

**RECORDING REQUESTED BY**

NAME: EVERGREEN-12TH & WASHINGTON, L.L.C.



\*W3181070\*

**WHEN RECORDED MAIL TO:**

NAME: EVERGREEN-12TH & WASHINGTON, L.L.C.

ADDRESS: 2390 E. CAMELBACK ROAD, SUITE 410

CITY / STATE / ZIP: PHOENIX, AZ 85016

E# 3181070 PG 1 OF 7  
Leann H. Kilts, WEBER COUNTY RECORDER  
02-Sep-21 0220 PM FEE \$40.00 DEP TN  
REC FOR: FIRST AMERICAN TITLE INSURANCE COI  
ELECTRONICALLY RECORDED

(DOCUMENT WILL ONLY BE RETURNED TO NAME & ADDRESS IDENTIFIED ABOVE)

(SPACE ABOVE FOR RECORDER'S USE)

FUTURE CROSS ACCESS EASEMENT

(DOCUMENT TITLE)

COURTESY RECORDING  
NO TITLE LIABILITY



## Future Cross Access Easement

This Future Cross Access Easement ("Agreement"), by and between Utah Department of Transportation ("Department") and EVERGREEN-12TH & WASHINGTON, L.L.C. ("Property Owner") describes the terms and conditions of future access connections in the Department Right-of-Way.

### RECITALS

**WHEREAS**, Property Owner has received access approval to improve its property identified as 12TH & WASHINGTON, located at 322 E. 12TH STREET in City of OGDEN, County of WEBER, State of Utah, and described in the attached Exhibit; and

**WHEREAS**, as a condition of this access approval, Property Owner is required to enter into an agreement to create a future cross access easement on its property to allow for ingress and egress between its property and the adjacent property located at 366 12TH ST; and

**WHEREAS**, the purpose of the easement is to allow traffic flow between the properties in one access and onto 12TH STREET so as to relieve congestion and to create less traffic hazards; and

**WHEREAS**, at this time, the adjacent property is not seeking access approval, and the owner of that property is unwilling to grant a mutual cross access easement at this time. It is anticipated that when the adjacent property is improved so as to require access approval, the Department shall require that a cross access easement be created to connect the two properties. As required by the Department, the Property Owner agrees to grant an easement as set forth in this Agreement; and

**WHEREAS**, the attached Exhibit describes the approximate location of the future easement.

### AGREEMENT

The Parties agree to the following:

- (1) In fulfillment of the requirements imposed as a condition of access approval, the Property Owner agrees, in the future and upon demand by the Department, to grant a cross access easement provided that the adjacent property owner and as shown in the attached Exhibit, likewise grants a similar cross access easement over its property.
- (2) At such time as the adjacent property owner desires access, the Property Owner agrees to grant the cross access easement and to execute all necessary documents to create the cross access easement.
- (3) The easements to be created shall burden and benefit the parcels. The easements shall run with the land and shall be binding on and shall insure to the benefit of the Property Owner, their respective heirs, successors or assigns.
- (4) The easements to be created shall continue until expressly terminated by written agreement between the parties, the successors, or the assigns. Any agreement to terminate or modify the easements to be created shall be approved in writing by the Department.

- (5) The Property Owner agrees to allow the necessary improvements to its property to allow the ingress and egress as set forth herein within a reasonable time after the creation of the cross access easements.
- (6) The Property Owner agrees to maintain the easement area that will be located within its property in a reasonable manner and at its sole expense.
- (7) Any violation or breach of this Agreement shall be considered a breach of the access permit, and the Department shall have the authority to enforce this Agreement in any manner permitted by law.
- (8) This Agreement to create a cross access easement shall be recorded with the County Recorder's office by the Property Owner.
- (9) **MISCELLANEOUS**
  - a) Each party agrees to undertake and perform all further acts that are reasonably necessary to carry out the intent and purpose of the Agreement at the request of the other party.
  - b) This Agreement does not create any type of agency relationship, joint venture, or partnership between the Department and the Property Owner.
  - c) The failure of either party to insist upon strict compliance of any of the terms and conditions, or failure or delay by either party to exercise any rights or remedies provided in this Agreement, or by law, will not release either party from any obligations arising under this Agreement.
  - d) This Agreement shall be deemed to be made under and shall be governed by the laws of the State of Utah in all respects. Each person signing this Agreement warrants that the person has full legal capacity, power and authority to execute this Agreement for and on behalf of the respective party and to bind such party.
  - e) If any portion of this Agreement is held to be invalid or unenforceable for any reason by a court of competent jurisdiction, such invalidity or unenforceability shall not affect any other provision, and this Agreement shall be construed as if such invalid or unenforceable provision had never been included.
  - f) The effective date of this Agreement is the date signed by the last party.

\*\*\*\*\*

# Acknowledgment

State of Utah )

County of Weber )

On this 18 day of August in the year 2021, before me, Cheryl Marz a notary  
date month year notary public name

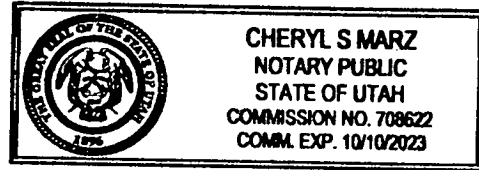
public, personally appeared Rodger J Generew, proved on the basis of satisfactory  
name of document signer

evidence to be the person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged

(he/she/they) executed the same.

Witness my hand and official seal.

Cheryl S Marz  
(notary signature)



(seal)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by its duly authorized officers.

Utah Department of Transportation

Title: UDOT Right of Way Coordinator

[Signature]

Date: 8/18/2021

Printed Name: Rodger Jay Genereux

Evergreen-12<sup>th</sup> & WASHINGTON, L.L.C., an Arizona limited liability company

By: Evergreen Development Company-2021, L.L.C., an Arizona limited liability company  
Its: Manager

By: Evergreen Devco, Inc., a California corporation  
Its: Manager

Title: PRESIDENT

[Signature]

Date: 8-6-21

Printed Name: LAURA ORTIZ

**ACKNOWLEDGMENT**

State of ~~Utah~~ Arizona

County of Maricopa

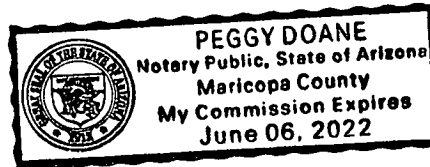
On this 6th day of August, in the year 2021, before

me, Peggy Doane a notary public, personally appeared

Laura Ortiz, proved on the basis of satisfactory evidence to be the

person whose name is subscribed to this instrument, and acknowledged (he/she) executed the same.

Witness my hand and official seal.

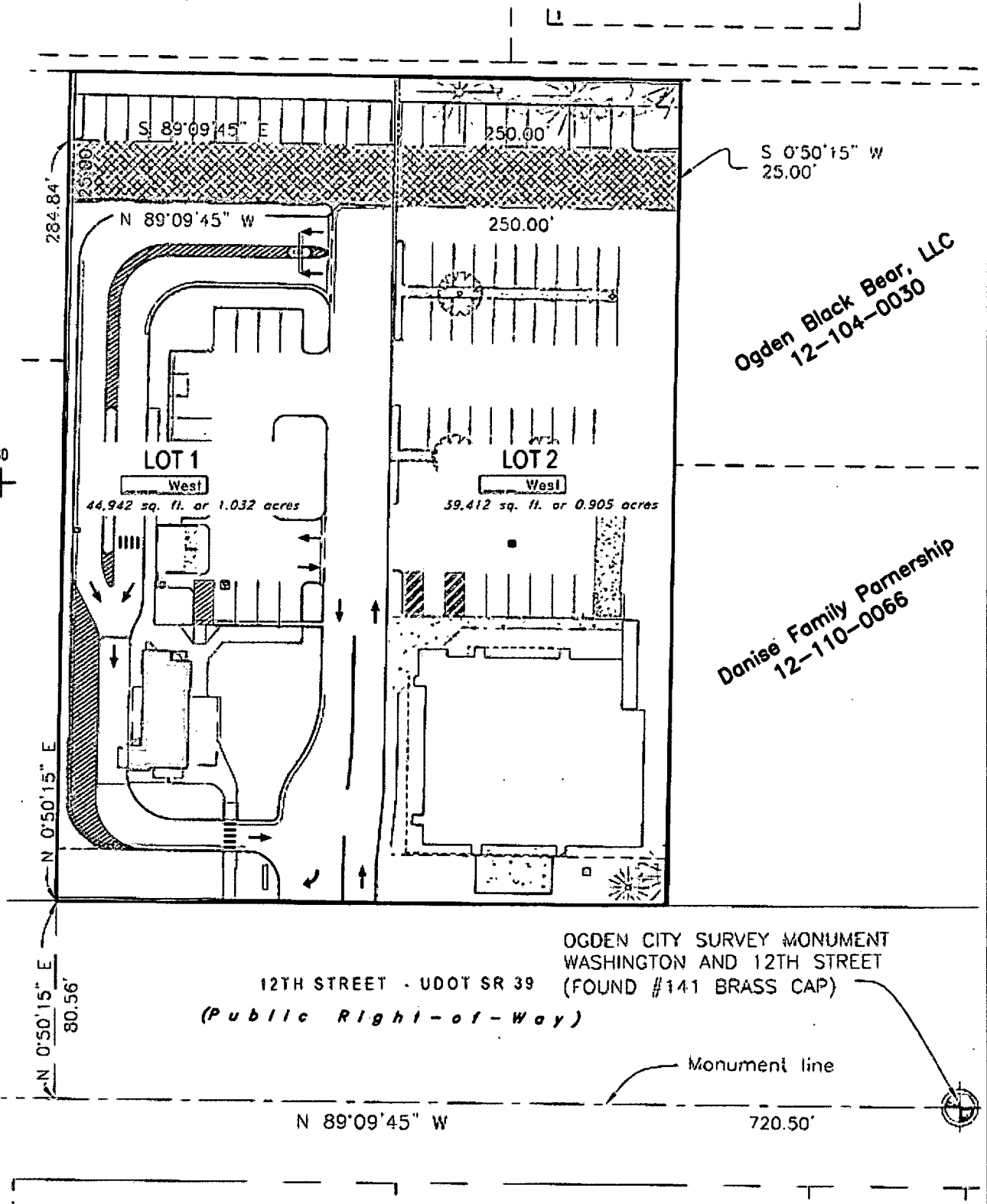
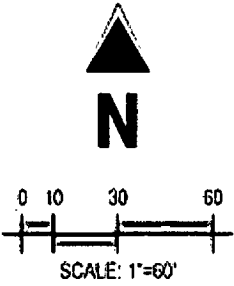


[Signature: Peggy Doane]

# EXHIBIT

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Beginning at a point on Grantors west line which is 720.50 feet North  $89^{\circ}09'45''$  West along the monument line and 80.56 feet North  $0^{\circ}50'15''$  East to the north right of way line of 12<sup>th</sup> Street and 284.84 feet North  $0^{\circ}50'15''$  East from the Ogden City Survey Monument in the intersection of Washington Avenue and said 12<sup>th</sup> Street; running thence South  $89^{\circ}09'45''$  East 250.00 feet to grantors east line; thence South  $0^{\circ}50'15''$  West 25.00 feet along said line; thence North  $89^{\circ}09'45''$  West 250.00 feet to said west line; thence North  $0^{\circ}50'15''$  East 25.00 feet along said west line to the point of beginning.



Ogden Black Bear, LLC  
12-104-0030

Danise Family Partnership  
12-110-0066

OGDEN CITY SURVEY MONUMENT  
WASHINGTON AND 12TH STREET  
(FOUND #141 BRASS CAP)  
12TH STREET - UDOT SR 39  
(Public Right-of-Way)

Monument line

EDI 12TH STREET  
322 12TH Street  
Ogden, UT  
UDOT Easement Exhibit

Project No: EDI0065  
Drawn By: JRA  
Checked By: JRA  
Date: 04/21/2021

**Galloway**  
6162 S. Willow Drive, Suite 320  
Greenwood Village, CO 80111  
303.770.8384  
GallowayUS.com