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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
09/15/2021 01:35 PM
FEE \$0.00 Pgs: 11
DEP RT REC'D FOR CW SOUTH DAVIS RO
SE LLC

When Recorded, Mail To:

CW South Davis Rose, LLC
Attn: Legal Department
1222 W. Legacy Crossing Blvd., STE 6
Centerville, UT 84014

Tax Parcel No.(s): 08-052-0275

RETURNED
SEP 15 2021

(Space Above for Recorder's Use Only)

**TERMINATION OF EXISTING EASEMENT AND ESTABLISHMENT
OF EASEMENT AND RIGHT OF WAY AGREEMENT**

THIS TERMINATION OF EXISTING EASEMENT AND ESTABLISHMENT OF EASEMENT AND RIGHT OF WAY AGREEMENT ("**Agreement**") is made and entered into as of the ___ day of September, 2021, by and between CW South Davis Rose, LLC, a Delaware limited liability company ("**Grantor**") and Weber Basin Water Conservancy District ("**Grantee**"). Grantee and Grantor may be referred to herein collectively as "**Parties**" or, individually, each a "**Party**".

RECITALS

A. Grantor is the fee simple owner of that certain parcel of real property located in Davis County, State of Utah, as more particularly described on **Exhibit "A"** attached hereto and incorporated herein by this reference ("**Grantor Property**").

B. The Parties desire to (i) terminate the portion of the existing easement as described herein and (ii) grant both a permanent non-exclusive and exclusive utility and access easement over the portion of the Grantor Property, more particularly described on **Exhibit "B"** attached hereto and incorporated herein by this reference ("**Easement Area**").

C. The Parties desire to enter into this Agreement for the purpose of evidencing their respective rights and obligations in connection with the Easement Area.

NOW, THEREFORE, for and in consideration of ten and 00/100 dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby covenant and agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference.

2. **Termination of Existing Easement.** The Parties desire to terminate and abandon a portion of that certain *Warranty Deed* dated March 30, 1992 and recorded in the Davis County Recorder's office on April 8, 1992 as Entry No. 966693 in Book 1486 at Page 254 (the "**Existing Easement**"). Upon recordation of this Agreement, a portion of the Existing Easement shall be deemed terminated, abandoned, or such other similar term and be of no further force and effect.

3. **Grant of Easement.** Grantor hereby gives, grants, and conveys, unto Grantee, its successors and assigns, a permanent utility and right of way easement (the "Easement") over, on, upon, and across the Easement Area for the purpose hereinafter stated, subject to the terms, conditions, and limitations set forth herein. The northern most ten (10) feet of the Easement shall be exclusive to Grantee and the southern most ten (10) feet of the Easement shall be non-exclusive.

4. **Purpose of Easement.** The Easement is granted for the purpose of establishing, installing, constructing, maintaining, enlarging, and repairing underground pipeline(s) and power line(s) as may be deemed necessary and/or desired by Grantee. Additionally, Grantee shall have reasonable access to the Easement Area as necessary to carry out the purpose of this Agreement. Grantee shall be solely responsible for the maintenance of any improvements, structures, or equipment it constructs within the Easement Area.

5. **Non-Exclusive Easement.** Within the non-exclusive area of the Easement, Grantor expressly reserves and shall have the right to use the Easement Area in a manner that does not impair or harm the grant or use by Grantee. Except for street / roadway improvements, utility improvements, and associated infrastructure, Grantor shall not construct any buildings, structures, or other permanent improvements within the Easement Area, and any such improvements or encroachments may be subject to removal without compensation.

a. **Utility Laterals.** Notwithstanding anything contained herein to the contrary, the Parties expressly agree that Grantor shall have the right to cross the exclusive area of the Easement with any required utility laterals, including without limitation power and gas. Grantor will need to file for License Agreements with the District for each utility crossing of the exclusive easement.

6. **Restoration.** Upon completion of any repair or maintenance work contemplated by this Agreement, Grantee agrees to, within ten (10) business days following completion, restore the disturbed property to a similar condition as existed prior to Grantee's disturbance.

7. **Abandonment; Termination.** This Agreement shall only be deemed abandoned or terminated upon lawful execution and recording of a written grant by Grantee conveying and abandoning or terminating this Agreement.

8. **Warranty of Title and Authority.** The Grantor warrants that he has full right and lawful authority to make the grant contained herein, and promises and agrees to defend the Grantee in the exercise of its rights hereunder against any defect in Grantor's title to the Grantor Property subject to this Agreement.

9. **Amendment.** This Agreement may be modified or amended only upon the mutual written consent of the Parties, or the Parties' respected legal representatives, successors or assigns, and any such amendment shall become effective only upon the recording of the same in the Public Records of Davis County, Utah.

10. **Binding in Perpetuity.** This Agreement is irrevocable and shall bind the Grantor Property in perpetuity, and all of the benefits and burdens of this Agreement shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, successors, and assigns of both the Grantor and Grantee.

11. **Governing Law; Venue.** The Parties acknowledge that this Agreement was entered into in the State of Utah. This Agreement shall be construed and governed in accordance with the laws of the State of Utah without giving effect to any choice of laws or rules thereof that may direct the application of laws of another

jurisdiction. Venue for any legal action arising under this Agreement shall be in the district court in Davis County, Utah.

12. **Paragraph Headings and Severability of Terms.** The paragraph and subparagraph captions included herein are for reference only and shall not amend, modify or be used to interpret or construe the meaning or intent of the parties as to any of the terms and provisions hereof. If any provisions of this Agreement or the application thereof shall be held to be invalid or unenforceable in a court of law, the remainder of this Agreement shall otherwise remain valid and enforceable to the fullest extent permitted by law.

13. **Attorney Fees.** Both Parties expressly agree that each shall be responsible for the cost of their respective attorney fees, paralegal fees, and other professional fees, and costs incurred incidental thereto, for any action (including those incurred before or at trial or any re-hearing or appeal) arising out of or in connection with this Agreement.

14. **Enforcement.** If either or both Parties fail to perform or breach any obligation, requirement, duty or covenant contained herein, the other non-defaulting Party shall have the right, at its own option, in addition to any of its other rights, privileges or remedies otherwise stated elsewhere herein to bring an action for specific performance in a court of competent jurisdiction. The failure to enforce any other terms or provisions of this Agreement, however long continued, shall in no event be deemed a waiver of the right to enforce the same thereafter as to the same breach or violation, or as to any other breach or violation occurring prior to or subsequent thereto.

15. **Entire Agreement.** This instrument constitutes the entire Agreement between the Parties and supersedes all previous discussions, understandings, and agreements between the Parties relating to the subject matter of this Agreement.

16. **Effective Date.** The Effective Date of this Agreement is the last date this Agreement is executed by the Parties.

[SIGNATURES TO FOLLOW]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

GRANTOR


CW SOUTH DAVIS ROSE, LLC
a Delaware limited liability company

Darlene Carter
By: Darlene Carter
Its: Authorized Person
Date: 9/1/2021

State of Utah)
 §
County of Davis)

On this 1 day of September, 2021, before me, the undersigned Notary Public in and for said State, personally appeared Darlene Carter, known or identified to me to be the authorized person of CW SOUTH DAVIS ROSE, LLC, a Delaware limited liability company, that executed the instrument or the person who executed the instrument on behalf of CW SOUTH DAVIS ROSE, LLC, a Delaware limited liability company, and acknowledged to me that said entity executed the same.

[Signature]
(Notary Public)

(Seal) 

[GRANTEE SIGNATURE FOLLOWS]

EXHIBIT "A"
(Grantor Property)

BEGINNING AT A POINT SOUTH 00°07'44" WEST 376.32 FEET ALONG THE QUARTER SECTION LINE AND SOUTH 89°25'00" EAST 1189.56 FEET AND NORTH 32°34'47" WEST 185.53 FEET FROM THE CENTER QUARTER CORNER OF SECTION 13, TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DAVIS COUNTY, UTAH, SAID POINT ALSO BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF THE PROPOSED LAGOON DRIVE AND RUNNING THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) COURSES: 1) NORTH 32°34'47" WEST 133.30 FEET TO A POINT ON A TANGENT, 367.00-FOOT RADIUS CURVE TO THE RIGHT; 2) NORTHWESTERLY ALONG SAID CURVE 126.27 FEET THROUGH A CENTRAL ANGLE OF 19°42'48", CHORD BEARING NORTH 22°43'23" WEST 125.65 FEET; 3) NORTH 12°51'59" WEST 176.26 FEET TO A POINT ON A TANGENT, 233.00-FOOT RADIUS CURVE TO THE LEFT; 4) NORTHWESTERLY ALONG SAID CURVE 220.35 FEET THROUGH A CENTRAL ANGLE OF 54°11'08", CHORD BEARING NORTH 39°57'33" WEST 212.23 FEET; THENCE NORTH 22°56'53" EAST 51.90 FEET; THENCE NORTH 46°51'41" EAST 36.36 FEET; THENCE SOUTH 87°29'30" EAST 36.28 FEET TO A POINT ON A NON-TANGENT, 176.00-FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHERLY ALONG SAID CURVE 66.05 FEET THROUGH A CENTRAL ANGLE OF 21°30'07", CHORD BEARING NORTH 08°14'33" WEST 85.86 FEET; THENCE NORTH 18°58'36" WEST 78.49 FEET TO A POINT ON A TANGENT, 28.00-FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHWESTERLY ALONG SAID CURVE 23.55 FEET THROUGH A CENTRAL ANGLE OF 48°11'23", CHORD BEARING NORTH 43°05'18" WEST 22.86 FEET TO A POINT ON A REVERSE 50.00-FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHERLY ALONG SAID CURVE 136.56 FEET THROUGH A CENTRAL ANGLE OF 156°29'04", CHORD BEARING NORTH 11°03'33" EAST 97.90 FEET TO AN OLD FENCE; THENCE ALONG SAID FENCE FOR THE FOLLOWING THREE (3) COURSES: 1) NORTH 89°18'04" EAST 22.84 FEET; 2) NORTH 87°18'01" EAST 55.40 FEET, 3) NORTH 88°46'58" EAST 55.45 FEET, BEING ON THE SOUTHERLY LINE OF THE PROPERTY CONVEYED TO RODNEY AND PATRICIA HESS, AS DESCRIBED IN A QUIT-CLAIM DEED RECORDED AS ENTRY #2309315, DAVIS COUNTY RECORDER; THENCE SOUTH 07°08'30" EAST 199.86 FEET; THENCE SOUTH 40°20'23" EAST 113.30 FEET; THENCE SOUTH 00°00'00" EAST 76.72 FEET; THENCE SOUTH 88°58'40" EAST 336.68 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF MAIN STREET (STATE ROAD NO. 106); THENCE SOUTH 33°47'27" EAST 202.89 FEET ALONG SAID WESTERLY LINE TO A POINT OF CURVATURE WITH A TANGENT, 3404.87-FOOT RADIUS CURVE TO THE RIGHT; THENCE SOUTHEASTERLY 42.11 FEET ALONG SAID CURVE AND WESTERLY LINE THROUGH A CENTRAL ANGLE OF 00°42'31", CHORD BEARS SOUTH 33°26'12" EAST 42.11 FEET, TO THE NORTH LINE OF THAT PROPERTY CONVEYED TO MARK AND MARILEE CAHOON IN A WARRANTY DEED RECORDED AS ENTRY #2917878, DAVIS COUNTY RECORDER; THENCE NORTH 88°37'15" WEST 138.88 FEET ALONG SAID NORTH LINE OF SAID PARCEL TO A CORNER; THENCE SOUTH 01°22'45" WEST 114.90 FEET ALONG THE WEST LINE OF SAID PARCEL TO A CORNER; THENCE SOUTH 89°24'00" EAST 212.57 FEET ALONG THE SOUTH LINE OF SAID PARCEL TO THE WESTERLY RIGHT-OF-WAY LINE OF MAIN STREET (STATE ROAD NO. 106) AND TO A POINT OF CURVATURE WITH A NON-TANGENT, 3404.87-FOOT-RADIUS CURVE TO THE RIGHT; THENCE SOUTHEASTERLY 99.72 FEET ALONG SAID CURVE AND WESTERLY LINE THROUGH A CENTRAL ANGLE OF 01°40'41", CHORD BEARS SOUTH 29°59'13" EAST 99.72 FEET, THENCE NORTH 89°21'57" WEST 111.86 FEET; THENCE SOUTH 00°38'03" WEST 93.95 FEET TO THE NORTH LINE OF THE WOOD PARCEL, AS DESCRIBED IN EXHIBIT "E" OF A BOUNDARY LINE AGREEMENT RECORDED AS ENTRY #3008055, DAVIS COUNTY RECORDER; THENCE ALONG THE WOOD LINE NORTH 89°21'57" WEST 418.43 FEET (418.38 FEET, BY RECORD) TO A CORNER OF SAID WOOD PROPERTY, THENCE SOUTH 57°25'13" WEST 58.22 FEET TO SAID EASTERLY RIGHT-OF-WAY LINE OF THE PROPOSED LAGOON DRIVE AND TO THE POINT OF BEGINNING.

THE STATE PLANE BEARING ALONG THE QUARTER SECTION LINE IS SOUTH 00°27'40" WEST, (DAVIS COUNTY SURVEYOR) CALCULATED USING NAD 1983 STATE PLANE COORDINATES IN THE UTAH NORTH ZONE.

Tax id No.: 08-052-0265 and 08-054-0112

EXHIBIT "B"
(Easement Area and Graphic Depiction)

20' EAST CENTERLINE EASEMENT DESCRIPTION

A 20-FOOT-WIDE EASEMENT LOCATED IN THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DAVIS COUNTY, UTAH, SAID EASEMENT BEING 10.0 FEET ON BOTH SIDES OF A CENTER LINE, AND THE NORTHERLY 10-FEET OF SAID EASEMENT BEING EXCLUSIVE TO THE GRANTEE, SAID CENTER LINE BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT NORTH 89°07'41" EAST 1649.41 FEET ALONG THE QUARTER SECTION LINE AND SOUTH 00°52'19" EAST 105.53 FEET FROM THE CENTER QUARTER CORNER OF SAID SECTION 13, SAID POINT BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF MAIN STREET (STATE ROAD NO. 106) AND ALSO BEING ON THE EXTENSION OF THE NORTHERLY LINE OF 850 NORTH STREET OF THE PROPOSED THE ROSE PLANNED RESIDENTIAL UNIT DEVELOPMENT SUBDIVISION, AND RUNNING THENCE ALONG SAID NORTHERLY LINE AND ITS EXTENSION THE FOLLOWING THREE (3) COURSES: 1) NORTH 89°21'57" WEST 454.64 FEET TO A POINT ON A TANGENT, 126.00-FOOT RADIUS CURVE TO THE LEFT; 2) SOUTHWESTERLY ALONG SAID CURVE 73.04 FEET THROUGH A CENTRAL ANGLE OF 33°12'50", CHORD BEARING SOUTH 74°01'38" WEST 72.02 FEET; 3) SOUTH 57°25'13" WEST 105.92 FEET TO THE EASTERLY LINE OF THE PROPOSED RIGHT-OF-WAY OF LAGOON DRIVE AND TO THE TERMINUS.

pt 08-052-
0215

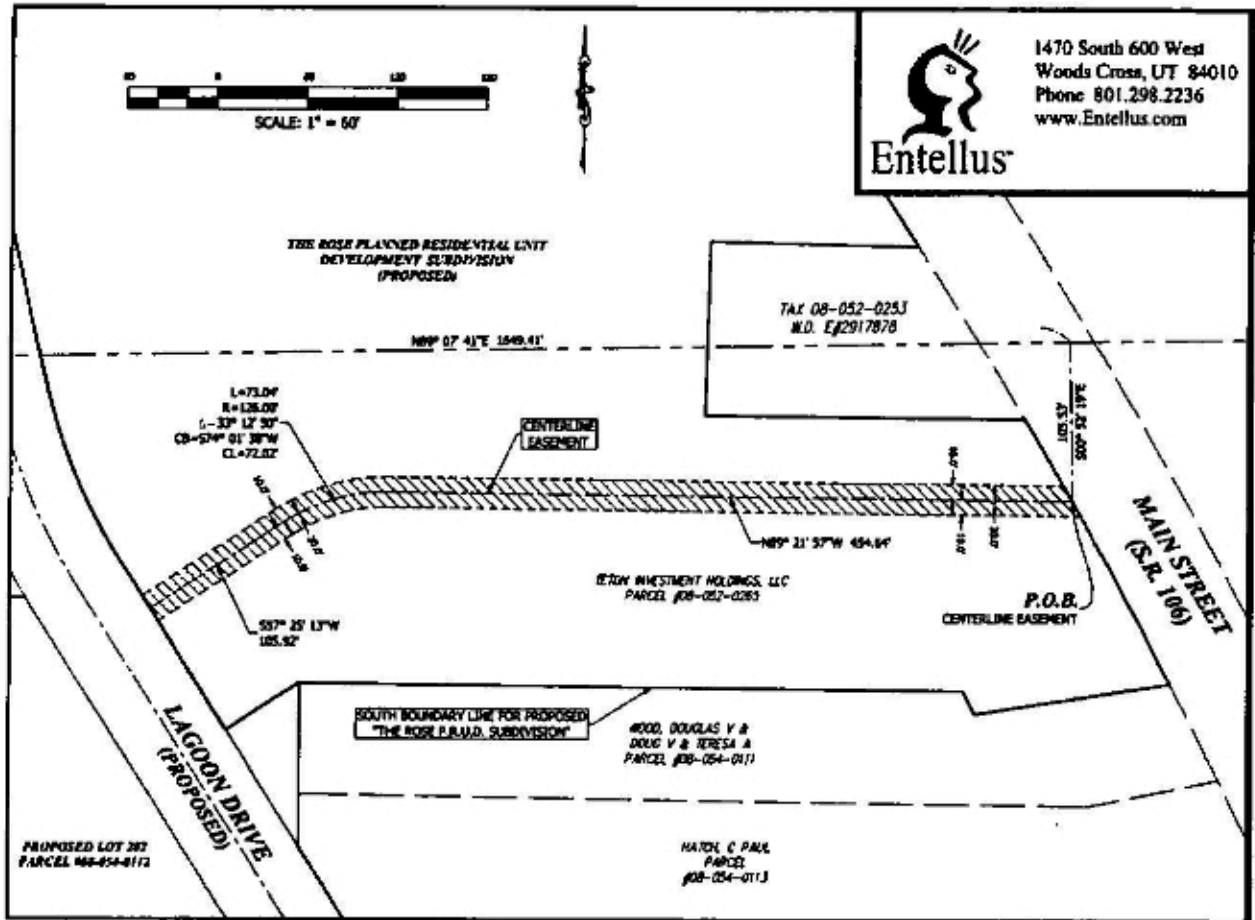


Exhibit "B"
Termination of Existing Easement and Establishment
of Easement and Right of Way Agreement
Weber Basin Water Conservancy District
The Rose, Farmington, Utah

EXHIBIT "D"
(Farmington City Letter)

See attached.

FARMINGTON CITY



H. JAMES TALBOT
MAYOR

BRETT ANDERSON
SHAWN BEUS
SCOTT ISAACSON
AMY SHUMWAY
REBECCA WAYMENT
CITY COUNCIL

SHANE PACE
CITY MANAGER

8-24-2021

Dane Smith
C.W. Land

Re: The Rose Subdivision Weber Basin Easement

To whom it may concern:

Farmington City is working with C.W. Land on the Rose Subdivision. C.W. Land is proposing a 20' easement in favor of Weber Basin Water Conservancy District (WBWCD) that shall include at least Ten (10) feet of exclusive easement to WBWCD, and at least an additional Ten (10) feet of non-exclusive easement to WBWCD. Farmington City accepts the newly described easements as outlined in their agreement. Please contact me if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Chad W. Boshell".

Chad W. Boshell, P.E.
Assistant City Manager
801-939-9287
cboshell@farmington.utah.gov