



W3278680

E# 3278680 PG 1 OF 8
Leann H. Kilts, WEBER COUNTY RECORDER
05-Apr-23 0935 AM FEE \$0.00 DEP SLW
REC FOR: OGDEN CITY
ELECTRONICALLY RECORDED

TRAIL EASEMENT DEED

29th THIS TRAIL EASEMENT DEED (“**Easement**”) is hereby granted and conveyed this day of March, 2023, by and between David G. Stuart and Paula Stuart, or their successors in trust, Trustee of the Stuart Family Living Trust, established September 4, 2015 (“**Grantor**”), and OGDEN CITY, a Utah municipal corporation (the “**City**”) as Grantee. Grantor and City are sometimes referred to herein individually as a “**Party**”, and collectively as the “**Parties**”.

RECITALS

WHEREAS, Grantor is the owner of that certain real property more particularly described on the attached **Exhibit A** (“**Grantor Property**”); and

WHEREAS, the Jump Off Canyon Trail is among the many trails constituting the Ogden City Trails Network; and

WHEREAS, a portion of the Jump Off Canyon Trail winds across the eastern boundary of Grantor Property; and

WHEREAS, City desires to obtain from Grantor an easement over, across, and through that portion of the Grantor Property more particularly described and depicted on the attached **Exhibit B** (the “**Trail Easement Area**”); and

WHEREAS, the purposes of said easement shall be facilitate the maintenance, repair, replacement, and use of the same as a trail for foot and non-motorized bicycle use for general use by the public together with intermittent maintenance and security vehicles; and

WHEREAS, Grantor is willing to provide the City with a revocable easement for the purposes described above and subject to the terms described herein.

NOW, THEREFORE, for and in consideration of the foregoing, Ten Dollars (\$10.00) in hand paid, and other good and valuable consideration the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties agree as follows:

GRANT OF EASEMENT

SECTION 1. Grant of Easement and Permitted Uses. Grantor hereby grants, conveys and warrants to City, and City’s successors and assigns, a perpetual easement over, under, across, and through the Trail Easement Area, as described in **Exhibit B**, at City’s sole risk, cost, and expense, of using the Trail Easement Area, for the purpose of pedestrian and bicycle use and intermittent maintenance and security vehicles use (“**Permitted Uses**”). The Parties understand and agree that the public shall have the regular and continuous use of the Trail Easement Area for

the Permitted Uses subject to City's right to place reasonable time limitations on the use period thereof consistent with the City's police power.

SECTION 2. Manner of Exercise of Permitted Uses. The trail authorized by this grant of easement shall be constructed of native natural materials and shall not include any permanent hard surface treatment (such as concrete or asphalt). Before undertaking any total replacement or major repair or maintenance (i.e., any repair or maintenance reasonably expected to take in excess of five (5) days, which undertaking requires City, or any person or entity acting on behalf of City, to enter upon the Trail Easement Area), City shall give reasonable prior notice of such entry to Grantor in accordance with Section 5. Except as provided in this Section, City shall have no obligation to notify Grantor of City's exercise of any Permitted Uses.

Except as may be reasonably necessary in connection with, and as part of, any replacement, major repair or regular maintenance of Trail Easement Area undertaken on or under the Trail Easement Area, City shall not cause or permit any City equipment, supplies, vehicles, or other City items to be permanently kept or stored upon the Trail Easement Area. Trail maintenance and security vehicles may regularly transit the Trail Easement Area. In any event, City shall give prior notice to, and coordinate with, Grantor prior to keeping or storage of any such City Items in the Trail Easement Area to ensure no disruption or interference with events or operations on the Grantor Property.

Within thirty (30) days after completion of any major maintenance, repair, or replacement to the Trail Easement Area, City shall, at City's sole risk, cost, and expense, restore the trail Easement Area to a condition as good or better than the condition of such Trail Easement Area prior to the commencement of such maintenance, repair, or replacement.

SECTION 3. Mutual No Building of Structures Restriction. Grantor hereby acknowledges, covenants and agrees that the placement of buildings or other permanent building-like structures on the Trail Easement Area or planting of deep rooted trees or plants are inconsistent with City's rights hereunder and hereby covenants not to undertake such placement thereon. City shall have the right to remove any encroaching structures and to remove any offending trees or plants.

City agrees not to construct, erect or otherwise build any permanent or temporary building, shed, edifice, or above-ground structure on the Trail Easement Area unless the City should acquire fee title in the future to the Trail Easement Area.

SECTION 4. Grantor's Retained Rights. Grantor, at City's discretion, may continue to utilize the Trail Easement Area for such uses and in such manner as will not interfere with the easement described herein, including crossing of the trail easement by Grantor, its guests and employees to access other portions of the Grantor Property.

SECTION 5. Notices. All notices required hereunder shall be given in writing by actual delivery or by facsimile transmission, with a concurrent copy sent by certified U.S. mail, postage prepaid, addressed to the recipient as follows:

Grantor: Stuart Family Living Trust
Attn: David G. Stuart
370 North Harrison Blvd.
Ogden, Utah 84404

City: Ogden City Recreation
1875 Monroe Blvd.
Ogden, Utah 84401

With copy to: Ogden City Attorney's Office
2549 Washington Boulevard, Suite 840
Ogden, Utah 84401
Attn: City Attorney
Fax No: (801) 629-8927
Phone No: (801) 629-8145

Or to such other address or to such other person as may be designated by notice given from time to time during the term hereof by one Party to the other Party. Any notice hereunder shall be deemed given upon actual receipt by the intended recipient if delivered by hand or by a facsimile transmission of which receipt is confirmed the recipient telephonically, or three (3) business days after depositing with the U.S. Postal Service in the manner described above.

SECTION 6. Condition of Property. City hereby accepts the Trail Easement Area in its' present "AS IS" unimproved condition. City shall be responsible for all costs and expenses of improvements necessary to create and allow use of the trail easement contemplated by this Easement. City agrees to comply with all applicable laws, regulations, orders and requirements of all governmental authorities in connection with the construction, use and enjoyment of the Easement.

SECTION 7. Indemnification. City shall indemnify and save Grantor harmless from and against any and all losses, costs, damages, expenses, liabilities, and causes of action and any expenses incident to the defense thereof incurred by Grantor to any other person or entity arising as a result of the exercise, use or enjoyment by the City or public of the lawful use of the Trail Easement Area, unless caused or resulting from Grantor's negligence, intentional conduct, or knowing violation of law. City's indemnification shall include the payment of reasonable attorney fees, court costs, and other necessary expenses actually incurred by Grantor for an independent attorney to defend Grantor from claims incurred against Grantor because of the trail and its use and access to the Trail Easement Area.

SECTION 8. Landowner Liability Protection. Grantor owns the adjacent property and retains the right to control, limit, and refuse public access and use to all other portions of the Grantor Property. City shall use reasonable and good faith efforts to prevent trail users from encroaching on the Grantor Property beyond the Trail Easement Area. The public access and use allowed by Grantor and described herein shall be without charge.

SECTION 9. No Partnership or Joint Venture. Nothing contained herein shall be deemed to create a joint venture, partnership, or similar relationship between the Parties.

SECTION 10. Severability. If any term or provision of this Easement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Easement, or the application of such term or provision to the persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and, each term and provision of this Easement shall be valid and be enforced to the fullest extent permitted by law.

SECTION 11. Governing Law. This Easement shall be interpreted and governed according to the laws of the State of Utah.

SECTION 12. Recitals/Exhibits/Headings. Each recital and exhibit referenced in this Easement is hereby incorporated herein by reference. The section headings used in this Easement are for convenience only, and the Parties agree that such headings are not to be construed to define, limit, or extend the meaning of any part of this Easement.

SECTION 13. Entire Agreement. This Easement contains the entire understanding and agreement between the Parties with respect to the matters herein contained, and any agreement hereafter made shall be ineffective to effect any change or modification, in whole or in part, unless such agreement is in writing and signed by the Party against whom enforcement of the change or modification is sought.

SECTION 14. Covenants Running with Land; Successors and Assigns. The rights and obligations of the Parties shall run with the land and shall inure to the benefit of, and be binding upon, the respective successors and assigns of each of the Parties.

SECTION 15. No Third Party Beneficiaries. Nothing in this Easement, express or implied, is intended to, nor shall anything in this Easement be construed to, confer upon or create in any person (other than the parties hereto and their respective successors and assigns) any rights or remedies under or by reason of this Easement, including without limitation, any right to enforce this Easement.

[signature page follows]

EXECUTED as of the first date first above written.

GRANTOR:

David G. Stuart and Paula Stuart, Trustees, or their successors in trust, under the Stuart Family Living Trust, established September 4, 2015

By: David G. Stuart
David G. Stuart, Trustee

By: Paula Stuart
Paula Stuart, Trustee

GRANTEE:

OGDEN CITY, a Utah municipal corporation

By: Michael P. Caldwell
Michael P. Caldwell, Mayor

ATTEST:

Lee Ann Peterson
City Recorder - Chief Deputy

APPROVED AS TO FORM:

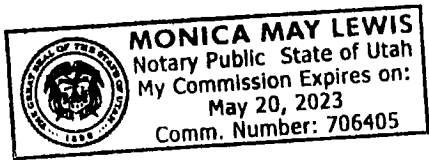
[Signature]
City Attorney



ACKNOWLEDGMENTS

STATE OF UTAH)
)ss.
COUNTY OF WEBER)

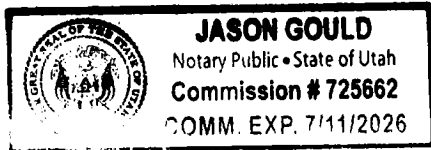
On this 27th day of March, 2023, personally appeared before me, David G. Stuart and Paula Stuart, Trustees of the Stuart Family Living Trust, established September 4, 2015, the signers of the foregoing Instrument who duly acknowledged to me that they executed the same.



Monica May Lewis
NOTARY PUBLIC

STATE OF UTAH)
)ss.
COUNTY OF WEBER)

On the 30th day of March, 2023, personally appeared before me Michael P. Caldwell, who being by me duly sworn did say that he is the Mayor of Ogden City and that the foregoing Instrument was signed on behalf of Ogden City Corporation and he acknowledged to me that said corporation executed the same.



[Signature]
NOTARY PUBLIC

EXHIBIT A

GRANTOR PROPERTY

PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 6 NORTH, RANGE 1 WEST, SALT LAKE MERIDIAN, U.S. SURVEY: BEGINNING AT A POINT 842 FEET NORTH 0°25'44" EAST AND 173 FEET EAST OF THE SOUTHWEST CORNER OF SAID SECTION 10, AND RUNNING THENCE SOUTH 89°34'11" EAST 373.78 FEET; THENCE NORTH 0°25'44" EAST 478 FEET; THENCE NORTH 89°34'11" WEST 363.78 FEET; THENCE SOUTH 0°25'44" WEST 100 FEET; THENCE NORTH 89°34'11" WEST 20 FEET; THENCE SOUTH 0°25'44" WEST 80 FEET; THENCE NORTH 89°34'11" WEST 130 FEET; THENCE SOUTH 0°25'44" WEST 58 FEET; THENCE SOUTH 89°34'11" EAST 140 FEET; THENCE SOUTH 0°25'44" WEST 240 FEET TO THE PLACE OF BEGINNING. CONTAINING 4.3 ACRES.

TOGETHER WITH A RIGHT-OF-WAY 1 ROD WIDE RUNNING FROM THE SOUTHWEST CORNER OF SAID LAND, SOUTH TO THE SOUTHWEST CORNER OF SAID SECTION 10. TOGETHER WITH ALL EXISTING RIGHTS-OF-WAY.

LESS AND EXCEPTING: A PARCEL OF LAND IN FEE SITUATE IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 6 NORTH, RANGE 1 WEST, SALT LAKE MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF GRANTORS LAND, WHICH POINT BEING 1005.61 FEET SOUTH 00°25'26" WEST ALONG A LINE BETWEEN THE MONUMENT LOCATED THE INTERSECTION OF HARRISON BOULEVARD AND 550 NORTH STREET AND THE MONUMENT LOCATED IN THE INTERSECTION OF HARRISON BOULEVARD AND SOUTHWELL STREET AND 32.95 FEET SOUTH 89°34'34" EAST FROM SAID 550 NORTH MONUMENT AND RUNNING THENCE SOUTH 89°34'21" EAST 4.58 FEET ALONG THE NORTH LINE OF SAID GRANTORS LAND, THENCE SOUTH 00°25'01" WEST 8.95 FEET; THENCE SOUTH 89°34'59" EAST 1.00 FOOT; THENCE SOUTH 00°25'01" WEST 3.00 FEET, THENCE NORTH 89°34'59" WEST 1.00 FOOT; THENCE SOUTH 00°25'01" WEST 46.06 FEET TO A POINT ON THE SOUTH LINE OF GRANTORS LAND; THENCE NORTH 89°34'21" WEST 4.59 FEET TO THE SOUTHWEST CORNER OF GRANTORS LAND; THENCE NORTH 00°25'44" EAST 58.00 FEET ALONG THE WEST LINE OF SAID GRANTORS LAND TO THE POINT OF BEGINNING. CONTAINING 269 SQUARE FEET OR 0.006 ACRES, MORE OR LESS.
E#2788707

Parcel No. 11-085-0007

EXHIBIT B

TRAIL EASEMENT AREA

A 6-foot trail easement, 3 feet each side of described centerline across the northeast corner of the Stuart Living Trust property (11-085-0007). Part of the southwest quarter of the southwest quarter of Section 10, Township 6 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey: Having a Basis of Bearing between the monumented intersection of North Street and Harrison Blvd. and 550 North Street and Harrison Blvd., which is North 00°43'04" East 969.22 feet; more particularly described as follows:

Beginning at a point, at the intersection of the north line of said property and the existing trail on the ground, more particularly described as North 00°43'04" East 144.37 feet and South 89°08'00" East 411.50 feet from the monument at the intersection of North Street and Harrison Blvd.; thence South 07°22'00" East 19.45 feet, thence South 02°39'29" East 108.59 feet to a non-tangent curve to the left having a radius of 68.88 feet and an arc length of 54.94 feet (Long chord bearing is South 12°06'33" East 53.49 feet), thence to a non-tangent curve to the left having a radius of 4.70 feet and an arc length of 11.21 feet (Long chord bearing is North 72°23'10" East 8.74 feet), thence North 12°54'33" East 53.94 feet, thence North 20°21'29" East 9.88 feet, thence North 33°32'21" East 22.13 feet to an intersection of three trails (North, Southeast, and Southwest), thence North 10°03'59" West 22.56 feet to a non-tangent curve to the right having a radius of 23.31 feet and an arc length of 23.86 feet (Long chord bearing is North 09°46'32" East 22.83 feet), thence North 28°54'24" East 18.51 feet to a non-tangent curve to the left having a radius of 49.34 feet and an arc length of 24.14 feet (Long chord bearing of North 04°32'44" East 23.90 feet), thence North 07°36'47" East 11.50 feet to the intersection of the existing trail and the north property line.

Also, another 6-foot trail easement, 3 feet each side of described centerline, across the east side of the Stuart Living Trust property (11-085-0007).

Beginning at the existing intersection of the three trails (North, Southeast and Southwest). Thence South 07°02'17" East 112.46 feet, thence South 13°27'26" East 85.84 feet, thence South 16°17'21" East 141.64 feet, thence South 22°51'42" East 2.72 feet to the east boundary of said parcel.