

When Recorded Return To:  
Paul M. Durham  
111 East Broadway, Suite 900  
Salt Lake City, 84111

Ent. 339235 Bk 972 Pg 2076-2083  
Date: 19-AUG-2008 11:35AM  
Fee: \$44.00 Check Filed By: MG  
ELIZABETH PALMIER, Recorder  
WASATCH COUNTY CORPORATION  
For: THE HOMESTEAD INC

## EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("Agreement") is made and entered into this <sup>6<sup>th</sup></sup> day of ~~September, 2007~~ <sup>August, 2008</sup>, by and between THE HOMESTEAD, INC., a Utah corporation (hereinafter "Homestead") and VILLAGE COMMUNITIES, L.C., a Utah limited liability company ("Village"). The parties hereto are hereinafter sometimes referred to individually as a "party" and collectively as the "parties."

### RECITALS:

WHEREAS, Homestead is the owner of the real property described on Exhibit "A" attached hereto (the "Homestead Parcel"), located adjacent to real property owned by Village described on Exhibit "B" attached hereto (the "Village Parcel");

WHEREAS, Village has heretofore conveyed certain property to Homestead, and desires to obtain easement rights in the Homestead Parcel as hereinafter provided, and Homestead is willing to provide such easement rights to Village on the terms and conditions hereinafter provided; and

WHEREAS, the parties intend that this Agreement shall run with the land and establish the respective rights and liabilities of the parties and their assigns and transferees with regard to the rights and obligations set forth herein.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants herein expressed, the parties hereby agree as follows:

1. Definitions. Unless otherwise specifically stated herein, each reference in this Agreement to "Homestead" shall include the successors and assigns of Homestead and the owners of all or any part of the Homestead Parcel, and each reference in this Agreement to "Village" shall include the successors and assigns of Village and the owners of all or any portion of the Village Parcel.

2. Incorporation of Recitals. The Recitals set forth above are hereby incorporated into this Agreement as a part of the agreement between Homestead and Village set forth herein and may be used in the interpretation of this Agreement.

3. Grant of Permanent Easement.

(a) Homestead hereby grants to Village an irrevocable non-exclusive right of way easement over Homestead Parcel for pedestrian, golf cart, and non-motorized vehicle right

of way over and across the Homestead Parcel for Village, its owners and their visitors, guests, invitees and licensees.

(b) Village agrees to indemnify, defend and hold Homestead harmless from any loss, damage or liability arising from the use of the Homestead Parcel by Village or any of its owners, and their visitors, guests, invitees and licensees.

(c) Nothing in this Agreement shall limit or restrict Homestead's use of the Homestead Parcel for any purpose whatsoever.

(d) Village shall not erect or cause to be erected any barriers or improvements on the Homestead Parcel which would interfere with the intended uses hereunder, including the Homestead's use for any purpose.

4. Maintenance. Homestead shall maintain the Homestead Parcel in good condition, and shall pay the costs of maintenance and repair of the Homestead Parcel.

5. Owner's Association. It is contemplated that the Village Parcel and the Homestead Parcel, together with surrounding parcels of land may be included in an Owner's Association (the "Association"). Each party agrees to be part of the Association, and to pay its prorate share of the costs of maintenance and repair of common areas of the Association based on their respective pro-rata square footage of property owned within the Owner's Association.

6. Liabilities and Obligations. The obligations and liabilities of Village, Homestead and any successor owner hereunder shall apply only to obligations and liabilities which arise while such entity is an owner and each of such entities shall be released from any further obligations or liabilities with respect to any portion of the Homestead Parcel upon any transfer by it of such portion of the Homestead Parcel, and the successor owners, as applicable, shall assume such obligations or liabilities by operation of law.

7. Applicable Law. This Agreement shall be construed and interpreted under, and governed and enforced according to, the laws of the State of Utah.

8. Attorneys' Fees. In the event of any action or proceeding to compel compliance with, or for a breach of, the terms and provisions of this Agreement, the prevailing party shall be entitled to recover from the losing party all costs and expenses of such action or proceeding, including but not limited to, the reasonable attorneys' fees of the prevailing party.

9. Waiver. The waiver of, or failure to enforce, any breach of or violation of any of the foregoing obligations or easements shall not be deemed to be a waiver of the right to enforce, or be deemed an abandonment of, the particular obligation violated or any of the obligations; nor shall it be deemed to be a waiver of the right to enforce any subsequent breach or violation of this Agreement or any of the provisions hereinabove set forth. The foregoing shall apply regardless of whether or not any party has knowledge of the breach of the violation.

10. Severability. The invalidation of any one of the provisions of this Agreement by judgment, order, or decree of a court of competent jurisdiction shall not affect any of the other

restrictions, easements, covenants or any part hereof, and the same shall remain in full force and effect.

11. Binding Effect; Covenants Running with the Land. Subject to the limitations set forth in Section 11 above, the provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns. In addition, the covenants set forth in this Agreement shall be covenants running with the land and each of the Parcels.

12. Entire Agreement. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in this Agreement and may be amended only by recording, in the office of the Recorder of Wasatch County, Utah, an instrument in writing reciting such amendment, bearing the acknowledged signatures of all owners of the real property described in Exhibits A and B hereto.

13. Term. The foregoing restrictions, covenants, liens, easements and rights of way shall be perpetual.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

Homestead: THE HOMESTEAD, INC.,  
a Utah corporation

By: *Britt Mathwick*  
Name: Britt Mathwick  
Title: President

Village: VILLAGE COMMUNITIES, L.C.,  
a Utah limited liability company

By: *Robert C. Tippets*  
Name: Robert C. Tippets  
Title: Member

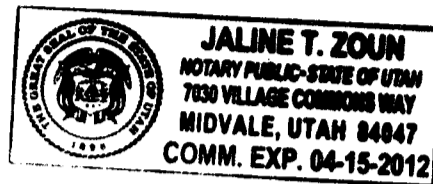
STATE OF UTAH )  
 ) : ss  
COUNTY OF Salt Lake )

On the 6<sup>th</sup> day of August, 2008 personally appeared before me Robert Cignetti, the Member of Village Communities LC., a Utah limited liability company, the signer of the above instrument, who duly acknowledged to me that he executed the same.

Jaline T. Zoun  
Notary Public

My Commission Expires:

4-15-2012



STATE OF UTAH )  
 ) ss.  
COUNTY OF WASATCH )

On the 8 day of August, 2007 personally appeared before me Britt Mathewch, the President of The Homestead, Inc., a Utah corporation, the signer of the above instrument, who duly acknowledged to me that he executed the same.

Jennifer Lyn Sweat  
Notary Public

My Commission Expires:

12/08/09

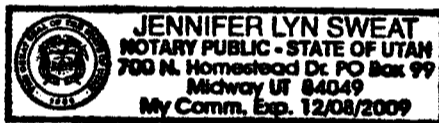


EXHIBIT A

Legal Description

The real property is located in Wasatch County, State of Utah, and is more particularly described as follows:

BEGINNING AT A FENCE CORNER ON THE WESTERLY RIGHT-OF-WAY FENCE LINE OF PINE CANYON ROAD, SAID POINT HAVING UTAH STATE PLANE COORDINATES, CENTRAL ZONE OF  $X=2,005,869.14$  AND  $Y=797,875.05$ , AND SAID POINT BEING LOCATED NORTH  $37^{\circ}47'15''$  EAST 924.81 FEET FROM THE PIPE MARKING THE LONG-ACCEPTED LOCATION OF THE ONE-QUARTER CORNER BETWEEN SECTIONS 27 AND 34, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE MERIDIAN (SAID PIPE BEING LOCATED 32.62 FEET NORTH AND 19.86 FEET WEST OF THE WASATCH COUNTY SURVEYOR'S BRASS CAP);

THENCE SOUTH  $89^{\circ}26'11''$  WEST 341.44 FEET ALONG A FENCE LINE; THENCE NORTH  $14^{\circ}01'50''$  WEST 41.13 FEET; THENCE NORTH  $89^{\circ}26'11''$  EAST 351.69 FEET TO THE WESTERLY RIGHT-OF-WAY FENCE LINE OF SAID PINE CANYON ROAD; THENCE SOUTH  $00^{\circ}23'46''$  WEST 40.01 FEET ALONG SAID FENCE LINE TO THE POINT OF BEGINNING.



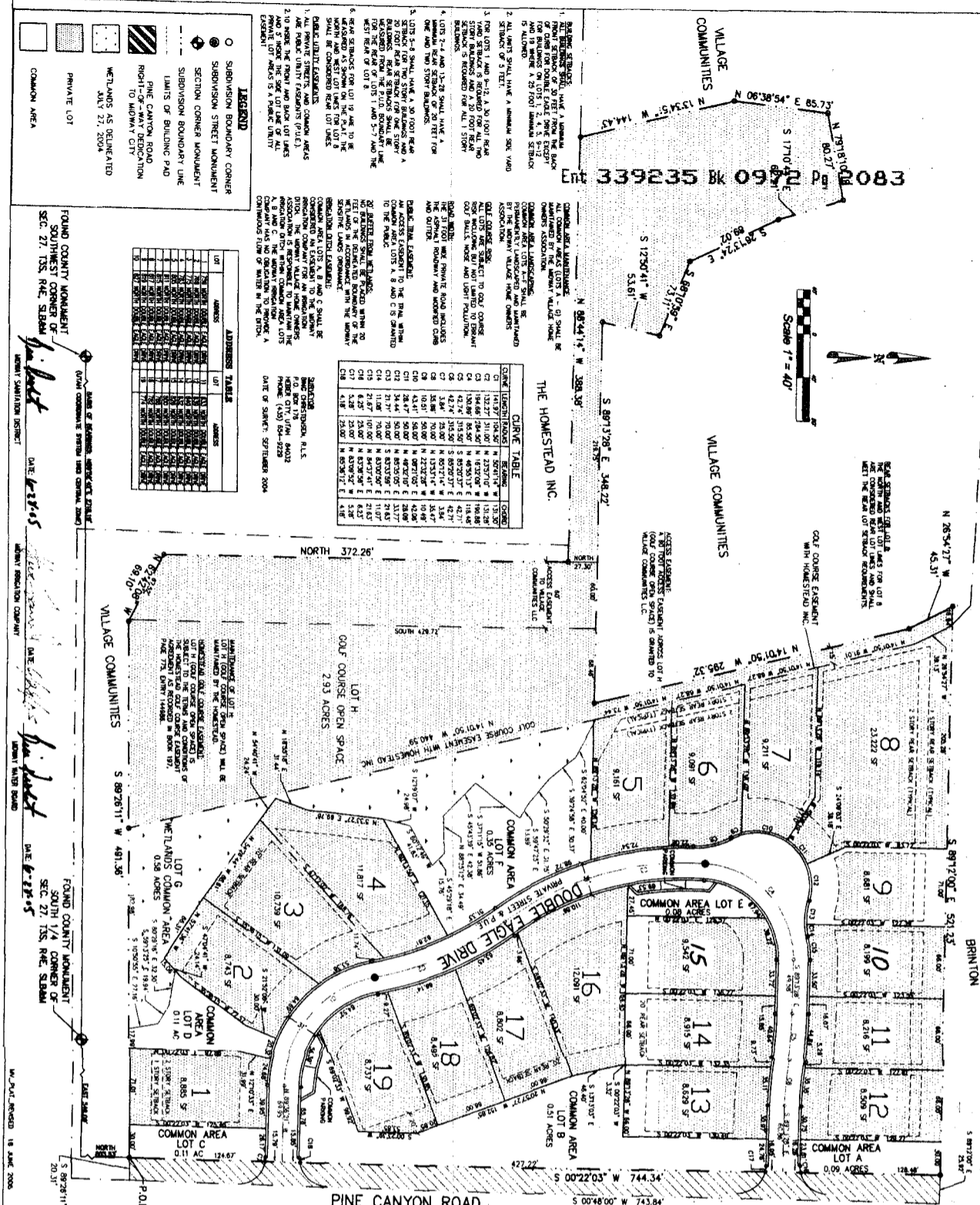
## EXHIBIT B

## BOUNDARY DESCRIPTION

BEGINNING AT A POINT ON THE DEDICATED WEST RIGHT-OF-WAY LINE FOR PINE CANYON ROAD. SAID POINT BEING NORTH 803.53 FEET AND EAST 549.09 FEET FROM THE FOUND WASATCH COUNTY SURVEYORS BRASS CAP FOR THE SOUTH QUARTER CORNER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN;

SOUTH 89° 26'11" WEST 491.36 FEET; THENCE NORTH 62° 42'08" WEST 69.10 FEET; THENCE NORTH 372.26 FEET; THENCE NORTH 88° 44'14" WEST 388.38 FEET; THENCE NORTH 13° 34'51" WEST 144.43 FEET; THENCE NORTH 06° 38'54" EAST 85.73 FEET; THENCE NORTH 79° 18'10" EAST 80.27 FEET; THENCE SOUTH 17° 10'44" EAST 62.21 FEET; THENCE SOUTH 26° 13'24" EAST 89.02 FEET; THENCE SOUTH 68° 10'59" EAST 73.11 FEET; THENCE SOUTH 12° 50'41" WEST 53.61 FEET; THENCE SOUTH 89° 13'28" EAST 348.22 FEET; THENCE NORTH 14° 01'50" WEST 295.32 FEET; THENCE NORTH 26° 54'27" WEST 45.31 FEET; THENCE SOUTH 89° 12'00" EAST 521.23 FEET ALONG THE PROPERTY LINE WITH BRINTON TO THE WEST RIGHT-OF-WAY FOR PINE CANYON ROAD; THENCE SOUTH 00° 22'03" WEST 744.34 FEET ALONG THE DEDICATED RIGHT-OF-WAY FOR PINE CANYON ROAD TO THE POINT OF BEGINNING.

CONTAINING 9.79 ACRES



**SURVEYOR'S CERTIFICATE**

I, being a duly licensed and qualified surveyor, have surveyed and prepared this plan for a subdivision of land in accordance with the laws of the State of Utah. I have caused the same to be recorded in the public records of the county in which the land is situated, and I have caused the same to be published in a newspaper of general circulation in the county in which the land is situated.

DATE: \_\_\_\_\_

**BOUNDARY DESCRIPTION**

BEINGING AT A POINT ON THE DEDICATED WEST RIGHT-OF-WAY LINE FOR PINE CANYON ROAD, THE FOUNDATION COUNTY SURVEYORS BRASS CAP RANGE 4 EAST, S&T LINE BASE AND MERIDIAN.

SOUTH 89°17'11" WEST 491.36 FEET; THENCE NORTH 82°42'08" WEST 69.10 FEET; THENCE NORTH 12°34'51" WEST 144.43 FEET; THENCE NORTH 08°38'54" EAST 85.33 FEET; THENCE NORTH 79°19'07" EAST 80.27 FEET; THENCE SOUTH 17°04'44" EAST 63.21 FEET; THENCE SOUTH 28°13'24" EAST 179.04 FEET; THENCE SOUTH 69°07'59" EAST 73.11 FEET; THENCE SOUTH 17°04'44" EAST 63.21 FEET; THENCE SOUTH 14°01'50" WEST 256.32 FEET; THENCE NORTH 85°32'22" WEST 45.31 FEET; THENCE SOUTH 89°17'00" EAST 52.23 FEET ALONG THE PROPERTY LINE WITH BRINTON; WEST 744.34 FEET ALONG THE DEDICATED RIGHT-OF-WAY LINE FOR PINE CANYON ROAD TO THE POINT OF BEGINNING.

CONTAINING 9.9 ACRES

DATE: \_\_\_\_\_

**RESERVATION OF COMMON AREA**

THE OWNER HAS RESERVED FROM CERTAIN COMMON AREAS INTENDED FOR THE USE BY THE OWNERS, THEIR OFFICERS, AND OFFICERS AND AGENTS IN THE RESERVATION OF RESTRICTIONS AS PROVIDED IN THE DECLARATION OF RESTRICTIONS.

**OWNER'S DEDICATION**

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER(S) OF THE PROPERTY DESCRIBED HEREON, HAVE CAUSED THE SAME TO BE SUBMITTED INTO PUBLIC RIGHT-OF-WAYS, EASEMENTS, PRIVATE AREAS, AND OTHER RIGHTS OF WAYS, EASEMENTS, AND COMMON AREAS, FOR THE CONSTRUCTION AND MAINTENANCE OF PUBLIC UTILITIES AND EMERGENCY VEHICLE ACCESS.

DATED THIS 22nd DAY OF JUNE, A.D. 2005

WITNESSES:

DATE: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF UTAH )  
 COUNTY OF WASHINGTON ) SS.  
 I, \_\_\_\_\_, of the County of \_\_\_\_\_, State of Utah, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the public records of the county in which the land is situated.

WITNESSED BY ME, COUNTY CLERK, AT \_\_\_\_\_, UTAH, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 2005.

**ACCEPTANCE BY MIDWAY CITY**

THE CITY COUNCIL OF MIDWAY CITY, WASHINGTON COUNTY, STATE OF UTAH, HEREBY APPROVES THIS PLANNED UNIT DEVELOPMENT AND ACCEPTS THE DECISION OF EXEMPTIONS AND PUBLIC RIGHTS-OF-WAY HEREON SHOWN.

DATE: \_\_\_\_\_

APPROVED: \_\_\_\_\_

**PLANNING COMMISSION APPROVAL**

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 2005, BY THE PLANNING COMMISSION OF MIDWAY CITY, WASHINGTON COUNTY, UTAH.

DATE: \_\_\_\_\_

APPROVED: \_\_\_\_\_

**MIDWAY VILLAGE P.U.D.**

PLANNED UNIT DEVELOPMENT, MIDWAY CITY, WASHINGTON COUNTY, STATE OF UTAH

SCALE: 1" = 40 FEET