

After Recording Return To:
Paul A. Cutler
1872 N. Main St.
Centerville, UT 84014

RETURNED
SEP 06 2024

E 3586052 B 8579 P 434-441
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
9/6/2024 1:12 PM
FEE 40.00 Pgs: 8
DEP MEC REC'D FOR PAUL
A CUTLER

Recorded against the property
described in Exhibits A & B

07-322.0001-0004

EASEMENT MAINTENANCE AGREEMENT

This Easement Maintenance Agreement ("**Agreement**"), dated as of SEPTEMBER 4, 2024 ("**Effective Date**"), is hereby made by and between Paul A. Cutler and Sherry B. Cutler having an address at 1872 N. Main St., Centerville, UT 84014 (hereinafter "**Cutlers**") on behalf of themselves and all future owners of the real property located in Davis County, State of Utah, identified as Lot 1, Lot 2, and Lot 3 on the 1872 North Main Subdivision Amended Plat Map filed with the Davis County Recorder's Office on August 15, 2017, as Entry No. 3038707 ("**Amended Plat**"), which lots are more particularly described in Exhibit A attached hereto, and Ryan Pitt and Jennifer Pitt having an address at 1842 N. Main St., Centerville, UT 84014 (hereinafter "**Pitts**") on behalf of themselves and all future owners of the real property located in Davis County, State of Utah, identified as Lot 4 on the Amended Plat, which lot is more particularly described in Exhibit B. The foregoing may be referred to collectively as the "**Parties**" or individually as a "**Party**."

RECITALS

WHEREAS, the Cutlers are the current owners of real property located in Davis County, State of Utah, identified as Lot 1, Lot 2, and Lot 3 on the Amended Plat;

WHEREAS, the Pitts are the current owners of real property located in Davis County, State of Utah, identified as Lot 4 on the Amended Plat;

WHEREAS, the Amended Plat shows a shared access, turnaround, and public utility easement that encumbers Lot 1, Lot 2, and Lot 3 ("**Access Easement**");

WHEREAS, note 9 of the Amended Plat states that "[u]nless otherwise agreed, the [Access Easement] will be maintained by the underlying property owners";

WHEREAS, the Parties desire to acknowledge and confirm the existence of the Access Easement;

WHEREAS, the Parties desire to clarify the duties of the Parties regarding maintenance and use of the Access Easement, including parking, according to the terms set forth below;

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged by the Parties, the Parties and their successors and assigns hereby agree as follows:

AGREEMENT

1. Access Easement. The boundaries of the Access Easement are as shown in the Amended Plat. It is agreed that the property underlying the Access Easement shall remain the property of the Cutlers, their successors and assigns. Use of the Access Easement by the Pitts, their successors and assigns, shall be nonexclusive and the Pitts, their successors and assigns and their agents, designees, permittees, invitees, and assignees shall have the right to use and enjoy

the land covered by the Access Easement subject to the restrictions in this Agreement and so long as such use does not materially interfere with the Cutlers' and their successors and assigns' use and enjoyment of the rights granted by the Amended Plat and further defined in this Agreement and by law.

2. Maintenance of Access Easement Area. The owner(s) of each of Lot 1, Lot 2, Lot 3, and Lot 4 agree to pay their portion of the expenses associated with maintaining and repairing the Access Easement area and improvements thereon, in good condition and repair, and in accordance with all applicable laws, ordinances, and covenants, as follows:

Lot 1: 20%

Lot 2: 30%

Lot 3: 30%

Lot 4: 20%

3. Improvements on or to the Access Easement Area. The owner(s) of Lot 1, Lot 2, and Lot 3 shall be granted reasonable rights as may be necessary and appropriate, from time to time, to improve the Access Easement for its intended use. The Cutlers, their successors and assigns, agree that they will consult with and inform the Pitts, their successors and assigns, of any plans related to constructing improvements, but excluding regular maintenance, on the Access Easement area prior to installing, modifying, or constructing any improvements in the Access Easement area. Any part of the driveway, cement, fixtures, or improvements underlying the Access Easement substantially impacted by further improvements on or to Lot 1, Lot 2, Lot 3, or Lot 4 shall be returned to its same condition at the time the further improvements were undertaken or better condition.

4. Parking Generally. The owner(s) of Lot 1, Lot 2, and Lot 3, their successors and assigns and their agents, designees, permittees, invitees, and assignees may park a currently operable vehicle anywhere in the Access Easement area that is located exclusively within the boundaries of their respective lot, provided that they shall not park any vehicle in such manner as to interfere with the quiet enjoyment of the easement.

5. Parking Violations Lot 4. Regardless of the purpose, the owner(s) of Lot 4, their successors and assigns and their agents, designees, permittees, invitees, and assignees may not park a motorized vehicle, trailer, recreational vehicle, commercial vehicle, bus, truck over one ton capacity, 18-wheeler, tractor, tractor-trailer, tractor-trailer truck, riding lawnmower, golf cart, motor home, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, maintenance equipment, or any other recreational or commercial transportation device of any kind anywhere in the Access Easement area for any period of time without advance written or verbal permission from the owner(s) of the underlying lot(s).

6. Parking Violations Lot 1, Lot 2, and Lot 3. Regardless of the purpose, the owner(s) of Lot 1, Lot 2, and Lot 3, their successors and assigns and their agents, designees, permittees, invitees, and assignees may not park a motorized vehicle, trailer, recreational vehicle, commercial vehicle, bus, truck over one ton capacity, 18-wheeler, tractor, tractor-trailer, tractor-trailer truck, riding lawnmower, golf cart, motor home, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, maintenance equipment, or any other recreational or commercial transportation device of any kind in any portion of the Access Easement area that is located outside the boundaries of their respective lot

for any period of time without advance written or verbal permission from the owner(s) of the underlying lot(s).

7. Vehicle Maintenance. The owner(s) of Lot 1, Lot 2, Lot 3, and Lot 4 shall not conduct repairs or restorations of any vehicle or recreational vehicle upon any portion of the Access Easement area.

8. Snow Removal. The plowing or removal of snow and ice from the Access Easement shall be the responsibility of the owner(s) of each of Lot 1, Lot 2, Lot 3, and Lot 4 in accordance with the percentages laid out in Section 2 above, any expense of which is included in the expense of maintaining the Access Easement area set forth in Section 2 above. Notwithstanding the foregoing, Pitts, their successors and assigns, shall hold Cutlers harmless from any and all claims by Pitts, their successors and assigns and their agents, designees, permittees, invitees, and assignees for damage or personal injury resulting in any way from snow or ice on the Access Easement area.

9. Term. The rights granted in this Agreement shall be possessed and enjoyed by the Parties, their successors and assigns, so long as the driveway and cement—and further improvements constructed pursuant to this Agreement—underlying the Access Easement shall be maintained and operated by the Parties, their successors and assigns. If the Parties, their successors or assigns shall abandon the Access Easement, or any portion of said easement, for the stated purposes of the easement, all the rights pertaining to that easement herein granted shall cease and terminate with respect to that easement so abandoned. Nonuse of the Access Easement for a period of four (4) consecutive years along with an intent to abandon shall constitute an abandonment of that easement. It is further agreed that the abandonment of the Access Agreement under this section shall have no effect on the existence or validity of the Amended Plat's depiction of the Access Agreement.

10. Indemnification. The Pitts, on behalf of themselves and any heirs, beneficiaries, executors, administrators, insurers, agents, guests, invitees, family, employees, successors (i.e., subsequent purchasers) and assigns (hereafter collectively referred to as "Indemnitors"), for themselves and for all persons claiming by, through or under them, irrevocably covenant, promise and agree to indemnify the Cutlers, their insurers, successors and assigns, agents, employees and attorneys (hereafter collectively referred to as "Indemnitees"), for themselves and for all persons claiming by, through or under them and to hold the Indemnitees harmless from and against any and all losses, claims, expenses, suits, repairs, replacements, damages, costs, demands or liabilities, joint or several, of whatever kind or nature which the Indemnitees, for themselves and for all persons claiming by, through or under them, may sustain or to which they may become subject arising out of or relating in any way to the use of the Access Easement area or any improvement on the Access Easement area.

11. Runs with the Land. This Agreement shall at all times be deemed to be and shall be a continuing covenant running with the land and shall inure to and be binding upon the successors, heirs, legal representatives, and assigns of the Parties. Ownership of any or all of Lot 1, Lot 2, Lot 3, or Lot 4 by the same person will not terminate the Access Easement or this Agreement or affect or impair the validity or enforceability of the Access Easement or this Agreement. All the obligations, agreements, covenants, rights, and conditions of the Access Easement and this Agreement shall automatically transfer upon transfer of title from the record owner(s) of all, or any portion of the subject properties, to the person(s) or entity(ies).

12. Notice. Each Party shall deliver all notices, requests, consents, claims, demands, waivers, and other communications under this Agreement (each, a "Notice") in writing and addressed to the other Party at its address set out below (or to any other address that the receiving Party may designate from time to time). Each Party shall deliver all Notices by personal delivery, email of a PDF document, or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only:

- (a) upon receipt by the receiving Party, and
- (b) if the Party giving the Notice has complied with the requirements of this Section.

To Cutlers:

Name: Paul A. Cutler

Address: 1872 N. Main St., Centerville, UT 84014

Telephone: 801-390-3444

Email: paulcutler@gmail.com

To Pitts:

Name: Ryan Pitt

Address: 1842 N. Main St., Centerville, UT 84014

Telephone: 801-361-7848

Email: ryanpitt@gmail.com

13. Successors and Assigns. This Agreement is binding upon, and inures to the benefit of, the Parties and their respective heirs, successors, and assigns permitted by this Agreement. References in this Agreement to any Party shall also include such Party's heirs, successors, and assigns. Upon transfer or assignment by the Cutlers under the Agreement, all obligations of the Cutlers under this Agreement shall be forever extinguished and terminated, and the heirs, successors, or assigns of the Cutlers shall assume all such obligations and indemnify, defend, and hold the Cutlers harmless for all such obligations arising from or related to this Agreement or the Access Easement.

14. No Representations or Warranties. The Parties make no warranty, express, implied or statutory with respect to the lands described in Exhibit A or Exhibit B, the easements, or the ownership thereof.

15. Assumption of Risk. Each Party to this Agreement shall assume the risk of any liability arising from its own conduct. Neither Party agrees to insure, defend, or indemnify the other including but not limited to any personal injury or any damage to property except as otherwise set forth herein.

16. Amendment. This Agreement may not be modified, amended, or terminated except in a writing signed by each Party hereto.

17. Headings. Headings are for reference only and shall not be used to construe or interpret language of this Agreement.

18. Governing Law. This agreement shall be governed and construed in accordance with the laws of the State of Utah.

19. No Partnership. Nothing in this Agreement creates the relationship of principal and agent, of limited or general partners, of joint venturers, or of any other association between any persons, including the Parties hereto.

20. Recitals. All of the terms and representations in the above Recitals are incorporated herein by reference.

21. Counterparts. This Agreement may be executed by the Parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original for all purposes, and all such counterparts shall together constitute one and the same instrument. A signed copy of this Agreement delivered by facsimile or email shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. Notwithstanding the foregoing, each Party hereto shall deliver original counterpart signatures to the other Party by no later than ten (10) days after the Effective Date.

22. Authority. Both Parties represent and warrant that they have the authority to execute this Agreement and each individual signing on behalf of a Party to this Agreement states that he or she is the duly authorized representative of the signing Party and that his or her signature on this Agreement has been duly authorized by, and creates the binding and enforceable obligation of, the Party on whose behalf the representative is signing.

23. Further Cooperation. Each of the signatories to this Agreement agree to execute such other documents and to perform such other acts as may be reasonably necessary or desirable to further the expressed and intent purpose of this Agreement.

24. Attorney Fees. In the event it is necessary for any party hereto to enforce the terms and provisions of this Agreement against any other party hereto, the prevailing party or parties in any such enforcement action shall be entitled to recover all costs and fees of such enforcement, including reasonable attorney fees.

25. Cumulative Remedies. The remedies provided in this Agreement are cumulative. A Party who asserts a right or seeks a remedy may also assert other rights or seek other remedies.

26. Severability. If any provision of this Agreement is adjudged invalid, the remainder of this Agreement shall remain in full force and effect and shall be valid and enforceable to the fullest extent permitted by law.

27. Recordation. The Pitts, as evidenced by their signatures below, hereby permit the Cutlers to record this Agreement in the Records of the Davis County Recorder's Office, against the Pitt's Lot 4.

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

(Legal Description of Lot 1, Lot 2, and Lot 3)

This Easement Maintenance Agreement affects the following real property, all located in Davis County, State of Utah:

All of Lots 1A through 3A, 1872 North Main Subdivision Amended, according to the Official Plat thereof, on file in the Office of the Recorder of Davis County, State of Utah.

Parcel Nos. 07-322-0001 through 07-322-0003.

EXHIBIT B

(Legal Description of Lot 4)

This Easement Maintenance Agreement affects the following real property, all located in Davis County, State of Utah:

All of Lot 4A, 1872 North Main Subdivision Amended, according to the Official Plat thereof, on file in the Office of the Recorder of Davis County, State of Utah.

Parcel No. 07-322-0004.