

E 3514668 B 8174 P 326-334
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
01/18/2023 11:13 AM
FEE \$40.00 Rec: 9
DEP RTT REC'D FOR WEST DAVIS SELF
STORAGE LLC

AFTER RECORDING, RETURN TO:

West Davis Self Storage, LLC
3445 W. 1700 S., STE 200
Syracuse, UT 84075

Affecting Parcels: 12-096-0150, 12-096-0151 & 12-838-0005
12-096-0148, 0149

ACCESS, DRAINAGE, AND ENCROACHMENT EASEMENT AGREEMENT

THIS ACCESS, DRAINAGE, AND ENCROACHMENT EASEMENT AGREEMENT (the "Agreement") is made and entered into as of the date set forth on the signature page by and between JOSHUA E HUGHES, an individual residing at 1789 S. Mills Lane, Syracuse, Utah and assigns, successors, or heirs ("Grantor") and WEST DAVIS SELF STORAGE, LLC, a Utah limited liability company, and assigns, successors, or heirs, ("Grantee") (the Parties may be referred to herein collective as the "Parties" or each individually a "Party").

RECITALS

WHEREAS, Syracuse City ("City") Ordinance 10.30.080 (E) allows that buffer yards may be, subject to deed restrictions, freely conveyed to adjoining land owners, provided that any such conveyance adequately guarantees the protection of the buffer yard for the purposes of City Ordinance 10.30.080;

WHEREAS, in exchange for the Grantee quit claiming Grantee's rights to certain real property, used as a buffer yard, more particularly described on **Exhibit A** attached hereto and incorporated herein by this reference ("Grantor Property"), to Grantor, the Grantor agrees to grant Grantee certain easement rights described herein;

WHEREAS the Grantor is or will be the fee simple owner of the Grantor Property located in Syracuse City, Davis County ("County"), State of Utah;

WHEREAS, Grantee is the fee simple owner of that certain real property, used for Grantee's self-storage business, located adjacent to the Grantor Property and in Syracuse City, Davis County, State of Utah, more particularly described on **Exhibit B** attached hereto and incorporated herein by this reference ("Grantee Property"); and

WHEREAS, Grantor desires to grant to Grantee a non-exclusive access, drainage and encroachment easements in perpetuity over, under, and across Grantor Property, as depicted on **Exhibit C** attached hereto and incorporated herein by this reference (the "Easement Area").

NOW, THEREFORE, for and in consideration of Grantee quit claiming property rights to Grantor for the Grantor property, and for and in consideration of the terms and conditions set forth

herein, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Grant of Easement for Access.** Grantor hereby grants and conveys a non-exclusive easement (the "Access Easement") upon, over, and across the Easement Area for the purpose of providing ingress and egress access to the Grantee's self-storage for purposes of inspection, maintenance, and repair of the storage units located on the Grantor Property, at such times as the Grantee deems necessary. Such right shall extend to individuals, and/or entities hired by Grantee to perform inspection, maintenance, and repair services.

2. **Grant of Easement for Drainage.** Grantor hereby grants and conveys a non-exclusive easement (the "Drainage Easement") upon, over, and across the Easement Area for the purpose of storm water drainage that comes from the Grantee's self-storage buildings onto the Grantor Property.

3. **Grant of Easement for Encroachment.** Grantor hereby grants and conveys an easement (the "Encroachment Easement") (the Access Easement, Drainage Easement and Encroachment Easement are collectively referred to herein as the "Easement") upon, over, under, and across the Easement Area for the purpose of allowing any existing encroachments to continue which may exist from Grantee's storage buildings onto, under or over the Grantor Property, including but not limited to: foundation walls, footings, block, rain gutters and downspouts, ornamental metal, etc. Such right shall extend to future repaired or replaced items, including but not limited to foundation walls, footings, block, rain gutters and downspouts, ornamental metal, etc. Any portion of the Grantee Property or buildings thereon adjacent to the Grantor Property, which may or may not encroach onto the Grantor Property, including but not limited to, foundation walls, footings, block, rain gutters and downspouts, ornamental metal, etc. shall remain the sole property of the Grantee. The Grantor shall have no right to remove, modify, use or alter in any way the Grantee's property, buildings, or building components regardless of encroachment.

4. **Shared, Non-exclusive Use.** Exclusive use of the Easement Area is not hereby granted by the Grantor. Instead, Grantor expressly reserves to themselves, successors, heirs, tenants and guests, the right to use and enjoy the Grantor Property subject to the limitations of this Agreement.

5. **Amendment and Termination.** This Agreement may not be amended or modified except with the written consent of the Parties duly recorded in the office of the Davis County Recorder.

6. **Default.** A defaulting party shall have ten (10) days following receipt of written notice, which notice shall specifically describe the default(s), to cure said default(s). Failure to cure any described default(s) shall entitle the nonbreaching party to any remedies available at law or in equity including, but not limited to, specific performance, reasonable expenses, attorney fees and costs.

7. **Maintenance.**

- a. Grantor shall maintain the Grantor Property in a way that allows for the continued, uninterrupted and unobstructed use of the Easement by Grantee in accordance with Grantees right pursuant to this Agreement.
- b. Grantor shall maintain the Grantor Property in a way which is consistent with City code section 10.30.080.
- c. Grantor shall not construct or cause to be constructed any permanent structures or encumbrances within the Easement Area.
- d. Notwithstanding anything herein to the contrary, Grantor shall be permitted to install a boundary fence around the Grantor Property. Provided, however, that in the event any such fence is erected, and adequate access gates are not provided, Grantee shall have the right to remove any portion necessary in order to gain access to the Easement Area for construction, repair, maintenance or other related uses of the Easement Area. Upon the conclusion of Grantee's access onto the Grantor Property, Grantee shall restore the Grantor's fence to substantially similar the condition prior to Grantee's access.
- e. Grantor shall maintain the Grantor Property at Grantor's sole expense.

8. Waiver. The failure of a Party to insist upon strict performance of any of the terms, covenants, conditions or agreements contained herein shall not be deemed a waiver of any rights or remedies that said person may have, and shall not be deemed a waiver of any subsequent breach or default in any of the terms, covenants, conditions or agreements contained herein by the same or any other Party.

9. No Joint Venture; Merger. The provisions of this Agreement are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership or any similar relationship between the Parties. This Agreement contains the entire agreement and understanding between the Parties and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any Party.

10. Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah. This Agreement shall be recorded in the records of the Davis County Recorder.

11. Successors and Assigns; Run with the Land. All of the provisions in this Agreement, including the benefits and burdens, shall be and are binding upon and inure to the benefit of the successors and assigns of the Parties hereto. All obligations of each Party under this Agreement, if more than one person or entity is the successor or assign of such Party, shall be jointly and severally binding on each such person or entity. The covenants agreed to and the restrictions imposed herein shall continue as a servitude running in perpetuity with the Grantor and Grantee's respective properties and shall survive any death or termination of any party's existence. The easements, agreements, duties, responsibilities, and covenants herein contained shall be easements and covenants running with the land.

12. No Third-Party Beneficiaries. Nothing in this Agreement is intended to create an enforceable right, claim, or cause of any by any third-party against any Party to this Agreement.

13. Authority of Signatory. Each person executing this Agreement certifies that he or she is duly authorized to execute this Agreement on behalf of the Party for which he or she is signing, and that the person has the authority to bind said Party to the terms of this Agreement.

14. Independent Provisions. If any provision herein is held invalid or unenforceable, such a finding shall not affect the validity of the remainder of the Agreement, the Parties hereto hereby stipulate that all provisions contained herein are severable and independent.

15. Counterparts. This Agreement and any originals of exhibits referred to herein may be executed in two (2) or more counterparts, each of which (when the original signatures are affixed together with the applicable acknowledgement) shall be an original but all of which shall constitute one and the same instrument.

16. Miscellaneous. The paragraph and other headings contained in this Agreement are for purposes of reference only and shall not limit, expand, or otherwise affect the construction of any of the provisions of this Agreement. Whenever the context reasonably permits, the singular shall include the plural, the plural shall include the singular, and the whole shall include any part thereof. Further, the masculine gender shall include the female gender and neutral, and vice versa. The recital paragraphs set forth above are expressly incorporated in this Agreement by this reference. This Agreement represents the wording selected by the Parties to define the Agreement and no rule of strict construction shall apply against either Party. Each Party represents that it has had or has been advised to have the representation of its legal counsel in connection with the preparation of this Agreement. The words "hereof," "hereto," "herein," and "hereunder" are words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement. References herein to Paragraphs and Exhibits shall be construed as references to Paragraphs and Exhibits of this Agreement unless the context otherwise requires. Any terms defined in this Agreement in the singular shall have a comparable meaning when used in the plural, and vice versa.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the ____ day of January, 2023.

GRANTOR

JOSHUA E HUGHES
An individual residing in Utah


By: Joshua E Hughes

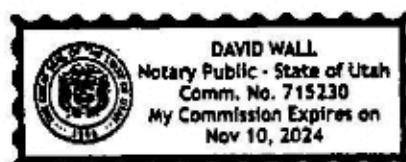
STATE OF UTAH)
: §
COUNTY OF DAVIS)

On this 14 day of January, 2023, before me, David Wall a notary public, personally appeared Christopher Semrow and Wendy, proved on the basis of satisfactory evidence to be the persons whose names are subscribed to this instrument, and acknowledged that he and she executed the same.

Witness my hand and official seal.



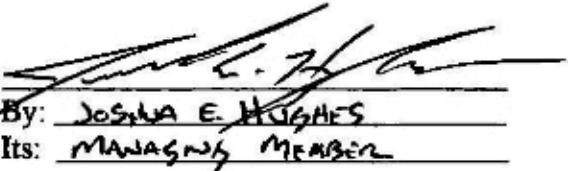
(notary signature)



(seal)

GRANTEE

WEST DAVIS SELF STORAGE, LLC,
a Utah limited liability company


By: Joshua E. Hughes
Its: MANAGING MEMBER

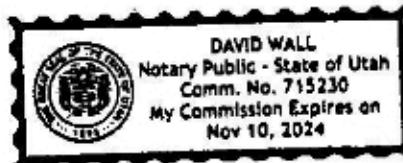
STATE OF UTAH)
: §
COUNTY OF DAVIS)

On this 4th day of January, 2023, before me, David Wall, a notary public, personally appeared Joshua E. Hughes, proved on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he/she executed the same.

Witness my hand and official seal.



(notary signature)



(seal)

EXHIBIT A
Grantor Property

12-096-0148-0150

BEGINNING AT A POINT ON THE EAST LINE OF LOT 406, MILLER SPRINGS PHASE 4, A PLAT RECORDED AT THE DAVIS COUNTY RECORDER'S OFFICE, SAID POINT ALSO BEING THE NORTHWEST CORNER OF LOT 4, SPRING HAVEN ESTATES, ALSO A PLAT RECORDED AT THE DAVIS COUNTY RECORDER'S OFFICE, SAID POINT BEING LOCATED SOUTH $00^{\circ}12'17''$ WEST ALONG QUARTER SECTION LINE 462.00 FEET FROM THE NORTH QUARTER CORNER OF SECTION 17, TOWNSHIP 4 NORTH, RANGE 2 WEST, SALT LAKE BASE & MERIDIAN, AND RUNNING THENCE NORTH $00^{\circ}12'17''$ EAST ALONG SAID LOT LINE 3.00 FEET; THENCE NORTH $20^{\circ}57'02''$ EAST 54.41 FEET TO THE SOUTHWEST CORNER OF THE WEST DAVIS SELF STORAGE LLC PROPERTY; THENCE SOUTH $89^{\circ}54'40''$ EAST ALONG THE SOUTH LINE OF SAID PROPERTY 221.94 FEET; THENCE SOUTH $03^{\circ}58'49''$ EAST 54.04 FEET TO THE NORTHEAST CORNER OF SAID LOT 4; AND THENCE NORTH $89^{\circ}53'49''$ WEST ALONG THE NORTH LINE OF SAID LOT 245.16 FEET TO THE POINT OF BEGINNING.

CONTAINING: 12,611 SQ.FT.

(NAD83 ROTATION IS $00^{\circ}20'26''$ CLOCKWISE)

EXHIBIT
TO THE

ACCESS, DRAINAGE, AND ENCROACHMENT EASEMENT AGREEMENT

EXHIBIT B
Grantee Property

12-096-0151

BEG AT A PT ON THE S R/W LINE OF ANTELOPE DRIVE, SD PT BEING N 89^{53'49"} W ALG SEC LINE 80.00 FT & S 00^{11'21"} W 42.00 FT FR THE N 1/4 COR OF SEC 17-T4N-R2W, SLB&M; & RUN TH S 89^{53'49"} E ALG SD S R/W LINE 412.00 FT; TH S 00^{11'44"} W 350.97 FT; TH N 89^{58'44"} W 90.84 FT; TH S 00^{15'48"} W 15.00 FT; TH N 89^{54'40"} W 221.94 FT; TH N 00^{06'06"} E 163.13 FT; TH N 89^{59'30"} W 79.64 FT; TH N 00^{07'12"} E 147.55 FT; TH N 89^{53'49"} W 19.09 FT; TH N 00^{11'21"} E 55.61 FT TO THE POB.

CONT. 3.00 ACRES

(NAD83 ROTATION IS 00^{20'26"} CLOCKWISE).

EXHIBIT
TO THE
ACCESS, DRAINAGE, AND ENCROACHMENT EASEMENT AGREEMENT

EXHIBIT C
Easement Area

0197,0150,0147

COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 17, TOWNSHIP 4 NORTH, RANGE 2 WEST, SALT LAKE BASE & MERIDIAN, AND RUNNING THENCE SOUTH $00^{\circ}12'17''$ WEST ALONG QUARTER SECTION LINE 264.00 FEET TO THE NORTHEAST CORNER OF LOT 407, MILLER SPRINGS SUBDIVISION PHASE 4, A PLAT RECORDED AT THE DAVIS COUNTY RECORDER'S OFFICE; THENCE SOUTH $00^{\circ}12'17''$ WEST ALONG THE EAST LINE OF SAID SUBDIVISION 163.00 FEET; AND THENCE SOUTH $89^{\circ}53'49''$ EAST 242.60 FEET TO THE TRUE POINT OF BEGINNING; AND RUNNING THENCE NORTH $03^{\circ}58'49''$ WEST 18.95 FEET TO THE SOUTH LINE OF THE WEST DAVIS SELF STORAGE LLC PROPERTY; THENCE NORTH $00^{\circ}15'48''$ EAST ALONG THE SOUTH LINE OF SAID PROPERTY 15.00 FEET; THENCE SOUTH $89^{\circ}58'44''$ EAST 90.84 FEET TO THE SOUTHEAST CORNER OF SAID PROPERTY; THENCE SOUTH $00^{\circ}15'51''$ WEST 19.03 FEET; THENCE NORTH $89^{\circ}53'49''$ WEST 71.85 FEET; THENCE SOUTH $45^{\circ}10'59''$ WEST 21.24 FEET; AND THENCE NORTH $89^{\circ}53'49''$ WEST 2.59 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING: 1,882 SQ.FT.

