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BK 3854 PG 262

WHEN RECORDED, PLEASE MAIL TO

Robert A. McConnell, Esq. Parr Waddoups Brown Gee & Loveless 185 South State Street, Suite 1300 Salt Lake City, Utah 84111-1537

E 2098619 B 3854 P 262-272 A - D RICHARD T. MAUGHAN DAVIS COUNTY, UTAH RECORDER 08/22/2005 09:56 AM FEE \$184.00 Pas: 15 DEP RT REC'D FOR METRO NATIONAL TI TLE

TERMINATION OF EASEMENTS AND DECLARATION OF REPLACEMENT EASEMENTS

[Kaysville Development, LLC / Haights Creek Irrigation Company]

THIS TERMINATION OF EASEMENTS AND DECLARATION OF REPLACEMENT EASEMENTS (this "Agreement") is made and entered into this ______ day of June, 2005, by and between Kaysville Development, LLC, a Utah limited liability company ("KDLLC"), and Haights Creek Irrigation Company, a Utah corporation ("Haights Creek")

RECITALS

- KDLLC owns a parcel of property located in Davis County, State of Utah, the legal description of which is set forth on Exhibit "A" attached hereto (the "KDLLC Tract").
- Pursuant to that certain Grant of Easement, recorded in the office of the Davis County Recorder on September 26, 1973 as Entry No 386589 in Book 525 at Page 967, Riverside Stake, a corporate sole, granted to Haights Creek a right-of-way and easement for the construction. operation, maintenance and ultimate placement of a water pipeline and appurtenant facilities over a strip of land, the legal description of which is set forth on Exhibit "B" attached hereto (the "Easement Tract").
- The Easement Tract traverses the KDLLC Tract. Haights Creek and KDLLC desire to terminate Haights Creek's right-of-way and easement over and across the Easement Tract and to replace the same with a right-of-way and easement over and across a strip of land, the legal description of which is set forth on Exhibit "C" attached hereto (the "Replacement Tract").

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Haights Creek and KDLLC, intending to be legally bound hereby, agree as follows

Termination. As of the date of this Agreement, all of Haights Creek's right, title, and interest in and to the Easement Tract and any right-of-way and easement for the construction, operation, maintenance and ultimate placement of a water pipeline and appurtenant facilities over, across or under the Easement Tract are terminated in their entirety and shall be of no further force or effect.

> COURTESY RECORDING This Document is being recorded solely as a courtesy and an accommodation to the parties named herein. METRO NATIONAL TITLE hereby

> expressly disclaims any responsibility or liability for the accuracy of the content thereof.

- 2 <u>Grant of Replacement Easement-Utilities</u>. KDLLC hereby grants to Haights Creek a perpetual non-exclusive right-of-way and easement for the laying, construction, installation, operation, inspection, servicing, maintenance, repair, removal, alteration, and replacement of a water pipeline and related sub-surface facilities under, through, and across the Replacement Tract
- 3. Exercise of Right-of-Way and Easement On completion of any excavation or construction activities on the Replacement Tract by the Haights Creek Tract owner, the Haights Creek Tract owner shall immediately restore any portion of the Replacement Tract to the same condition as existed prior to the commencement of such excavation or construction activities, using the same type and quality of materials previously used.
- 4. <u>Duration-Automatic Termiantion</u> The right-of-way and easements set forth herein shall be perpetual; **provided**, **however**, in the event that the Replacement Tract is incorporated either into a public right-of-way or utility easement shown on the face of a recorded plat of subdivision in connection with the development of the KDLLC Tract, the right-of-way and easements set forth herein, without further action by either party hereto and without the need to record any instrument evidencing such termination, shall automatically terminate and be of no further force or effect.
- 5 Not a Public Dedication. Nothing contained in this Agreement shall be deemed to be a gift or dedication of all or any portion of the Haights Creek Tract or the KDLLC Tract for the general public or for any public purpose whatsoever, it being the intention of the undersigned that this Agreement be strictly limited to the purposes expressed in this Agreement.
- 6. <u>Titles and Captions</u>. Paragraph titles or captions to this Agreement are for convenience only and shall not be deemed to be part of this Agreement and in no way define, limit, augment, extend, or describe the scope, content, or intent of any part or parts of this Agreement.
- 7. Pronouns and Plurals. Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine, or neuter forms and the singular form of nouns, pronouns, and verbs shall include the plural and vice versa. Each of the foregoing genders and plurals is understood to refer to a corporation, partnership, or other legal entity when the context so requires
- 8 Applicable Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Utah
- 9. <u>Severability</u> In the event that any provision herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other provision herein contained. If such provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.
- 10. <u>Exhibits</u>. All Exhibits referred to herein and attached hereto are hereby incorporated herein by this reference.

BK 3854 PG 264

IN WITNESS WHEREOF, KDLLC and Haights Creek have executed this Agreement on the date first set forth above.

"KDLLC"

KAYSVILLE DEVELOPMENT, LLC, a Utah limited liability company

Terry C. Diehl, Manager

"Haights Creek"

HAIGHTS CREEK IRRIGATION COMPANY, a Utah corporation

Name Robert M. Pe

[Notaries appear on the following page]

Notary Public

STATE OF UTAH)	
·	SS.
COUNTY OF SALT LAKE)	
by me duly sworn did say that liability company, and that the Replacement Easements was	he, 2005, personally appeared before me Terry C. Diehl, who being he is a Manager of Kaysville Development, LLC, a Utah limited within and foregoing Termination of Easements and Declaration of signed on behalf of said limited liability company, and he duly imited liability company executed the same
Notary Public JUDI MUSICK 4198 E Prospector Dr Salt Lake City, UT 84121 My Commission Expires December 3, 2007 State of Utah	Oudi Ausido Notary Public
STATE OF UTAH)	
COUNTY OF SALT LAKE)	SS.
Jo On the 15 day of he	uly ne, 2005, personally appeared before me <u>Robert M. Peters</u> en
who heing by me duly sworn	did say that he is the <u>Manager</u> of Haights Creek
Irrigation Company, a Utah corr	poration, and that the within and foregoing Termination of Easements
	nt Easements was signed on behalf of said corporation, and he duly
acknowledged to me that said of	-

NOTARY PUBLIC
STATE OF UTAH
My Commission Expires
April 11, 2009
CAROL DEE DUTSON
33 S. Main St.
Kaysville, Utah 84037

[SEAL]

-4-

EXHIBIT "A"

to

TERMINATION OF EASEMENTS AND DECLARATION OF REPLACEMENT EASEMENTS

Legal Description of KDLLC Tract

[See Attached]

OLD MILL VILLAGE PHASE 1A - LEGAL DESCRIPTION

Beginning at a found brass cap marking the West Quarter Corner of Section 3 Township 3 North, Range 1 West, Salt Lake Base & Meridian; and running thence

South 88°08'30" East along the north line of the Southwest Quarter of said Section 3, a distance of 218.39 feet, thence

South 00°09'23" West	181.82 feet, thence	,
North 89°50'37" West	39.53 feet, thence	/
South 00°09'23" West	885.00 feet, thence	
South 34°42'29" East	793.58 feet, thence	
South 63°48'51" East	68.02 feet, thence	08-358-0001
South 70°17'09" East	200.00 feet, thence	
South 19°42'51" West	155.00 feet, thence	To 5
North 70°17'09" West	40.50 feet, thence	•
South 19°42'51" West	303.96 feet, thence	-00ag
North 86°26'45" West	89.91 feet, thence	75 000 30
North 34°42'29" West	3027.26 feet, thence	7000 -1
North 55°17'31" East	21.98 feet, thence	-0163
North 82°25'10" East	59.26 feet, thence	
North 34°42'00" West	294.43 feet, thence	70-0113
North 55°18'00" East	308.19 feet, thence	-01a4
South 34°42'00" East	85.10 feet, thence	,
North 68°34'24" East	189.70 feet, thence	-0120
South 21°25'36" East	83.11 feet, thence	
South 35°14'20" East	194.34 feet, thence	
South 16°52'26" East	120.97 feet, thence	1
Marth 000051101 Deet	260 22 foot to the makes of assess	

North 82°25'10" East 268.32 feet to the point of curve of a non tangent curve to the right, of which the radius point lies South 56°11'06" West, a radial distance of 1,470.00 feet; thence southeasterly along the arc, through a central angle of 04°02'12", a distance of 103.57 feet; said arc subtended by a chord bearing South 31°47'47" East, a distance of 103.55 feet; thence

South 29°46'40" East 368.23 feet, thence

North 60°13'20" East 70.00 feet, thence to the Point of Beginning.

Containing 1,714,811 sq ft or 39.37 acres, more or less.

OLD MILL VILLAGE PHASE 1B - LEGAL DESCRIPTION

Beginning at a point which lies South 88°08'30" East along the north line of the Southwest Quarter of Section 3 Township 3 North, Range 1 West, Salt Lake Base & Meridian 218.39 feet, from the found brass cap marking the West Quarter Corner of said Section 3; and running thence

South 88°08'30" East along said north line, a distance of 243.78 feet; thence

South 21°54'19" East, a distance of 1,209.23 feet; thence

South 25°03'04" East, a distance of 273.18 feet; thence

08-003-0003-4

South 70°17'09" East, a distance of 91.35 feet to a point of curve to the left having a radius of 15.00 feet and a central angle of 90°00'00"; thence northeasterly along the arc of said curve a distance of 23.56 feet, said arc subtended by a chord bearing North 64°42'51" East, a distance of 21.21 feet; thence

South 70°17'09" East, a distance of 55.00 feet to a point of non-tangent curvature to the left having a radius of 15.00 feet and a central angle of 90°00'00"; thence southeasterly along the arc of said curve a distance of 23.56 feet, said arc subtended by a chord bearing South 25°17'09" East, a distance of 21.21 feet; thence

South 19°42'51" West, a distance of 70.00 feet to a point of non-tangent curvature to the left having a radius of 15.00 feet and a central angle of 90°00'00"; thence southwesterly along the arc of said curve a distance of 23.56 feet, said arc subtended by a chord bearing South 64°42'51" West, a distance of 21.21 feet; thence

South 19°42'51" West, a distance of 77.67 feet; thence

South 24°56'59" East, a distance of 1,159.99 feet; thence

South 70°33'41" West, a distance of 7.67 feet to a point of non-tangent curvature to the left having a radius of 170.00 feet and a central angle of 15°16'01"; thence southwesterly along the arc of said curve a distance of 45.30 feet, said arc subtended by a chord bearing

South 62°55'41" West, a distance of 45.16 feet; thence

South 55°17'40" West, a distance of 249.56 feet; thence

South 34°42'29" East, a distance of 345.00 feet; thence

North 70°33'41" East, a distance of 245.10 feet; thence

South 25°59'22" East, a distance of 803.69 feet; thence

North 89°45'37" East, a distance of 35.00 feet to the westerly line of the Kaysville City property as described in that one condemnation document on file with the Davis County Recorder's office in Book 3107 at Pages 466-469, dated August 19, 2002; thence along said westerly line the following five (5) courses:

South 00°14'23" East, a distance of 113.92 feet; thence

South 25°20'12" East, a distance of 13.57 feet (measured); thence

South 00°15'09" East, a distance of 201.60 feet (measured; thence

South 17°52'09" East, a distance of 223.08 feet (record and measured); thence

South 30°15'37" East (South 29°50' East – record), a distance of 157.47 feet (160.60 feet – record) to the point of curve of a non tangent curve to the left, of which the radius point lies North 81°44'42" East, a radial distance of 388.31 feet; thence southerly along the arc, through a central angle of 18°52'11", a distance of 127.89 feet; thence

South 27°07'29" East, a distance of 153.00 feet; thence

South 00°59'51" West, a distance of 56.14 feet; thence

North 85°50'09" West, a distance of 121.24 feet; thence

North 34°42'28" West, a distance of 879.00 feet; thence

North 81°30'09" West, a distance of 9.32 feet: thence

North 34°42'29" West, a distance of 2,133.26 feet; thence

South 86°26'45" East a distance of 89.91 feet; thence

North 19°42'51" East a distance of 303.96 feet; thence

South 70°17'09" East a distance of 40.50 feet; thence

North 19°42'51" East a distance of 155.00 feet; thence

North 70°17'09" West a distance of 200.00 feet; thence

North 63°48'51" West a distance of 68.02 feet; thence

North 34°42'28" West a distance of 793.58 feet; thence North 00°09'23" East a distance of 885.00 feet; thence South 89°50'37" East a distance of 39.53 feet; thence North 00°09'23" East a distance of 181.82 feet; to the POINT OF BEGINNING;

Containing 2,407,752 sq ft or 55.27 acres, more or less.

OLD MILL VILLAGE - PHASE 2 LEGAL DESCRIPTION

Beginning at a point which lies South 88°08'30" East along the north line of the Southwest Quarter of Section 3 Township 3 North, Range 1 West, Salt Lake Base & Meridian, a distance of 462.18 feet from a found brass cap marking the West Quarter Corner of said Section 3; and running thence

South 88°08'30" East along said north line 759.40 feet, thence

South 19°31'44" East 1044.17 feet, thence South 24°46'42" East 21.68 feet, thence South 19°14'22" East 670.97 feet, thence South 19°39'12" East 746.97 feet, thence South 09°00'50" East 11.54 feet, thence South 18°41'50" East 275.81 feet, thence South 19°39'34" East 769.56 feet, thence South 13°43'47" East 58.91 feet, thence

08-003-0025

South 24°06'24" East 38.91 feet 14.54 feet

14.54 feet to the northerly line of the Kaysville City property

as described in that one condemnation document on file with the Davis County Recorder's office in Book 3107 at Pages 466-469, dated August 19, 2002, thence

North 77°29'23" West along said northerly line 250.61 feet to the northwest corner of said property, thence

South 00°14'23" East (South 00°15' East – record) along said westerly line 339.30 feet, thence leaving said westerly line

 South 89°45'37" West
 35.00 feet, thence

 North 25°59'22" West
 803.69 feet, thence

 South 70°33'41" West
 245.10 feet, thence

 North 34°42'29" West
 345.00 feet, thence

 North 55°17'40" East
 249.56 feet, to a point on

a curve to the right, having a radius of 170.00 feet and a central angle of 15°16'04", thence along the arc

of said curve a distance of 45.30 feet, said arc subtended

by a chord bearing North 62°55'41" East, a distance of

45.17 feet, thence

North 70°33'41" East 7.67 feet, thence
North 24°56'59" West 1159.99 feet, thence
North 19°42'51" East 77.67 feet, to a point on
a curve to the right, having a radius of 15.00 feet
and a central angle of 90°00'00", thence along the arc
of said curve a distance of 23.56 feet, said arc subtended

by a chord bearing North 64°42'51" East, a distance of 21.21 feet, thence

North 19°42'51" East 70.00 feet, to a point on a curve to the right, having a radius of 15.00 feet and a central angle of 90°00'00", thence along the arc of said curve a distance of 23.56 feet, said arc subtended by a chord bearing North 25°17'09" West, a distance of 21.21 feet, thence

North 70°17'09" West 55.00 feet, to a point on a curve to the right, having a radius of 15.00 feet and a central angle of 90°00'00", thence along the arc of said curve a distance of 23.56 feet, said arc subtended by a chord bearing South 64°42'51" West, a distance of

21.21 feet, thence North 70°17'09" West

91.35 feet, thence

North 25°03'04" West North 21°54'19" West 273.18 feet, thence 1209.23 feet, and the POINT OF BEGINNING;

Contains 2,216,608 sq ft or 50.89 acres, more or less.

EXHIBIT "B"

to

TERMINATION OF EASEMENTS AND DECLARATION OF REPLACEMENT EASEMENTS

Legal Description of Easement Tract

An easement 30 feet in width, lying 15 feet on each side of the following described center line:

Beginning at a point on the boundary between the Wilford Smith property which is 968 3 feet South and 2133.4 feet East from the Northwest corner of Section 10, Township 3 North, Range 1 West, Salt Lake Meridian; thence South 47*57.3' West 500.8 feet, more or less to the East right of way fence along the D&RG Railroad

08.003.0024

EXHIBIT "C"

to

TERMINATION OF EASEMENTS AND DECLARATION OF REPLACEMENT EASEMENTS

Legal Description of Replacement Tract

FOR AN IRRAGATION EASEMENT
IN PHASES 1 AND 2 OF OLD MILL VILLAGE
LOCATED IN THE
NORTHWEST QUARTER OF SECTION 10,
TOWNSHIP 3 NORTH, RANGE 1 WEST,
SALT LAKE BASE & MERIDIAN

A STRIP OF LAND OF UNIFORM WIDTH THE SIDELINES OF WHICH ARE TO BE LENGTHENED OR SHORTENED AS NECESSARY SO AS TO COMMENCE AT THE EASTERLY LINE OF THE DENVER AND RIO GRANDE WESTERN RAILROAD, MORE PARTICLALY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST OUARTER CORNER OF SECTION 10, TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, A FOUND BRASS CAP IN CONCRETE; THENCE NORTH 00°12'40" WEST ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 10, A DISTANCE OF 1396.62 FEET; THENCE NORTH 89°47'20" EAST, A DISTANCE OF 1780.05 FEET TO THE POINT OF BEGINNING FOR THIS DESCRIPTION: SIDELINES OF STRIP 10.00 FEET LEFT AND 10.00 FEET RIGHT, THENCE NORTH 55°17'31" EAST, A DISTANCE OF 190.50 FEET, TO THE CENTERLINE OF COUNTRY MILL DRIVE, A FUTURE ROAD; SIDELINES OF STRIP 27.50 FEET LEFT AND 27.50 FEET RIGHT, THENCE SOUTH 34°42'29" EAST, ALONG SAID COUNTRY MILL DRIVE, A DISTANCE OF 119.23 FEET: THENCE ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 100.00 FEET, THROUGH A CENTRAL ANGLE OF 22°19'56". A DISTANCE OF 38.98 FEET; THENCE SOUTH 57°02'25" EAST, A DISTANCE OF 69.50 FEET TO THE CENTERLINE OF DESERET DRIVE, A FUTURE ROAD; SIDELINES OF STRIP 37.00 FEET LEFT AND 33.00 FEET RIGHT, THENCE ALONG THE ARC OF A NON TANGENT CURVE TO THE LEFT. THE CENTER OF WHICH BEARS NORTH 57°02'25" WEST, WITH A RADIUS OF 252.00 FEET, THROUGH A CENTRAL ANGLE OF 33°11'58", A DISTANCE OF 146.02 FEET; THENCE NORTH 00°14'23" WEST, ALONG SAID DESERET DRIVE, A DISTANCE OF 185.67 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 202.00 FEET, THROUGH A CENTRAL ANGLE OF 25°44'59", A DISTANCE OF 90.78 FEET TO THE TERMINUS OF THIS DESCRIPTION.

Cluster Subdivision Or Planned Unit Address List Development Name: OLD MILL VILLAGE - PHASE 1B

34 KAYSVILLE ABH

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Cluster Subdivision Or Planned Unit Address List Development Name: OLD MILL VILLAGE - PHASE 1B

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34 KAYSVILLE ABH

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Unit	101	101	102	102	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	144	145	145	146	147	148	149	149	150	150	151	152	153	Run Date: 8/19/2005

Cluster Subdivision Or Planned Unit Address List Development Name: OLD MILL VILLAGE - PHASE 1B

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34 KAYSVILLE ABH

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Property Number	576	564	552	540	883	277	565	553	541	544	556	268	580	287	821	579	571	563	572	584	785	773	761	749	717	988	1016	1028	1040	1052	1064	1076	1088	1102	384	1105	362	1097	
Acreage	0.23000	0.23000	0.23000	0.25000	0.23000	0.23000	0.24000	0.23000	0.30000	0.42000	0.23000	0.24000	0.23000	0 32000	0 32000	0 28000	0 28000	0.33000	0.39000	0.25000	0.25000	0.23000	0.41000	0.35433	0.41000	0.46000	0.46000	0.46000	0.66000	0.46000	0.46000	0.46000	0.46000	0.46000	0.46000	0.23000	0.23000	0.23000	
Sq Feet	10,096	10,145	10,145	10,857	10,202	10,202	10,358	10,085	13,139	18,424	10,085	10,358	10,202	14,130	14,130	12,370	12,336	14,298	16,864	10,948	10,948	10,099	18,028	15,435	17,804	20,045	20,045	20,080	28,668	20,000	20,000	20,000	20,000	20,000	20,000	10,152	10,152	10,000	
Unit	153	154	155	156	157	157	158	159	160	161	162	163	164	165	165	166	167	168	169	170	170	171	172	173	174 /	9	40	41	42	43	44	45	46	47	47	76	. 92	22	2000,010 .oto0

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Cluster Subdivision Or Planned Unit Address List Development Name: OLD MILL VILLAGE - PHASE 1B

34 KAYSVILLE ABH

	Comment																									
	Zipcode	84037	84037	84037	84037	84037	84037	84037	84037	84037	84037	84037	84037	84037	84037	84037	84037	84037	84037	84037	84037	84037	84037	84037	84037	84037
i	City	KAYSVILLE	KAYSVILLE	KAYSVILLE	KAYSVILLE	KAYSVILLE	KAYSVILLE	KAYSVILLE	KAYSVILLE	KAYSVILLE	KAYSVILLE	KAYSVILLE	KAYSVILLE	KAYSVILLE	KAYSVILLE	KAYSVILLE	KAYSVILLE	KAYSVILLE	KAYSVILLE	KAYSVILLE						
	Street Type	DR	OR	DR	DR	DR	NO.	OR	DR	DR	N N	DR	DR	DR	DR	S	DR	OR S	OR	DR						
,	Street	COUNTRY MILL	KAYS	BARN YARD	BARN YARD	KAYS																				
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Property	Number	1085	1073	1061	1049	1037	1025	1013	1012	1030	1044	1052	1060	1068	1076	1090	346	328	1087	1079	1071	1063	1055	1047	1039	1031
	Acreage	0.23000	0.23000	0 23000	0 23000	0 25000	0.23000	0.23000	0.23000	0 35000	0.28000	0.28000	0.28000	0.28000	0.28000	0 28000	0 28000	0 28000	0 28000	0 23000	0.23000	0.23000	0.23000	0.23000	0.23000	0 32000
	Sq Feet	10,000	10,000	10,049	10,104	10,795	10,092	10,236	10,236	15,103	12,075	12,075	12,242	12,039	12,100	12,021	12,021	12,041	12,041	10,085	10,208	10,208	10,208	10,208	10,208	14,078
	Chit	78	79	80	81	82	83	28	84	85	98	87	88	68	06	91	91	92	92	93	94	95	96	26	86	66