

**WHEN RECORDED, RETURN TO:**

Destination Construction, LLC  
9350 South 150 East, Suite 220  
Sandy, Utah 84070  
Attn: Corinne Green

14355094 B: 11554 P: 9648 Total Pages: 9  
03/07/2025 09:44 AM By: tpham Fees: \$40.00  
Rashelle Hobbs, Recorder, Salt Lake County, Utah  
Return To: SOUTH JORDAN CITY  
1600 W TOWNE CENTER DR SOUTH JORDAN, UT 84095



Tax Parcel ID Nos.: See Exhibit A

## DECLARATION OF EASEMENT

### (Establishing a Side Yard Easement)

This DECLARATION OF EASEMENT (this “**Declaration**”) is made by DESTINATION CONSTRUCTION, LLC, a Utah limited liability company (“**Declarant**”) as of this 6<sup>th</sup> day of March, 2024 (the “**Effective Date**”).

### RECITALS

A. Declarant is the sole owner of those certain lots more particularly described on Exhibit A attached hereto and incorporated herein (each a “**Lot**” and, collectively, the “**Lots**”).

B. Declarant desires to grant the Easement (as defined below) on each of the Burdened Lot (as defined below) for the benefit of each corresponding Benefitted Lot (as defined below) to provide for the most favorable development and use of the Lots and in order to maximize the use, enjoyment and recreation of each owner of the Lots, pursuant to the terms and conditions set forth herein.

### DECLARATION

NOW, THEREFORE, Declarant hereby declares, grants and states as follows:

1. Declaration and Grant of Easement. Declarant hereby declares, establishes and grants an exclusive easement on each Burdened Lot (as defined below) for the purpose of providing each corresponding Benefitted Lot (as defined below) and the owner of each such Benefitted Lot (each a “**Benefitted Owner**”) the right, subject to the limitations set forth herein, to occupy, maintain, use, enjoy, place personality upon, construct and maintain fences and other improvements, and to otherwise act as permitted under Section 1(b) below (the “**Easement**”) over, on and through the portions of the applicable Burdened Lot as set forth on Exhibit A and as generally depicted on Exhibit B attached hereto and incorporated herein (the “**Easement Area**”). The size of the Easement Area will vary from Lot to Lot and will be dependent on various factors including, without limitation, the size and location of the footprint of the residence built on such Lot, the size of such Lot, the position and orientation of such Lot, among other factors. Each Easement will be an encumbrance on the affected Lot (each, a “**Burdened Lot**”) in favor of the Lot identified as the “Benefitted Lot” for each such Burdened Lot on Exhibit A (each, a “**Benefitted Lot**”). Each Easement and each Easement Area is subject to the following provisions:

a. Scope of Easement Area. A sample depiction of the portion of the typical location of the Easement Area on a particular Lot burdened by the Easement is shown on Exhibit B attached

hereto. However, the actual scope, extent, and location of the Easement Area for any particular Lot will not be able to be determined until residences are constructed on both the Burdened Lot and the Benefitted Lot and, if applicable, Declarant installs the fencing for such residences. The dimensions of each Easement Area will be as follows: it shall begin at the rear corner of the Benefitted Lot's property line adjacent to the Burdened Lot, then extend from such beginning point along the Benefitted Lot's property line toward the front corner of the Benefitted Lot's property line, then across the front property line of the Burdened Lot's property line to the point where an imaginary straight line drawn flush with the exterior edge of the side of the residence on the Burdened Lot facing the Benefitted Lot (or, if Declarant or the Benefitted Owner constructs a fence between the Burdened Lot and the Benefitted Lot, flush with the side of the fence facing the Burdened Lot) would intersect such front property line, then toward the rear property line along such imaginary line to the point where such imaginary line intersects with the rear property line of the Burdened Lot, then across the rear property line of the Burdened Lot to the point of beginning.

b. Rights of Owners of Benefitted Lots. Except as otherwise expressly set forth herein, each Benefitted Owner will have the right to use its applicable Easement Area as part of such Benefitted Owner's own yard and to do all things in the Easement Area as are permissible for an owner to do with respect to such owner's own Lot under that certain Community Charter for Daybreak recorded on February 27, 2004, as Entry No. 8989518, Book 8950, Page 7784 (the "**Master Declaration**"), any rules and regulations promulgated by the Master Association established by the Master Declaration (the "**Master Association**"), or as otherwise permitted by applicable law.

c. Rights, Duties, and Limitations of Owner of Burdened Lot. The owner of a Burdened Lot ("**Burdened Owner**") will have the right to access the Easement Area for the limited purposes of maintaining such Burdened Owner's residence and any component thereof, including, without limitation, roofing, soffit, fascia, siding, windows, doors, and gutters or downspouts (subject to the drainage limitations set forth below) as required under the Master Declaration or the Master Association's Rules and Regulations. Notwithstanding the foregoing, in performing such maintenance, the Burdened Owner shall not unreasonably interfere with the use and enjoyment of the Easement Area by the Benefitted Owner. All nonemergency entries onto the Easement Area by the Burdened Owner shall be performed between the hours of 8:00 am and 6:00 pm and following not less than three (3) days written notice to the Benefitted Owner. Further, the Burdened Owner shall promptly, but in any event within seven (7) days, restore any damage to the Easement Area caused by such Burdened Owner in connection with any use of the Easement Area by the Burdened Owner. The Burdened Owner shall not modify the Burdened Owner's residence in a manner that expands any portion of the residence on a Burdened Lot into the Easement Area, provided that the eaves, soffit, and fascia of the residence on a Burdened Lot as originally constructed by Declarant may extend into the air space within the Easement Area, but only to the extent of the initial construction. The Burdened Owner shall not place any fixtures or equipment in the Easement Area including, without limitation, any HVAC units, utility meters or satellite dishes not installed by Declarant in connection with the initial construction. No Burdened Owner shall have any right to access or otherwise use the Easement Area located on its Lot except as expressly provided herein.

d. Drainage. If downspouts or other stormwater drainage systems associated with the residence on a Burdened Lot as installed by Declarant discharge stormwater into the Easement Area, then the Burdened Lot will be deemed to have the right to continue to discharge water notwithstanding the Easement and to maintain downspouts, drain extensions, and other equipment

in good and working order. Neither the Burdened Owner nor the Benefitted Owner shall modify or permit the blockage of any portion of the drainage system and patterns established by Declarant at the original construction of the improvements located on the Burdened Property without Benefitted Owner's express written consent.

e. Specific Restrictions on Use by Benefitted Owner. The Easement and use of the Easement Area are subject to the restrictions set forth in this Section. However, the City of South Jordan, the Master Association or other applicable law may impose stricter requirements and restrictions on the use and maintenance of the Easement Area. The restrictions on the landscaping of the Easement Area set forth in this Declaration will be subject to the rules, architectural controls, and landscape guidelines of the Master Association which are applicable to landscape and yard maintenance (collectively, "**Master Association Landscape Rules**"). If the following restrictions conflict in any way with the Master Association Landscape Rules, then the Master Association Landscape Rules will control. Subject to the foregoing, the following restrictions apply to the Easement and the Easement Area: (i) no plants or trees with a height of three (3) feet or more may be planted or maintained within five (5) feet of a residence on a Burdened Lot; (ii) no plants or trees may be planted or maintained in locations which will unreasonably obstruct the windows of a residence on a Burdened Lot and no plants or trees within the Easement Area, or the limbs or branches thereof, shall be permitted to come in contact with the residence on a Burdened Lot; (iii) no irrigation, hoses, or sprinklers are permitted within twenty-four (24) inches of the residence on a Burdened Lot unless the same were installed by Declarant in which case neither Owner may modify the location of such irrigation, hoses, or sprinklers except in compliance with the twenty-four (24) inch restriction set forth above; (iv) no permanent improvements may be placed within twenty-four (24) inches of the residence on a Burdened Lot; (v) no pools or hot tubs may be placed within the Easement Area; (vi) no patio umbrellas or other furnishings may be placed in locations which unreasonably obstruct the windows of a residence on a Burdened Lot; (vii) no barbecue grills, fire pits, or other heat sources may be used within thirty-six (36) inches of the residence on a Burdened Lot; (viii) the Benefitted Owner shall not stockpile snow within twenty-four (24) inches of the residence on a Burdened Lot; (ix) no usage of the Easement Area shall interfere with access to utility meters, if any are attached to, or associated with, the residence on a Burdened Lot; (x) the Benefitted Owner shall not prevent or restrict access to the Easement Area by the Burdened Owner for the purposes permitted under this Declaration or the Master Declaration, by the Master Association, or by any utility provider, provided that the Benefitted Owner shall have the right to lock or otherwise temporarily obstruct gates associated with the fencing installed by Declarant for reasonable purposes so long as the Benefitted Owner unlocks or removes such obstruction promptly upon request from the Burdened Owner to the extent Burdened Owner needs to access the Benefitted Lot for purposes permitted under this Declaration or the Master Declaration, by the Master Association, or by any utility provider; and (xi) otherwise not use the Easement Area in any manner that would be a nuisance or create a substantial risk of damage to the improvements located on the Burdened Lot.

f. Benefitted Owner's Maintenance Obligations and Access. Each Benefitted Owner shall have the obligation to maintain the Easement Area as if such Easement Area were part of such Benefitted Owner's Lot, including, without limitation, ensuring that such Easement Area is compliant with the requirements of the Master Declaration and any rules or regulations duly authorized by the Master Association in each case applicable to such Easement Area. Without limitation on the generality of the foregoing, the Benefitted Owner shall maintain in good repair any fencing installed in the Easement Area. In doing so, the Benefitted Owner shall not change the location of such fencing from its originally constructed location. If a Benefitted Owner fails to

perform such maintenance obligations then the corresponding Burdened Owner shall have the right to petition the Master Association to pursue the remedies afforded to the Master Association under the Master Declaration or, if the Master Association has no remedies for the alleged violation, to seek such remedies as are available at law or in equity. Upon a successful claim at law or in equity by the Burdened Owner, the Burdened Owner will be entitled to reimbursement from the Benefitted Owner for all costs actually incurred in pursuing such remedies.

2. Dispute Resolution. If a Burdened Owner or Benefitted Owner believes the other party affected by a Easement has failed to comply with the requirements pertaining to the Easement Area, the aggrieved Owner shall present the dispute to the Master Association's Board of Directors (the "**Board**"). The Board, after reasonable notice to the other Owner, shall hold a meeting at which the Board shall give both Owners the opportunity to be heard and present evidence regarding the dispute. Following such a meeting, the Board will provide a written decision identifying its decision regarding the dispute and the basis for its findings. Either Owner may challenge the Board's finding by means of binding arbitration between a single arbitrator selected jointly by the affected Owners; provided that if the Owners are unable to agree upon a single arbitrator, the preferred arbitrator for each Owner shall jointly select a third-party arbitrator. Such binding arbitration shall be the sole and exclusive means of challenging the Board's decision.

3. Taxes. The Burdened Owner, as the record owner of the Easement Area, shall be obligated to pay all real estate property taxes and assessments related to the Burdened Lot, including the Easement Area.

4. Insurance. Each Benefitted Owner and each Burdened Owner shall (a) maintain reasonable insurance on their respective Lot; and (b) cooperate with the other as may be required in connection with any insurance claim made by the other party.

5. Mutual Indemnification. Each Benefitted Owner shall indemnify each corresponding Burdened Owner from and against any damages, expenses, liabilities, or losses incurred by the Burdened Owner arising from, or related to, the use of the Easement Area by the Benefitted Owner, except for damages, expenses, liabilities, or losses caused by the Burdened Owner's own negligence or willful misconduct. Each Burdened Owner shall indemnify each corresponding Benefitted Owner from and against any damages, expenses, liabilities, or losses incurred by the Benefitted Owner arising from, or related to, the use of the Easement Area by the Burdened Owner, except for damages, expenses, liabilities, or losses caused by the Benefitted Owner's own negligence or willful misconduct.

6. No Interest in Condemnation Awards or Other Payments. In the event of any exercise of eminent domain or transfer in lieu thereof for any Lot, the award or payment made in connection with such exercise of eminent domain or transfer in lieu thereof shall be payable (a) to the Burdened Owner to the extent of the extent of its ownership in its Lot not subject to the Easement in favor of the Benefited Owner; and (b) to the Benefitted Owner to the extent of portion of the Burdened Lot subject to the Easement. Each Benefitted Owner and each Burdened Owner shall cooperate with the other as may be required in connection with a condemnation action.

7. No Liens. Neither the Burdened Owner nor the Benefitted Owner shall cause or permit any mechanic's liens or any similar lien to exist on the Easement Area that is not released within thirty (30) days of filing. No other lien shall be permitted on any Easement Area except those that are subordinate to the terms of this Declaration such that this Declaration will survive any foreclosure or other action with respect to such lien.

8. Covenants Running with the Land. The grants and obligations, benefits and burdens of the parties hereto shall be covenants appurtenant to and running with the land affected hereby, and shall apply to, and be binding upon and inure to the benefit of all owners of the Lots, and their heirs, successors, and assigns.

9. No Merger. It is expressly understood and agreed that the parties hereto do not intend that there be, and there shall in no event be, a merger of the Benefitted Owner and Burdened Owner tenements hereunder by virtue of the ownership of any of said tenements being vested in the same person or entity, but do intend that the easement servitudes granted as to each Lot shall not be extinguished thereby and that the said Benefitted Owner and Burdened Owner tenements shall be kept separate for the benefit of the individuals and entities referred to herein.

10. No Public or Third-Party Benefit. The party hereto specifically acknowledges that this Declaration creates private easements and is not for a dedicated public street, road or right-of-way. This Declaration is not intended nor shall it be construed to create any third-party beneficiary rights to, or in favor of, any person or entity who is not a party hereto unless otherwise expressly provided herein.

*[Signatures on Following Page]*

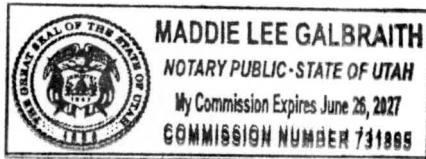
IN WITNESS WHEREOF, Declarant has executed this Declaration as of the Effective Date.

**DESTINATION CONSTRUCTION,  
LLC**, a Utah limited liability company

By: Courtney Palmer  
Name: Courtney Palmer  
Title: CEO

STATE OF UTAH )  
ss.  
COUNTY OF Salt Lake )

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of MARCH, 2024 by Courtney Palmer as the CEO of Destination Construction, LLC, a Utah limited liability company.



A handwritten signature in black ink, appearing to read "Maddie Lee Galbraith". Below the signature, the words "Notary Public" are printed in a small, sans-serif font.

**EXHIBIT A**

**[ATTACH LEGAL DESCRIPTION OF ALL BENEFITTED AND BURDENED LOTS]**

<b>Burdened Lot</b>	<b>Benefitted Lot</b>
[Lot Number]	[Lot Number]
[Lot Number]	[Lot Number]

Exhibit A

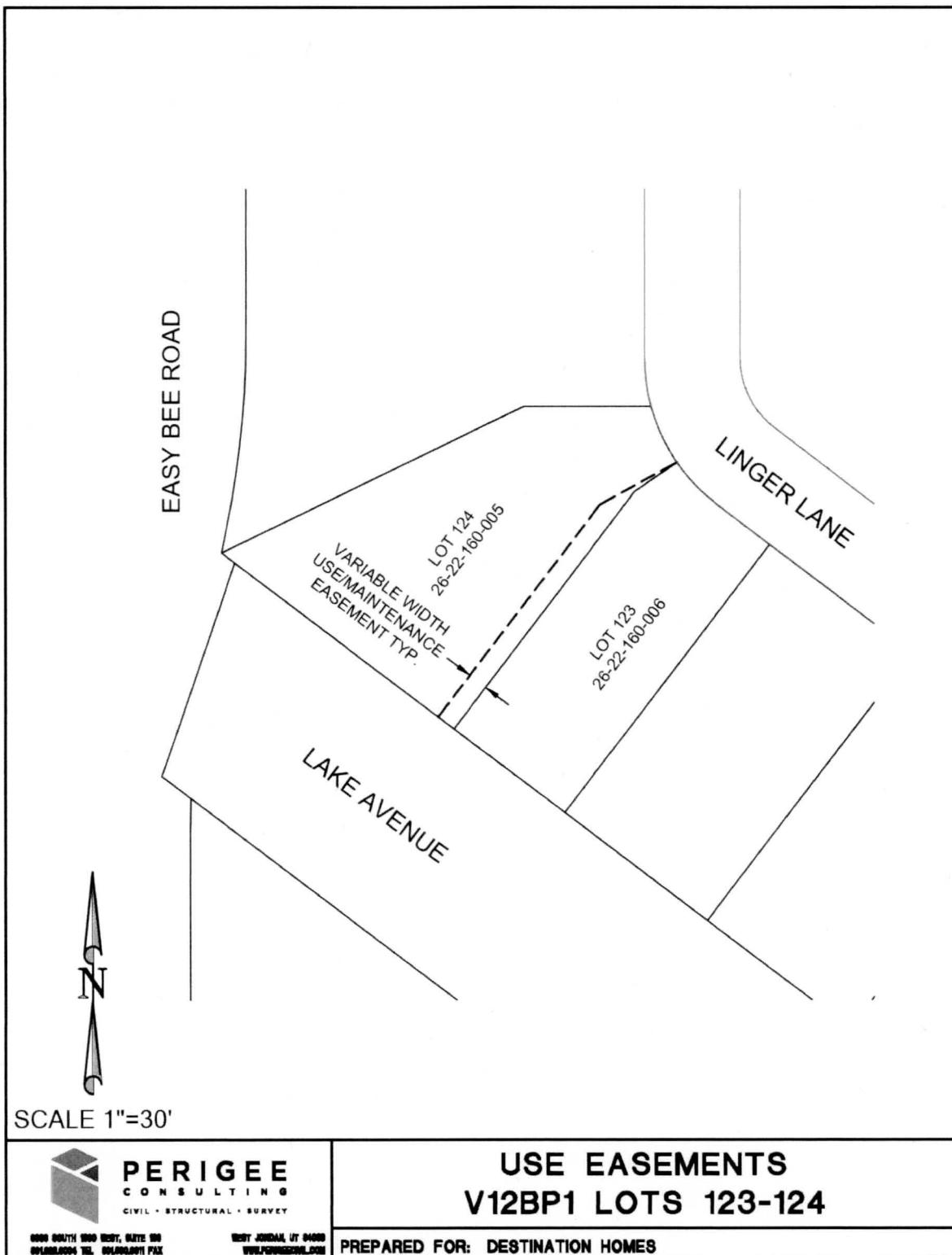


Exhibit A

