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Millcreek Recorder
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Millcreek UT 84106

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Rashelle Hobbs, Recorder, Salt Lake County, Utah
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3330 SOUTH 1300 EAST MILLCREEK, UT 84106



**NON-CONVERSION AGREEMENT FOR ENCLOSURES
BELOW THE BASE FLOOD ELEVATION**

THIS NON-CONVERSION AGREEMENT FOR ENCLOSURES BELOW THE BASE FLOOD ELEVATION (this "Agreement") is made and entered into this 3rd day of August 3, 2022, by and between Millcreek, a municipal corporation of the State of Utah (the "City"); and Daniel C. Loguen (the "Owner") whose address is 6440 So Wasatch Blvd. Suite 100 Salt Lake City UT 84121

RECITALS

- A. The Owner has applied for a permit to place a structure on the property (defined below) that has an enclosed area below the Base Flood Elevation (defined below) constructed in accordance with the requirements of Sections 17.24 of the Millcreek Code of Ordinances and under Permit Number 220248 ("Permit").
- B. The Owner hereby represents and acknowledges that it is the owner in fee simple of certain real property more particularly described in exhibit "A," attached hereto and incorporated herein by this reference (the "Property"), which property is subject to the provisions described herein.
- C. In order to facilitate the anticipated improvements to the Property as described herein, the Owner agrees as a condition to issuance of the Permit to the limitation also described herein.

AGREEMENT

NOW, THEREFORE, in consideration of the benefits received and to be received by the Owner, its successors and assigns, as a result of the City's Code of Ordinances the parties agree as follows:

1. **Construction and Limitations.** The Owner may, at its sole cost and expense, construct the improvement described in the Permit ("Improvements"), subject to (i) any enclosed areas

below the Base Flood Elevation shall be used solely for parking of vehicles, limited storage, or access to the building, (ii) all interior walls, ceilings and floors below the Base Flood Elevation shall be constructed of flood resistant materials and unfinished, (iii) mechanical, electrical or plumbing devices shall not be installed below the Base Flood Elevation, (iv) the walls of the enclosed areas below the Base Flood Elevation shall be equipped and remain equipped with permanent flow-thru openings as shown on the Permit. Permanent flow-thru openings must include a minimum of two flood vents with the total openings of at least one square inch for every square foot of enclosed area below the Base Flood Elevation. The vents shall be on at least two different walls, and the bottoms of the vents shall be no more than one foot above the grade. Flood vents design, placement, number, and sizing must comply fully with FEMA Technical Bulletin 1.

2. **Base Flood Elevation.** Base Flood Elevation means 3 feet above ~~mean sea level.~~
the highest adjacent grade next to the structure.
The property is in an AO,3,3 flood zone.
3. **Oversight Inspection Authority.** The Owner hereby grants permission to the City, its authorized agents, and employees, to enter upon the Property and to inspect the Improvements upon reasonable notice of not less than three business days to the Owner. The purpose of the inspection shall be to determine and ensure that the Improvements are adequately maintained, are continuing to perform in an adequate manner, or are in compliance with all applicable laws, regulations, rules, and ordinances, as well as the provisions of this Agreement.
4. **Notice of Deficiencies.** If the City or its agent finds the Improvements are not being maintained adequately, are not continuing to perform in an adequate manner, or are not in compliance with all applicable laws, regulations, rules, and ordinances, as well as the provisions of this Agreement, then the City or its agent shall send the Owner written notice of the defects or deficiencies and provide the Owner with reasonable time to cure such defects or deficiencies. Such notice shall be sent certified mail to the Owner's address set forth above.
5. **Owner to Cure.** The Owner shall, at its sole cost and expense, make such repairs, changes or modifications to the Improvements as may be determined as reasonably necessary by the City or its agent within the required cure period to ensure the Improvements are adequately maintained, are continuing to perform in an adequate manner, or are in compliance with all applicable laws, regulations, rules, and ordinances, as well as the provisions of this Agreement.
6. **Corrective Action.** In the event the Owner fails to are adequately maintained, fail to perform in an adequate manner, or are not in compliance with all applicable laws, regulations, rules, and ordinances, as well as the provisions of this Agreement then the City or its agent may proceed with any enforcement mechanism provided by law. It is expressly understood and agreed that neither the City nor its agent are under any obligation to maintain or repair the Improvements, and in no event shall this Agreement be construed to impose any such obligation on the City or its agent. The actions described in this Section are in addition to and not in lieu of the legal remedies available to the City as provided by law for Owner's failure to remedy deficiencies or any other failure to perform under the terms and conditions of this Agreement.

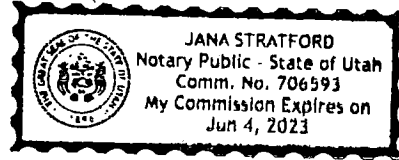
7. **Reimbursement of Costs.** In the event the City or its agent, pursuant to this Agreement, incurs any costs, or expends any funds resulting from enforcement the Owner shall reimburse the City or its agent upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the City or its agent. After said thirty (30) days, such amount shall be deemed delinquent and shall be subject to interest at the rate of eighteen percent (18%) per annum. Owner shall also be liable for any collection costs, including attorney's fees and court costs, incurred by the City or its agent in collection of delinquent payments. The Owner hereby authorizes the City or its agent to assess any of the above-described costs, if remained unpaid, by recording a lien against the Property.
8. **Successors and Assigns.** This Agreement shall be recorded in the office of the County Recorder and the covenants and agreements contained herein shall run with the land and whenever the Property shall be held, sold, conveyed or otherwise transferred, it shall be subject to the covenants, stipulations, agreements and provisions of this Agreement which shall apply to, bind and be obligatory upon the Owner hereto, its successors and assigns, and shall bind all present and subsequent owners of the Property described herein.
9. **Severability Clause.** The provisions of this Agreement shall be severable and if any phrase, clause, sentence or provision is declared unconstitutional, or the applicability thereof to the Owner, its successors and assigns, is held invalid, the remainder of this Agreement shall not be affected thereby.
10. **Utah Law and Venue.** This Agreement shall be interpreted under the laws of the State of Utah. Suits for any claims or for any breach or dispute arising out of this Agreement shall be maintained in the appropriate court of competent jurisdiction in Salt Lake County, Utah.
11. **Indemnification.** This Agreement imposes no liability of any kind whatsoever on the City or its agent. The Owner hereby agrees to indemnify and hold the City and its officers, employees, agents and representatives from and against all actions, claims, lawsuits, proceedings, liability, damages, losses, and expenses (including attorneys' fees and court costs) that result from the performance of this agreement, but only to the extent the same are caused by any negligent or wrongful act or omissions of the Owner, and the Owner's officers, employees, agents, and representatives.
12. **Amendments.** This Agreement shall not be modified except by written instrument executed by the City and the owner of the Property at the time of modification, and no modification shall be effective until recorded in the office of the County Recorder.
13. **Subordination Requirement.** If there is a lien, trust deed or other property interest Recorded against the Property, the trustee, lien holder, etc., shall be required to execute a subordination agreement or other acceptable recorded document agreeing to subordinate their interest to this Agreement.

Mayor acknowledged to me that the City executed the same.

Jana Stratford
NOTARY PUBLIC

My Commission Expires: June 4, 2023

Residing at: SUO



OWNER ACKNOWLEDGMENT

STATE OF UTAH)
)
) :SS.
COUNTY OF SALT LAKE)

On the 9th day of June, 2022, personally appeared before me Jo Ann Ekstrom who being by me duly sworn, did say that he is the ~~Manager~~ owner of 4291 Parkview, a ~~Utah limited liability company~~ and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

Jo Ann Ekstrom
NOTARY PUBLIC

My Commission Expires: 5.5.2024

Residing at: Salt Lake

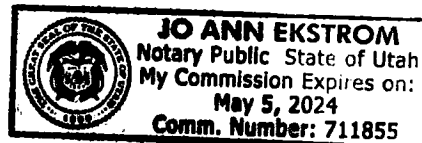


EXHIBIT "A"

Property Address: 4291 S. Parkview Drive, Millcreek, UT 84124

Parcel 22012760040000 Legal description

LOT 82 MOUNT OLYMPUS PARK 5444-2389 5682-1587 5756-0122 5841-1978 6905-0116
7592-1146 8634-8473 9256-2780