also the north 1/4 corner of Section 4, T.1 S., R.1 W.); thence S. 0°11'26" E. 2,290.43 feet to the northerly right-of-way of the Western Pacific Railroad main-line siding; thence S. 77°49'01" W. 581.95 feet; thence S. 0°12'04" E. 238 feet, more or less, to the 1/4 section line; thence S. 89°57'09" W. 185 feet, more or less; thence N. 0°12'04" W. 197 feet, more or less, to the northerly right-of-way line of the Western Pacific Railroad main-line siding; thence S. 77°49'01" W. 1,932.50 feet to the west line of said Section 4 (said line is also the east line of Section 5, T.1 S., R.1 W.); thence S. 77°49'01" W. 230.26 feet to a point on a 3,852.83 foot radius curve to the left, said point also being on the northerly right-of-way line of the relocated Salt Lake Garfield & Western Railroad; thence South 77°33' West 397.14 feet along said curve to a point 116 feet perpendicularly distant northwesterly to the Western Pacific Railroad main-line track; thence southwesterly and parallel to said railroad track 3,459 feet, more or less; thence S. 78°00'55" W. 1,343 feet, more or less, to the west line of said Section 5, (said line is also the east line of Section 6, T.1 S., R.1 W.); thence S. 78°00'55" W. 238 feet, more or less, to the westerly highway right-of-way and nonaccess line of U.D.O.T. project No. 1-80-3(5)116; thence N. 1°25'59" W. 622 feet, more or less, along said right-of-way line to a point on a 1,527.89 foot radius curve to the left (note: Tangent to said curve at its point of beginning bears N. 1°50'34" W.); thence northwesterly 769.68 feet along said curve to the North line of the NE 1/4 SE 1/4 of said Section 6; thence northwesterly 971.37 feet along the arc of a 1,672.95 foot radius curve to the left (note: Tangent to said curve at its point of beginning bears N. 34°24'21" W.); thence N. 63°47'38" W. 1,084.09 feet; thence N. 55°55'36" W. 436.08 feet; thence west 83.57 feet to a point on a 2,894.79 foot radius curve to the left (note: Tangent to said curve at its point of beginning bears N. 51°35'12" W.); thence northwesterly 246.45 feet along said curve; thence N. 57°07'49" W. 100.52 feet; thence N. 57°27'53" W. 328.82 feet; thence N. 57°47'59" W. 200.79 feet to a point on a 5,759.58 foot radius curve to the left (note: Tangent to said curve at its point of beginning N. 58°28'02" W.); thence northwesterly 640 feet, more or less, along said curve; thence North 545 feet more or less, to the north section line of said Section 6; thence North 850.50 feet; thence East 46.47 feet; thence N. 4°58'32" W. 4,445.67 feet to the north line of Section 31, T.1 N., R.1 W.; thence West 1,009.82 feet along said line to the northwest corner of said Section 31;



thence North 15,840 feet to the northwest corner of Section 18, T.1 N., R.1 W.; thence East 10,560 feet to the northeast corner of Section 17, T.1 N., R.1 W.; thence South 5,280 feet to the northwest corner of Section 21, T.1 N., R.1 W.; thence East 2,640.0 feet; thence South 660.0 feet; thence East 1,320.0 feet; thence South 14,374.25 feet to the northerly right-of-way line of North Temple Street; thence S. 89°58'38" W. 1,254 feet, more or less, along said right-of-way line to the point of beginning;

And beginning at a point 660 feet West and 792 feet North of the South 1/4 corner of Section 16, T.1 N., R.1 W., Salt Lake Base and Meridian; running thence North 198 feet; thence East 660 feet; thence North 33 feet; thence East 165 feet; thence South 264 feet; thence West 165 feet; thence North 33 feet; thence West 660 feet to the point of beginning;

And beginning at a point 660 feet West and 990 feet North of the South 1/4 corner of Section 16, T.1 N., R.1 W., Salt Lake Base and Meridian; running thence North 519.75 feet; thence East 660 feet; thence South 189.75 feet; thence East 165 feet; thence South 297 feet; thence West 165 feet; thence South 33 feet; thence West 660 feet to the point of beginning;

And beginning at the South Quarter Corner of Section 16; Township 1 North, Range 1 West, Salt Lake Base and Meridian; running thence West 660 feet along the South line of said section; thence North 792 feet; thence East 660 feet; thence South 792 feet to the point of beginning;

And beginning at a point 660 feet West and 792 feet North of the South Quarter Corner Section 16, Township 1 North, Range 1 West, Salt Lake Base and Meridian; running thence North 198 feet; thence East 660 feet; thence North 33 feet; thence East 165 feet; thence South 264 feet; thence West 165 feet; thence North 33 feet; thence West 660 feet to the point of beginning;

And beginning in the South line of the Northeast quarter of Section 6 at a point 470.36 feet West from the East quarter corner of said Section 6; thence West 1205.35 feet along said South line; thence North 25°05'47" West 265.54 feet; and thence N. 25°25'49" West 100.52 feet; thence Northwesterly 1287.85 feet along the arc of a 2894.79 foot radius curve to the left to the North line of the Southwest quarter Northeast quarter of said Section 6 (Note: Tangent to said curve at its point of beginning bears North 26°05'48" West); thence East 83.57 feet along said North line to the Southwesterly right-of-way and no-access line of the freeway known as Project No. 80-3; thence South 55°55'36" East 436.08 feet; thence South 63°47'38" East 1084.09 feet to a point on a 1672.95 foot radius curve to the right; thence Southeasterly 971.37 feet along the arc of said curve to the point of beginning. (Note: Tangent to said curve at its point of beginning bears South 67°40'25" East);

And beginning in the south line of the Northeast quarter of said Section 6 at a point approximately 1741.94 feet West from the East quarter corner of said Section 6; thence West 903.79 feet, more or less, to the West line of the Northeast quarter of said Section 6; thence North 1254.38 feet along said West line to a point on a 2834.79 foot radius curve to the right; thence Southeasterly 1220.69 feet along the arc of said curve (Note: Tangent to said curve at its point of beginning bears South 50°46'08" East); thence South 25°25'43" East 99.48 feet; thence South 25°05'47" East 237.49 feet to the point of beginning;

And beginning at the Northwest corner of the Southeast quarter of Section 16, Township 1 North, Range 1 West, Salt Lake Base and Meridian, said point being the center of Section 16; thence East 165 feet; thence South 1320 feet; thence West 165 feet; thence North 1320 feet to the point of beginning.

Contains 6,822.59 acres, more or less (excluding the highway R.O.W.).