

WHEN RECORDED, RETURN TO:

The Rose at Farmington Owners Association, Inc.
Attn: Legal Department
1222 W. Legacy Crossing Blvd., Ste. 6
Centerville, UT 84014

Affecting Parcel No.(s): 08-677-0356

ACCESS AND UTILITY EASEMENT AGREEMENT

THIS ACCESS AND UTILITY EASEMENT AGREEMENT (this "*Agreement*") is made effective for all purposes as of the 5 day of August, 2022 by and between The Rose at Farmington Owners Association, Inc., a Utah non-profit corporation ("*Grantor*"), and Laurel L. Cahoon ("*Grantee*") (the Parties may be referred to herein collectively as the "*Parties*" or each individually a "*Party*").

A. Grantor holds fee simple title to that certain parcel of real property located in Davis County, Utah, which real property is more particularly described on the attached Exhibit A (the "*Grantor Property*"). Grantor is the homeowners association of and for the ROSE planned residential unit development.

B. Grantee holds fee simple title to that certain parcel of real property located in Davis County, Utah, which real property is more particularly described on the attached Exhibit B (the "*Grantee Property*").

C. Grantee desires to receive certain perpetual, non-exclusive utility and access easements on, over, across, under, and through a certain portion of the Grantor Property for the purposes more fully set forth in this Agreement.

D. Subject to the terms and conditions of this Agreement, Grantor is willing to grant to Grantee an access easement over, upon, across, and through the Grantor Property, in the location described and depicted on the attached Exhibit C (the "*Easement Area*") for the purposes set forth herein.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties covenant and agree for themselves and their heirs, successors and assigns as follows:

1. Access Easement. Grantor hereby grants and conveys to Grantee and its agents, employees, consultants, contractors, and subcontractors (collectively "*Grantee's Agents*") a non-exclusive access easement upon, over, and across the Easement Area which shall be used solely for the purposes permitted by this Agreement ("*Access Easement*"). The Access Easement shall be used by the Grantee for vehicular and pedestrian purposes. Grantee shall enter upon the Easement Area at its sole risk and hazard, and Grantee's Agents hereby release Grantor from any and all claims relating to the unreasonable condition of the Easement Area and the entry upon the Easement Area by Grantee.

2. Utility Easement. Grantor hereby grants and conveys to Grantee and Grantee's Agents a non-exclusive utility easement (the "*Utility Easement*") on, over, across, under, and through the Easement Area for the benefit of Grantee. The Utility Easement shall be used for the purposes of constructing, replacing, relocating, removing, operating, using, maintaining, and repairing utility lines and related facilities (collectively "*Utility Improvements*"). The cost of maintaining and repairing the Utility Easement and the utilities therein shall be allocated solely to the Grantee. Notwithstanding the foregoing, any damage to the utilities caused by Grantor or its family, guests, employees, consultants, contractors, or subcontractors shall be repaid by Grantor at Grantor's sole cost and expense.

3. Non-Exclusive 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. Grantor shall not construct any buildings, structures, or other permanent improvements, except for any roadway, within the Easement Area and any such improvements or encroachments may be subject to removal without compensation. Grantor shall not (i) change the

contour within the Easement Area without the prior written consent of Grantee, as determined in its reasonable discretion; (ii) plant deep-rooted trees, or vegetation that will damage Grantee's facilities and infrastructure within the Easement Area; or (iii) place personal property within the Easement Area which unreasonably interferes with Grantee's access to the Easement Area or which impairs the safe operation and maintenance of Grantee's facilities and infrastructure.

4. Limit of Benefit. Nothing contained in the Agreement shall be deemed a gift or dedication of any portion of the Grantor Property to the general public or for the public or for any public purpose.

5. Indemnification. Grantee understands and acknowledges that there is inherent risk by accessing and using the Easement Area insofar as improvement activities will be taking place thereon. Unless caused by the gross negligence or willful misconduct of Grantor, Grantee accepts all risks and liabilities related to the use and access of the Easement Area of Grantee and its agents, employees, suppliers, and contractors. Grantee agrees to indemnify, defend, and hold Grantor harmless from and against any and all claims, causes of action, damages, liabilities, or litigation arising from the use of the Easement Area by Grantee and its agents, employees, suppliers, contractors, unless caused by the gross negligence or willful misconduct of Grantor.

6. Miscellaneous.

6.1 Should any party default in any of the covenants or agreements herein contained, that defaulting party shall pay all costs and expenses, including a reasonable attorney's fee, which may arise or accrue from enforcing this Agreement or in pursuing any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise. This obligation of the defaulting party to pay costs and expenses includes, without limitation, all costs and expenses, including a reasonable attorney's fee, incurred on appeal and in bankruptcy proceedings.

6.2 In the event of a default by a party hereunder, the non-defaulting party shall have the right to prosecute any proceedings at law or in equity against the defaulting party hereto, and to recover damages for any such violation or default. Such proceeding shall include the right to restrain by injunction any violation or threatened violation of any of the terms, covenants, or conditions of this Agreement, or to obtain a decree to compel performance of any such terms, covenants, or conditions, it being agreed that the remedy at law for a breach of any such term, covenant, or condition (except those, if any, requiring the payment of a liquidated sum) is not adequate. All of the remedies permitted or available to a party under this Agreement or at law or in equity shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy. In the event a party institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing party after a final adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

6.3 No waiver by any party of any default under this Agreement shall be effective or binding on such party unless made in writing by such party and no such waiver shall be implied from any omission by a party to take action in respect to such default. No express written waiver of any default shall affect any other default or cover any other period of time other than any default and/or period of time specified in such express waiver. One or more written waivers or any default under any provision of this Agreement shall not be deemed to be a waiver of any subsequent default in the performance or the same provision or any other term or provision contained in this Agreement.

6.4 It is expressly agreed that no breach of or event of default under this Agreement shall: (i) entitle any party to cancel, rescind, or otherwise terminate this Agreement; or (ii) defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to any part of the Grantor Property. This limitation shall not affect in any manner any other rights or remedies that a party may have hereunder by reason of any such breach or default.

6.5 It is expressly agreed that the terms, covenants and conditions of this Agreement shall survive any legal act or conveyance required under this Agreement.

6.6 The section and other headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

6.7 This Agreement shall apply to, inure to the benefit of and bind all parties hereto, their assigns, heirs, personal representatives and other successors.

6.8 No amendment hereto shall be effective unless such amendment has been executed and notarized by the parties or their respective successors and further provided that any such amendment is recorded in the office of the Davis County Recorder.

6.9 This Agreement contains the entire agreement of the parties with respect to the subject matter hereof.

6.10 This Agreement may be executed in several counterparts, each of which shall be deemed an original. The signatures to this Agreement may be executed and notarized on separate pages, and when attached to this Agreement shall constitute one complete document.

[Remainder of page intentionally left blank. Signature pages follow immediately.]

IN WITNESS WHEREOF, the parties have executed this Access Easement Agreement the day and year first above written.

GRANTOR:

The Rose at Farmington Owners Association, Inc.,
a Utah non-profit corporation

By: CW South Davis Rose, LLC,
a Delaware limited liability company

Its: Declarant

By: *[Handwritten Signature]*
Name: DARLENE CARTER

Title: AUTHORIZED PERSON / REPRESENTATIVE

STATE OF UTAH)

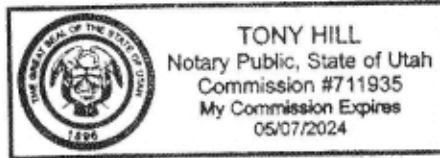
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COUNTY OF DAVIS)

On this 5 day of August, 2022, personally appeared before me DARLENE CARTER, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he/she is the Authorized Representative of CW South Davis Rose, LLC, a Delaware limited liability company, the Declarant of The Rose at Farmington Owners Association, Inc., a Utah non-profit corporation, and that said document was signed by him/her in behalf of said non-profit corporation by authority of its governing documents, and said DARLENE CARTER acknowledged to me that said non-profit corporation executed the same.

WITNESS my hand and official seal.

[Handwritten Signature]
Signature of Notary Public



(seal)

[ADDITIONAL PAGES FOLLOW]

GRANTEE:

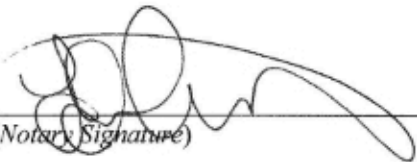
By: 
Name: Laurel L. Cahoon

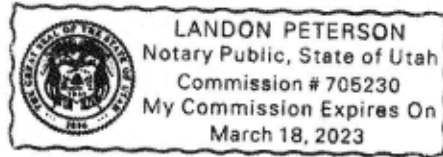
STATE OF UTAH)
COUNTY OF DAVIS)

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On this 5 day of August, in the year 2022, before me, Landon Peterson a notary public, personally appeared Laurel L. Cahoon, proved on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged she executed the same.

Witness my hand and official seal.


(Notary Signature)



(Seal)

EXHIBIT A

LEGAL DESCRIPTION OF THE GRANTOR PROPERTY

The following described real property located in Davis County, Utah:

ALL OF PRIVATE STREET (PENELOPE CT), THE ROSE PLANNED RESIDENTIAL DEVELOPMENT ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE OFFICE OF THE DAVIS COUNTY RECORDER, RECORDED ON MAY 23, 2022, AS ENTRY NO. 3478321 IN BOOK 8015 ON PAGE 180.

Parcel No. 08-677-0356 (for reference purposes only)

EXHIBIT B

LEGAL DESCRIPTION OF THE GRANTEE PROPERTY

BEG ON THE W LINE OF HWY 106 AT A PT WH IS S $89^{\circ}32'27''$ E 461.09 FT S $44^{\circ}57'26''$ E 14.96 FT & S $89^{\circ}24'$ E 1155.53 FT FR THE CENTER OF SEC 13-T3N-R1W, SLM; & RUN TH N $33^{\circ}01'58''$ W 135.65 FT ALG SD W LINE; TH N $88^{\circ}37'15''$ W 143.80 FT; TH S $1^{\circ}24'$ E 220.48 FT TO THE POB. CONT. 0.47 ACRES.

Parcel Number 08-052-0162 (for reference purposes only)

EXHIBIT C

LEGAL DESCRIPTION OF THE EASEMENT AREA

ALL OF PRIVATE STREET (PENELOPE CT), THE ROSE PLANNED RESIDENTIAL DEVELOPMENT ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE OFFICE OF THE DAVIS COUNTY RECORDER, RECORDED ON MAY 23, 2022, AS ENTRY NO. 3478321 IN BOOK 8015 ON PAGE 180.

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