

Recording requested by  
and when recorded, return to:

2300 Cottonwood Title Holder, LLC  
c/o DPRE Management, LLC  
299 South Main Street, Suite 1850  
Salt Lake City, Utah 84111  
Attn: Scott Swallow

Tax Parcels: 22-22-452-006 and 22-22-452-033

175910-CAB

**STORMWATER DRAINAGE EASEMENT AGREEMENT (OVER PORTION OF HILLRISE APARTMENTS PROPERTY)**

THIS STORMWATER DRAINAGE EASEMENT AGREEMENT (OVER PORTION OF HILLRISE APARTMENTS PROPERTY) (this “**Agreement**”) is executed and delivered as of the 6<sup>th</sup> day of May, 2024, by and between JANET WADE, individually and as trustee of the HILLRISE APARTMENTS BUSINESS TRUST of Salt Lake City, Utah (“**Grantor**”), and 2300 COTTONWOOD TITLE HOLDER, LLC, a Utah limited liability company (“**Grantee**”). Grantor and Grantee and their respective successors and assigns may each be individually referred to herein as an “**Owner**” and collectively as the “**Owners**”.

**WITNESSETH:**

**WHEREAS**, Grantor is the owner of fee simple title to that certain tract or parcel of land located in Salt Lake County, Utah, more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference (the “**Grantor Property**”);

**WHEREAS**, Grantee is the owner of fee simple title to those certain tracts or parcels of land located in Salt Lake County, Utah, more particularly described in **Exhibit B** attached hereto and incorporated herein by this reference (the “**Grantee Property**”);

**WHEREAS**, Grantor has agreed to grant a perpetual, non-exclusive easement to Grantor to permit Grantor to discharge stormwater from the Grantee Property into a stormwater drainage basin located upon a portion of the Grantor Property, more particularly described in **Exhibit C-1** attached hereto and depicted on **Exhibit C-2** attached hereto and incorporated herein by this reference (the “**Stormwater Basin Easement Area**”).

**WHEREAS**, Grantor and Grantee have agreed to enter into this Agreement in order to memorialize the foregoing.

**NOW, THEREFORE**, for \$10.00 and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, Grantor and Grantee do hereby agree as follows:

1. **Recitals Incorporated Herein.** The above recitals are incorporated in and made a part of this Agreement as fully as if set forth verbatim herein.

2. **Stormwater Drainage Easement.**

(a) **Grant of Stormwater Drainage Easement.** The Owner of the Grantor Property hereby grants a perpetual, non-exclusive right and appurtenant easement to the Owner of the Grantee Property and its licensees, tenants, subtenants and other occupants of all or a portion of the Grantee Property (the Owner of the Grantee Property and all such other referenced parties being hereinafter referred to, collectively, as the "**Grantee Parties**") to allow the Grantee Parties to (i) construct stormwater drainage lines and related facilities (the "**Drainage Facilities**") from the Grantee Property over and across the Grantor Property discharging into the Stormwater Basin Easement Area; (ii) utilize the Drainage Facilities to discharge stormwater from the Grantee Property over and across the Grantor Property and through the Drainage Facilities into the Stormwater Basin Easement Area; (iii) increase the depth and size of the stormwater basin within the Stormwater Basin Easement Area if required by applicable governmental authorities if the Stormwater Basin Easement Area needs greater capacity as determined by engineering studies as a result of the existing capacity required by the existing improvements on the Grantor Property together with the added capacity required as a result of the construction of the improvements on the Grantee Property; and (iv) maintain the Drainage Facilities, with such easement being referred to herein as the "**Stormwater Drainage Easement**").

(b) **Access Rights.** The Owner of the Grantee Property consents and agrees to the entry by the Grantee Parties onto the Stormwater Basin Easement Area, as reasonably required and at reasonable times, for the sole purpose of constructing, installing, operating, maintaining, repairing, replacing, relocating and/or removing the Drainage Facilities and enlarging the size and depth of the stormwater basin within the Stormwater Basin Easement Area. The Grantee Parties will use commercially reasonable efforts to avoid unreasonably interfering with the Owner of the Grantor's Property's use of the Grantor Property, and the Grantee Parties will not violate any governmental requirements during any such entry and activities. To the extent any such entry and activities damage any portion of the Grantor Property, the Owner of the Grantee Property, at its sole cost and expense and with all commercially reasonable diligence, shall be responsible for repairing/replacing any such damaged property to substantially the same condition as existed immediately prior to such damage.

(c) **Maintenance; Waiver of Liability.**

(i) Subject to the remaining provisions of this Section 2, the Owners agree that: (x) the Stormwater Drainage Easement is granted "AS-IS" and with all faults; and (y) upon completion of the work contemplated in Section 2(a) above, (i) the Owner of the Grantor Property shall maintain the Stormwater Basin Easement Area in a reasonable commercial condition in the ordinary course of business and in compliance with applicable governmental regulations; and (ii) the Owner of the Grantee Property shall maintain the Drainage Facilities in a reasonable commercial condition in the ordinary course of business and in compliance with applicable governmental regulations.

(ii) The Owner of the Grantee Property agrees that any and all access to or from, or use of, the Stormwater Drainage Easement by the Grantee Parties shall be at the Grantee Parties' sole risk, and the Owner of the Grantee Property agrees to waive any and all claims the Grantee Parties may have against the Owner of the Grantee Property arising out of or in any way related to the Grantee Parties' use or access of the areas which are the subject of the Stormwater Drainage Easement, except to the extent such claims result from the Owner of the Grantor Property's failure to comply with the obligations imposed on the Owner of the Grantor Property under this Agreement.

(d) **Indemnification.** The Owner of the Grantee Property agrees to indemnify and hold the Owner of the Grantor Property, and its guests, tenants, subtenants, occupants, contractors, subcontractors, agents, employees, licensees, and other invitees (the Owner of the Grantor Property and all such other referenced parties being hereinafter referred to, collectively, as the "**Grantor Parties**") harmless from and against any and all claims, demands, liabilities, suits, actions, judgments, losses, damages, costs and expenses, including attorneys' fees (collectively, "**Losses**"), resulting from any personal injury or death of persons or destruction of or damage to property resulting from or arising out of the Grantee Parties' exercise of the easement rights contained herein, or the use of the Grantor Property, including without limitation, the Stormwater Drainage Easement, including, without limitation, any occurrence resulting in liability to any of the Grantor Parties under any environmental law, rule or regulation, except to the extent such Losses result from Grantor Parties own use of the Stormwater Basin Easement Area or the negligence or intentional misconduct of any of the Grantor Parties. The indemnification of the Grantor Parties hereunder shall survive the termination of this Agreement until such time as the statute of limitations for any claims that may arise under this Section 2(d) herein has expired.

3. **Term of Agreement.** The term of this Agreement shall be effective upon the date this Agreement is fully executed by the Owner of the Grantor Property and the Owner of the Grantee Property and recorded in the Official Records of Salt Lake County, Utah, and shall run uninterrupted until such time as each of the then current fee simple Owners of the Grantor Property and the Grantee Property, in their respective sole and absolute discretion, mutually agree in writing to terminate this Agreement. If this Agreement is terminated as aforesaid, any Owner may elect to record the instrument so terminating this Agreement in the Official Records of Salt Lake County, Utah, at the recording Owner's sole cost and expense. The easements granted to the Owner of the Grantor Property herein shall run with the land and shall benefit and burden the Grantor Property and the Grantee Property as set forth herein.

4. **Reservation of Rights.** Grantor, on behalf of itself and its successors and/or assigns, as the Owner of the Grantor Property, herein reserves the right to use the Stormwater Basin Easement Area for the discharge and retention of stormwater from the Grantor Property and to make any use of the Grantor Property that is not inconsistent with the easement rights herein granted, but excluding the construction of any buildings or similar improvements, provided such uses shall not interfere with the proper functioning of the easements granted herein, or block, impede, or obstruct the use of the easements granted herein by the Owner of the Grantee Property.

5. **Compliance with Laws.** Each of the Owners shall, at the respective Owner's sole cost and expense, comply with all laws, ordinances, codes and other regulations pertaining to such Owner's use of the Stormwater Drainage Easement. Each of the easements granted herein are subject to compliance with all applicable laws, rules, regulations and ordinances.

6. **Construction/Governing Law.** The singular number includes the plural and the masculine gender includes the feminine and neuter. All exhibits and schedules attached hereto, and the recitals set forth above are hereby incorporated into this Agreement. This Agreement shall be governed by the laws of the State of Utah.

7. **Modification.** This Agreement shall not be modified, altered, extended or terminated without the prior written agreement of each of the then current fee simple Owners of the Grantor Property and the Grantee Property and recorded in the Official Records of Salt Lake County, Utah.

8. **Not a Public Dedication.** In no event shall this Agreement be construed as a gift or dedication to the public creating any rights in or for the benefit of any third party or the general public in any manner whatsoever, including but not limited to, the easements referenced in Section 2 of this

Agreement.

9. **Remedies.** If the Owner of the Grantor Property or the Owner of the Grantee Property shall default in the performance of an obligation imposed under this Agreement (as applicable, a "**Defaulting Owner**"), which default affects the other Owner, and the Defaulting Owner fails to cure the same after thirty (30) days' advance written notice from the non-defaulting Owner (as applicable, the "**Non-Defaulting Owner**"), provided, however, that if such default cannot with due diligence be wholly cured within such thirty (30) day period, a Defaulting Owner shall have such longer period as is reasonably necessary to cure the default, so long as a Defaulting Owner proceeds promptly to commence the cure of same within such thirty (30) day period and diligently prosecutes the cure to completion, the Non-Defaulting Owner shall have all of the rights and remedies provided at law or in equity, including the right to obtain an injunction or specific performance of such obligation, as well as to seek relief by other available legal and equitable remedies. If any action, suit, arbitration or other proceeding is instituted to remedy, prevent or obtain relief from a default in the performance by any party to this Agreement of its obligations hereunder, the prevailing party shall be reimbursed by the non-prevailing party for all of such prevailing party's reasonable costs and expenses, including, without limitation, attorneys' fees and other professional fees associated therewith, and costs of settlement, incurred in each and every such action, suit, arbitration or other proceeding, including any and all appeals or petitions therefrom. As used in this Agreement, attorneys' fees shall be deemed to mean the full and actual costs of any legal or settlement services actually performed in connection with the matters involved, calculated on the basis of the usual fee charged by the attorney performing such service, without regard to any statutory presumption.

10. **Notices.** All notices and other communications given pursuant to this Agreement (each a "**Notice**" and, collectively, "**Notices**") shall be in writing and shall be given by electronic mail transmission ("**Email**"), personal delivery, overnight delivery or mailed first class, registered or certified mail, postage prepaid, and shall be deemed given and received upon the earlier of actual delivery or three (3) days after deposit in the United States Mail as aforesaid. Notices shall be delivered or mailed to the addresses stated below in this Section 10. To the extent any Notice is provided by Email, and such Email is acknowledged or confirmed as received by the receiving party, the Notice shall be deemed validly delivered as of the date of such acknowledgement or confirmation by the receiving party. For purposes of the foregoing Notice provisions, the valid contact information for each party shall be as follows (and shall be subject to change upon Notice to the other party):

Grantor:	c/o Janet Wade 2159 E Parleys Terrace Salt Lake City, UT 84109 Email: janwade35@yahoo.com
Grantee:	2300 Cottonwood Title Holder, LLC c/o DPRE Management, LLC 299 South Main Street, Suite 1850 Salt Lake City, Utah 84111 Attn: Scott Swallow Email: sswallow@dakotapacific.com

11. **Miscellaneous.** The invalidity, illegality or unenforceability of any provision of this Agreement pursuant to judicial decree shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall remain in full force and effect. None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the parties and their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members or any joint enterprise. No party shall have the right to act as an agent for the other party, unless expressly authorized

in writing to do so. This Agreement contains the entire understanding between the parties relating to the transactions contemplated by this Agreement and all prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect.

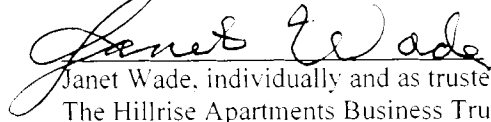
12. **Covenants Running With Land.** The obligations, easements and conditions contained in this Agreement are covenants running with the land; and they are made by the parties for the benefit of each Owner of all or part of the Grantor Property and the Grantee Property. Any reference in this Agreement to Grantor with respect to the Grantor Property or the Owner of the Grantor Property shall be deemed to refer to the then-Owner or then-Owners, as the case may be, of fee simple title to the Grantor Property. Any reference in this Agreement to Grantee with respect to the Grantee Property or the Owner of the Grantee Property shall be deemed to refer to the then-Owner or then-Owners, as the case may be, of fee simple title to the Grantor Property. The Owner of the Grantor Property and the Owner of the Grantee Property shall have no liability under this Agreement except with respect to matters occurring during the period of such Owner's ownership thereof.

13. **Counterparts.** This Agreement may be signed in any number of counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one (1) and the same instrument.

*[Remainder of page left intentionally blank.]*

**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals with authority duly given the day and year of first above written.

**GRANTOR:**

  
Janet Wade, individually and as trustee of  
The Hillrise Apartments Business Trust

STATE OF UTAH

COUNTY OF SALT LAKE

On this 6<sup>th</sup> day of May, 2024, before me, personally appeared Janet Wade, proved on the basis of satisfactory evidence to be the person whose name is subscribed to this document, and acknowledged before me that he/she/they executed the same.

  
Notary Public



(SIGNATURES CONTINUE ON NEXT PAGE)

**GRANTEE:**

2300 COTTONWOOD TITLE HOLDER, LLC  
a Utah limited liability company

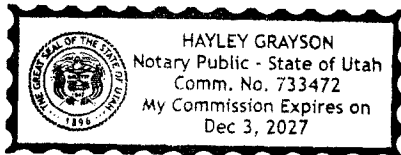
By: DPRE Cottonwood Heights, LLC,  
a Utah limited liability company  
Its sole member

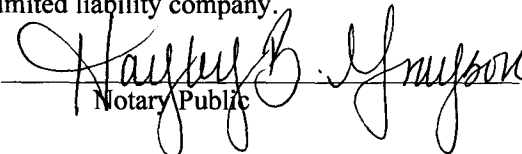
By: DPRE Management, LLC,  
a Utah limited liability company  
Its manager

By:   
Name: Marc Stanworth  
Title: Manager

STATE OF Utah )  
COUNTY OF Salt Lake ) : ss.

The foregoing instrument was acknowledged before me this 6 day of May, 2024,  
by Marc Stanworth, Manger of DPRE Management, LLC, a Utah limited liability company,  
manager of DPRE Cottonwood Heights, LLC, a Utah limited liability company, sole member of 2300  
Cottonwood Title Holder, LLC, a Utah limited liability company.



  
Notary Public

**EXHIBIT A**

**LEGAL DESCRIPTION OF GRANTOR PROPERTY**

Beginning at a point which is West 992.67 feet and South 50.00 feet from the Southwest corner of Lot 20, LAZY BAR NO. 2 SUBDIVISION, (Said lot corner is further described as being 60 rods North and 97.00 feet West of the Southeast corner of the Southwest quarter of the Southeast quarter of Section 22, Township 2 South, Range 1 East, Salt Lake Base and Meridian) and running thence East 642.67 feet; thence South 300.00 feet; thence East 143.254 feet; thence South 346.14 feet; thence West 575.306 feet; thence North 385.546 feet; thence West 406.494 feet, more or less, to the East line of 2300 East Street; thence North 110 feet along said street, more or less, to the Southwest corner of the Marjorie Smith Property; thence East 200.002 feet; thence North 150.00 feet to the point of beginning.

Tax Id No.: 22-22-452-006



**EXHIBIT B**

**LEGAL DESCRIPTION OF GRANTEE PROPERTY**

Beginning at a point on the East line of 2300 East Street, said point being North 89°56'00" West 1192.67 feet and South 00°04'00" West 719.13 feet from the Southwest corner of Lot 20, LAZY BAR NO. 2 SUBDIVISION, (said subdivision corner is further described as being 60 rods North and 97.00 feet West of the Southeast corner of the Southwest quarter of the Southeast quarter of Section 22, Township 2 South, Range 1 East, Salt Lake Base and Meridian; and running thence East 399 feet; thence North 24 feet, more or less; thence East 7.494 feet; thence North 385.546 feet; thence West 406.494 feet to the East line of 2300 East Street; thence South along said East line 405.0 feet to the point of beginning.

LESS AND EXCEPTING therefrom the following:

Beginning North 89°56' West 1192.67 feet and South 0°04' West 719.13 feet from the Southwest corner of Lot 20, Lazy Bar No. 2 Subdivision; thence running East 200 feet; thence North 150 feet; thence West 200 feet; thence South 150 feet, more or less, to the point of beginning.

Tax Id No.: 22-22-452-033

**EXHIBIT C-1**

**LEGAL DESCRIPTION OF STORMWATER BASIN EASEMENT AREA**

A parcel of land situate in the Southeast Quarter of Section 22, Township 2 South, Range 1 East, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at a point on the east line of 2300 East Street, said point being North 00°03'30" East 684.63 feet along the section line and South 89°56'30" East 33.00 feet from the South Quarter Corner of Section 22, Township 2 South, Range 1 East, Salt Lake Base and Meridian and running:

thence North 0°03'30" East 54.54 feet along the east line of said 2300 East Street;  
thence South 89°52'17" East 205.12 feet;  
thence South 62°01'50" East feet;  
thence South 0°07'30" West 26.78 feet;  
thence North 89°52'30" West 257.58 feet to the point of beginning.

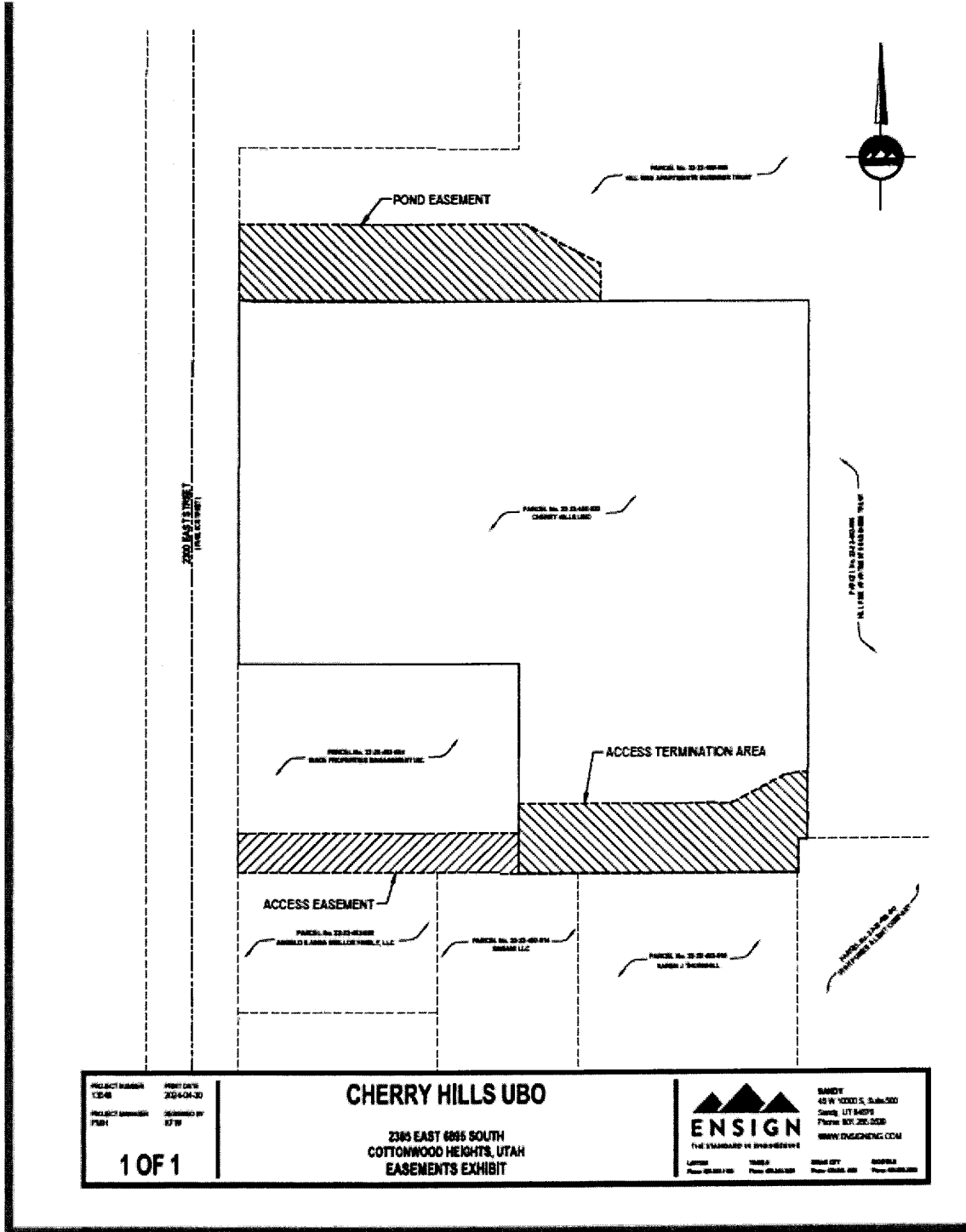
Contains 13,319 square feet. 0.306 acres

**EXHIBIT C-2**

**DEPICTION OF STORMWATER BASIN EASEMENT AREA  
(Labeled "Pond Easement")**

Exhibit C-2 – Page 1

BN 82216847v2



PROJECT NUMBER 13248	PROJECT NUMBER PUB1	PROJECT DATE 2024-04-30	DESIGNED BY 1578	<b>CHERRY HILLS UBO</b>		 <b>ENSIGN</b> <small>THE STANDARD IN ENGINEERING</small>	48 W 10000 S, Suite 200 Sandy, UT 84070 Phone: 801.263.2626 WWW.ENGINEERING.COM
<b>1 OF 1</b>		<b>2385 EAST 6885 SOUTH</b> <b>COTTONWOOD HEIGHTS, UTAH</b> <b>EASEMENTS EXHIBIT</b>		LARRY Phone: 801.263.1136	TRAVIS Phone: 801.263.1136		

Exhibit C-2 – Page 2