

CTIA # 151321-WHP

WHEN RECORDED RETURN TO:

Dale Neibaur Trustee  
7093 Pinecrest  
Park City, Utah 84098

13864549 B: 11291 P: 8837 Total Pages: 12  
01/07/2022 09:09 AM By: salvarado Fees: \$40.00  
EASEMENT- EASEMENT OR GRANT OF EASEMENT  
Rashelle Hobbs, Recorder, Salt Lake County, Utah  
Return To: COTTONWOOD TITLE INSURANCE AGENCY, INC.  
1996 EAST 6400 SOUTH SUITE 120 SALT LAKE CITY, UT 84121

Tax Serial Nos. – 24-35-177-075  
– 24-35-177-074  
– 24-35-200-010

### AMENDED AND RESTATED EASEMENT

This Amended and Restated Easement (the “Easement”) is made and entered into effective as of the 22 day of December, 2021, by and between DALE NEIBAUR and TERESA NEIBAUR, as Trustees of the Dale and Teresa Neibaur Revocable Living Trust dated April 15, 2015 (“Trustees”), R. FRANK BARNES and SUSAN L. BARNES (“Barnes”), and PAUL NELL (“Nell”), each a “Party” and collectively the “Parties” herein.

#### Recitals

A. Lorica, LLC, a Utah limited liability company and the predecessor in interest to the Trustees, the Barnes, and Susan B. Weiler and Michael R. Weiler (collectively “Weilers”), the predecessors in interest to Nell, entered into that certain Utility and Access Easement dated as of October 30, 2012 and recorded October 30, 2012 as Entry No. 11503614 in Book 10071 at Pages 9680-9686 of the Official Records of the Salt Lake County, Utah Recorder’s Office (the “Original Easement”).

B. The Trustees have succeeded to the interest of Lorica, LLC in the “Trust Property” as that term is defined below and Nell has succeeded to the interests of the Weilers in the “Nell Property” as that term is defined below.

C. The Parties desire to modify, amend and restate in its entirety the Original Easement, as more particularly set forth herein.

NOW THEREFORE, in consideration of the foregoing Recitals and the mutual covenants set forth herein, and for Ten Dollars and other valuable consideration, receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Trustees own the real property located in the Town of Brighton, Salt Lake County, State of Utah, which is more particularly described in Exhibit “A” attached hereto and incorporated herein by this reference, and is depicted on the “Site Map” attached as Exhibit “B” hereto (the “Site Map”) and incorporated by this reference (the “Trust Property”).

2. Barnes own the real property located in the Town of Brighton, Salt Lake County, State of Utah which is contiguous to the north boundary of the Trust Property, and which is more particularly described on Exhibit "C" attached hereto and incorporated herein by this reference (the "Barnes Property").

3. Nell owns the real property located in the Town of Brighton, Salt Lake County, State of Utah, which is located to the east of the Trust Property and across to the east of undeveloped "Grand Avenue" as depicted on the Site Map, and as more particularly described on Exhibit "D" attached hereto and incorporated herein (the "Nell Property").

4. Trustees hereby grant and convey to Barnes as owners of the Barnes Property a non-exclusive perpetual easement, running with the land over that portion of the Trust Property that is more particularly described on Exhibit "E" attached hereto and incorporated herein, and which is "cross-hatched" on the Site Plan (the "Easement Property") for access, ingress, egress, and for the installation, operation, maintenance, repair and replacement of an underground water line (and other underground utilities, including sewer, electricity, telephone and cable television) in the Easement Property to service the Barnes Property.

5. Upon recording of this Easement with the Salt Lake County Recorder's Office, Barnes hereby disclaim, release and terminate any claims to any other rights or interest in any portion of the Trust Property other than the Easement Property, including specifically but without limitation, any rights or interests by virtue of the Original Easement, and any claims of "prescriptive" easements or rights with respect to the Trust Property.

6. Trustees hereby grant and convey to Nell as owner of the Nell Property a non-exclusive perpetual easement, running with the land, over the Easement Property (and over any interest that the Trustees may have in undeveloped "Grand Avenue", if any) for access, ingress, egress, and for the installation, operation, maintenance, repair and replacement of an access drive, and underground water line (and other underground utilities, including sewer, electricity, telephone and cable television) in the Easement Property to service the Nell Property.

7. Upon recording of this Easement with the Salt Lake County Recorder's Office, Nell hereby disclaims, releases and terminates any claims to any other rights or interests in any portion of the Trust Property other than the Easement Property, including specifically but without limitation, any rights or interest by virtue of the Original Easement, and any claims of "prescriptive" easements with respect to the Trust Property.

8. At such time as any structure is developed, constructed or installed on either the Trust Property or the Nell Property, the Trustees and Nell, or their respective successors and assigns, agree to jointly pay in equal shares for the costs of construction and installation of an underground water line one (1) inch in diameter [or as required by the Town of Brighton] from the water line in the existing roadway west of the Trust Property to the Easement Property, in and under the Easement Property to the south boundary of Barnes Property to the point at which the water line serving or to serve the structure on the Barnes Property intersects with the Easement Property, or to another mutually agreeable location at such boundary of the Barnes Property. Once this water line is installed to the perimeter boundary of the Barnes Property,

thereafter the costs of operation, maintenance, repair and replacement of the underground water line (and any other utilities in the Easement Property serving the Barnes Property shall be the responsibility of Barnes or their successors in interest.

9. Nell, or his successors in interest shall be solely responsible for the cost of the installation, construction, operation, maintenance, repair and replacement of the water line and all other utilities installed in the Easement Property to serve the Nell Property.

10. Nell, or his successors in interest, may elect to pave or otherwise improve the Easement Property for access purposes. Any Party or Parties installing any utilities within the Easement Property shall be solely responsible to do so in a workmanlike manner, to regrade the Easement Property, and if necessary, install compacted road base, or repair and patch the asphalt, as applicable, to equal or better condition than it was in prior to such work being performed, and to indemnify the other Parties to this Agreement from any costs, claims or liabilities related to such work in the Easement Property.

11. Upon any Party commencing construction or development of their property, prompt written notice shall be given to the other Parties to this Easement at the same address as Salt Lake County sends property tax notices to the then owners of the properties.

12. Notwithstanding paragraphs 4 and 6 above, any Party may elect to install utilities to service its respective property at a different location or locations without utilizing the Easement Property and outside the Trust Property.

13. The rights, obligations, covenants and restriction set forth in this Easement "run with the land" and bind the successors and assigns of the Parties as owners of the Trust Property, Barnes Property, and Nell Property, respectively.

14. Each Party represents and warrants to the other Parties hereto that execution and delivery of this Easement by such Party has been duly authorized. This Easement is governed by Utah law. In the event of any legal action to enforce or interpret this Easement, the prevailing Party in such legal action shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing Party.

15. This Easement may be executed in counterparts, which taken together shall constitute a single original document.


Executed as of the date first written above.

[signatures appear on following pages]

"Trustees"

  
\_\_\_\_\_

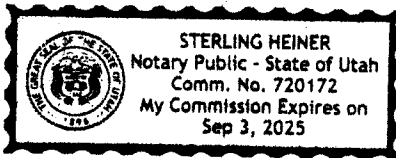
Dale Neibaur as Trustee  
of the Dale and Teresa Neibaur Revocable Living Trust  
dated April 15, 2015

  
\_\_\_\_\_

Teresa Neibaur as Trustee  
of the Dale and Teresa Neibaur Revocable Living Trust  
dated April 15, 2015

STATE OF UTAH                     )  
  :SS  
COUNTY OF Summit        )

On the 22<sup>nd</sup> day of December, 2021, Dale Neibaur and Teresa Neibaur acknowledged that they executed the foregoing Easement in their capacities as Trustees of the Dale and Teresa Neibaur Revocable Living Trust dated April 15, 2015.



  
\_\_\_\_\_  
Notary Public

SEAL

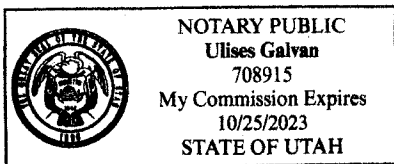
"Barnes"

R. Frank Barnes  
R. Frank Barnes

Susan L. Barnes  
Susan L. Barnes

STATE OF UTAH                    )  
  :SS  
COUNTY OF Salt Lake City

On the 29<sup>th</sup> day of December, 2021, R. Frank Barnes and Susan L. Barnes  
acknowledged that they executed the foregoing Easement.



Ulises Galvan  
Notary Public

SEAL

“Nell”

Paul Nell

Paul Nell

STATE OF UTAH )

:SS

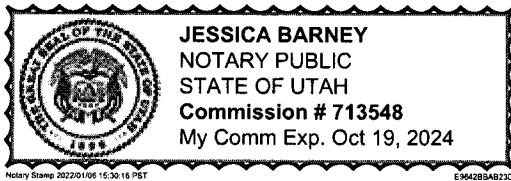
COUNTY OF DAVIS )

On the 6<sup>th</sup> day of January, 2022, Paul Nell acknowledged to me that he executed the foregoing Easement.

Jessica Barney

Notary Public

SEAL



Notarial act performed by audio-visual communication

EXHIBIT "A"  
("Trust Property")

---

All of Lots 11, 12, 13, and 14, and Reserve 8, Block 4, Silver Lake Summer Resort, according to the official plat thereof, recorded October 2, 1890 at 12:00 p.m. as Entry No. 28333, in Book C, at Page 57, of the Salt Lake County Records.

Less and Excepting therefrom the South 12.00 feet of the West 100.00 feet of said Reserve 8.

Together with the East half of the vacated portion of Prospect Avenue abutting on the West.

Parcel No.: 24-35-177-075

EXHIBIT "B"  
("Site Map")

---



## EXHIBIT "B" – Site Plan

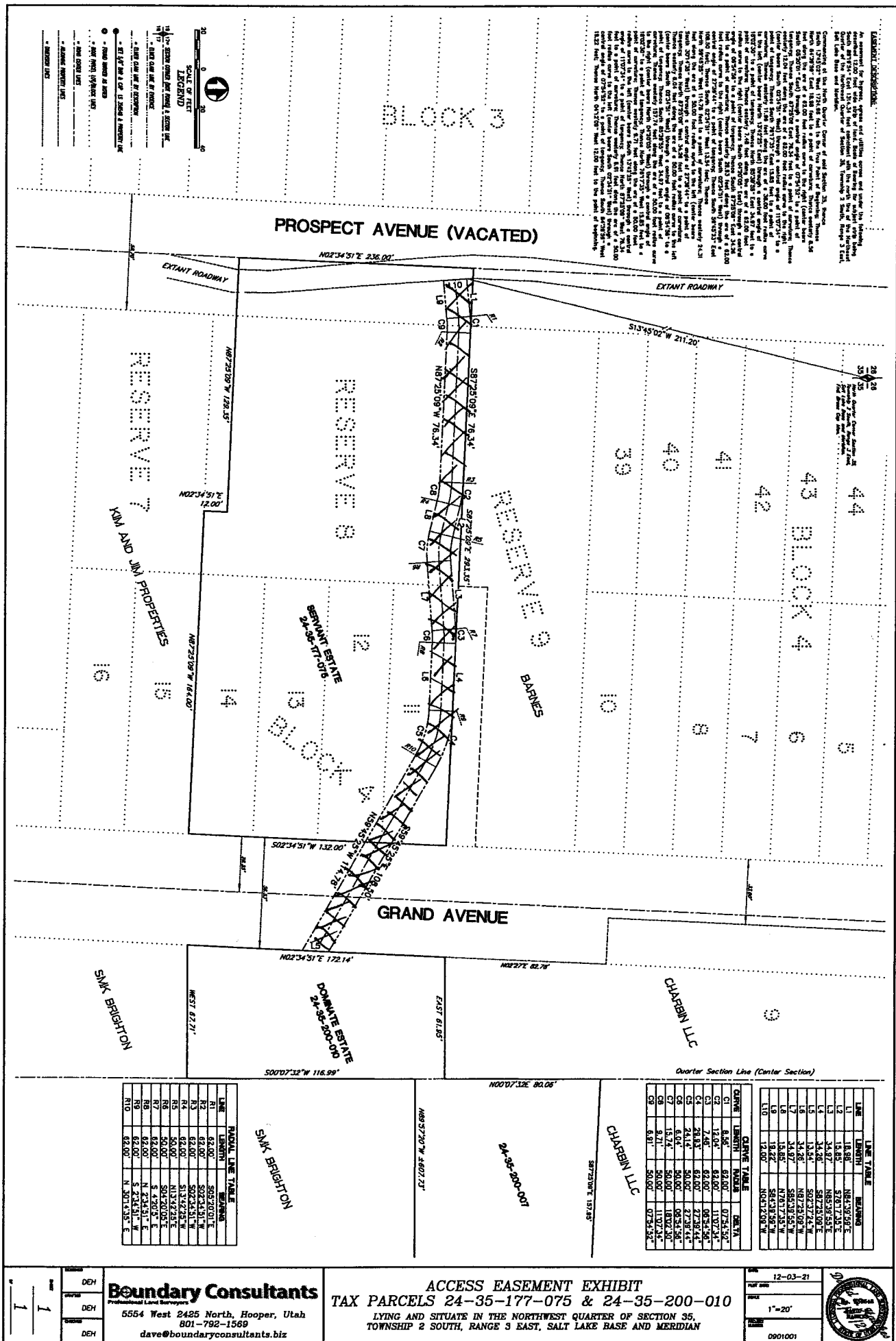


EXHIBIT "C"  
("Barnes Property")

---

All of Lots 9, 10, 39, 40, and Reserve 9, Block 4, Silver Lake Summer Resort, according to the official plat thereof, recorded October 02, 1890 at 12:00 pm as Entry 28333, in Book C, at Page 57 of the Salt Lake County Records.

Together with the east half of the vacated portion of Prospect Avenue abutting on the west.

Parcel No. 24-35-177-074

EXHIBIT "D"  
("Nell Property")

---

PARCEL 6. ENTRY #8469101:

The north half of the Elmer Lode Mining Claim, designated by the U.S. Surveyor General as Lot 5333, embracing a portion of Section 35, Township 2 South, Range 3 East, Salt Lake Base and Meridian, in Big Cottonwood Mining District, being more particularly described as follows:

Beginning at the intersection of the north line (line 4-1) of said Elmer Lode Mining Claim and the center section line, said point being South 00°10'14" East 1408.18 feet from the North Quarter Corner of Section 35, Township 2 South, Range 3 East, Salt Lake Base and Meridian; Thence continuing along said center section line South 00°10'14" East 296.76 feet; Thence South 89°47'39" East 584.94 feet more or less, to Corner No. 2 of Lot No. 173, the Mayflower Lode Claim; Thence North 81°45' East along the north line (line 1-2) of said Lot No. 173, 826.09 feet more or less, to a point on the east line (line 5-6) of the Granit No. 7 Mining Claim; Thence North 12°57' West, along said east line (line 5-6), 179.74 feet, more or less, to the north line (line 4-1) of said Elmer Lode Mining Claim; Thence North 89°47' West, along said north line (line 4-1) 1363.09 feet, more or less to the point of beginning.

EXHIBIT "E"  
("Easement Property")

---

An easement for ingress, egress and utilities across and under the following described 12.00 foot wide strip of land. Basis of Bearing for subject strip being South 89°19'54" East 1314.34 feet coincident with the north line of the Northeast Quarter of the Northwest Quarter of Section 35, Township 2 South, Range 3 East, Salt Lake Base and Meridian.

Commencing at the North Quarter Corner of said Section 35, thence South 13°45'02" West 1724.96 feet to the True Point of Beginning; Thence North 84°39'59" East 18.98 feet to a point of curvature; Thence easterly 8.56 feet along the arc of a 62.00 foot radius curve to the right (center bears South 05°20'01" East) through a central angle of 07°54'52" to a point of tangency; Thence South 87°25'09 East 76.34 feet to a point of curvature; Thence easterly 12.04 feet along the arc of a 62.00 foot radius curve to the right (center bears South 02°34'51" West) through a central angle of 11°07'34" to a point of tangency; Thence South 76°17'35" East 15.85 feet to a point of curvature; Thence easterly 11.96 feet along the arc of a 38.00 foot radius curve to the left (center bears North 13°42'25" East) through a central angle of 18°02'30" to a point of tangency; Thence North 85°39'55" East 34.97 feet to a point of curvature; Thence easterly 7.48 feet along the arc of a 62.00 foot radius curve to the right (center bears South 04°20'05" East) through a central angle of 06°54'56" to a point of tangency; Thence South 87°25'09" East 34.26 feet to a point of curvature; Thence easterly 29.93 feet along the arc of a 62.00 foot radius curve to the right (center bears South 02°34'51" West) through a central angle of 27°39'44" to a point of tangency; Thence South 59°45'23" East 108.50 feet; Thence South 02°34'51" West 13.54 feet; Thence North 59°45'25" West 114.78 feet to a point of curvature; Thence westerly 24.31 feet along the arc of a 50.00 foot radius curve to the left (center bears South 30°14'35" West) through a central angle of 27°39'44" to a point of tangency; Thence North 87°25'09' West 34.26 feet to a point of curvature; Thence westerly 6.04 feet along the arc of a 50.00 foot radius curve to the left (center bears South 02°34'51" West) through a central angle of 06°54'56" to a point of tangency; Thence South 85°39'55" West 34.97 feet to a point of curvature; Thence westerly 157.74 feet along the arc of a 50.00 foot radius curve to the right (center bears North 04°20'05" West) through a central angle of 18°02'30" to a point of tangency; Thence North 76°17'35" West 15.85 feet to a point of curvature; Thence westerly 9.71 feet along the arc of a 50.00 foot radius curve to the left (center bears South 13°42'25" West) through a central angle of 11°07'34" to a point of tangency; Thence North 87°25'09" West 76.34 feet to a point of curvature; Thence westerly 6.91 feet along the arc of a 50.00 foot radius curve to the left (center bears South 02°34'51" West) through a central angle of 07°54'52" to a point of tangency; Thence South 84°39'59" West 19.22 feet; Thence North 04°12'09" West 12.00 feet to the point of beginning.