

RETURNED

APR 28 2025

3614726  
BK 8737 PG 512

E 3614726 B 8737 P 512-515  
KELLY A. SILVESTER  
DAVIS COUNTY, UTAH RECORDER  
4/28/2025 12:30 PM  
FEE 40.00 Pgs: 4  
DEP AJH REC'D FOR WESLEY  
OWEN

## ENCROACHMENT AGREEMENT

This ENCROACHMENT AGREEMENT (the "**Agreement**") is made by Wesley Manson Owen and Anne Owen (collectively "**Owen**"), and Michael Cameron Walden and Brooke Walden (collectively "**Walden**") (collectively Owen and Walden are hereinafter referred to as the "**Parties**").

### RECITALS

- A. Owen is the owner of that certain parcel of land in Layton, Davis County, Utah (the "**Owen Parcel**"), more particularly described as:

*All of Lot 5, SLEEPY HOLLOW SUBDIVISION, Layton City, Davis County, Utah , according to the official plat thereof.*

APN: 09-221-0005

- B. Walden is the owner of that certain parcel of land in Layton, Davis County, Utah (the "**Walden Parcel**"), more particularly described as follows:

*All of Lot 44, SLEEPY HOLLOW SUBDIVISION AMENDED, according to the official plat thereof AS RECORDED IN THE OFFICE OF THE Davis County Recorder.*

APN: 09-284-0044

- C. The Owen Parcel and the Walden Parcel are adjacent to each other, and the Walden Parcel contains improvements that encroach upon the Owen Parcel. The encroaching improvements include flagstone steps, lawn, irrigation pipe and sprinklers, and decorative rocks (the "**Encroaching Improvements**").
- D. Owen desires to temporarily acquiesce to the Encroaching Improvements, upon the terms as described below.

NOW THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. License for Encroaching Improvements. Owen hereby acknowledges and consents to the temporary placement of the Encroaching Improvements upon the Owen Parcel. Additionally, subject to all easements, covenants, conditions and restrictions of record in the

Owen Parcel, Owen hereby grants to Walden and its agents the temporary and non-exclusive right to enter upon the Owen Parcel for the purpose of maintenance, repair, and removal of the Encroaching Improvements. Walden agrees to promptly repair all fencing, landscaping, and other improvements belonging to Owen that are damaged or disturbed while exercising such right.

Walden hereby waives any right they may have to any implied or prescriptive easement on, over, or under the Owen Parcel.

2. Indemnification. Walden agrees to indemnify, defend, and hold harmless Owen from any and all cause of action, damage, loss, or expense whatsoever arising out of the above-described encroachment of the Walden garage upon the Owen Parcel.

3. Future Maintenance. All future maintenance and repair of the Encroaching Improvements shall be the sole responsibility of Walden, without right of contribution by Owen.

4. Use. Without Owens' prior written consent, which may be withheld in their sole discretion, may occupy and use the Encroaching Improvements only for the use of Walden and their immediate family members and guests. Pet waste may not be dropped within the area of the Owen Parcel occupied by the Encroaching Improvements. Any use for any other purpose shall constitute a material breach of this Agreement.

Except for the areas of the Owen Parcel presently occupied by the Encroaching Improvements, Walden shall have no license or easement of any nature, either express or implied, to occupy or use any other portion of the Owen Parcel.

Owen reserves the right to use and exercise all rights respecting the area of the Owen Parcel presently occupied by the Encroaching Improvements.

5. Shared Garden Plot. The Parties agree to the shared use of a plot for a vegetable garden located on the Owen Parcel (the "**Garden Plot**"). The exact location and size of the Garden Plot shall be determined by Owen before a garden is established, but shall be generally located within the existing pipeline easement.

Each Party shall have the right to use and occupy one-half of the Garden Plot, and shall assume responsibility for the tillage, weeding, and irrigation of such half. Owen hereby grants to Walden a license for ingress/egress to and from the Walden Parcel and the Garden Plot.

Each Party hereby assumes equal responsibility of both effort and cost to install irrigation facilities and a deer fence for the Garden Plot.

Should Owen wish to end the arrangement of a shared garden, then Owen will pay Walden half of the total cost for installing irrigation and fencing around the garden, because the garden remains on the Owen parcel. Walden can end the shared garden arrangement at any time.

6. Term. This Agreement (and all rights regarding the Garden Plot and Encroaching Improvements) shall terminate upon the earlier of: (a) written agreement of all of the Parties or their respective successors in title; or (b) the demolition or other removal of the Encroaching Improvements from Owen Parcel.

Additionally, Owen shall have the right to terminate this Agreement upon one hundred twenty (120) days written notice to Walden. If Owen terminates this Agreement, Walden shall remove all of the Encroaching Improvements from the Owen Parcel prior to the expiration of such 120 day period.

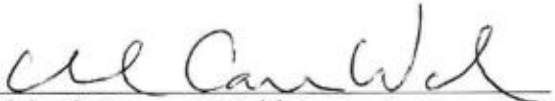
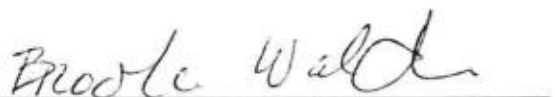
Because the rights granted in this Agreement represent a terminable license, no easement or perpetual right to occupy the Owen Parcel is intended to be granted by this Agreement.

This Agreement shall run with the land and be binding upon all future owners of the Owen Parcel and the Walden Parcel.



7. Miscellaneous. This Agreement contains all of the terms, covenants, conditions, and agreements between the parties hereto with respect to the subject matters treated herein. This Agreement may not be amended or supplemented except through a writing executed by all affected parties and duly recorded. This Agreement concerns real property located in the State of Utah and shall be governed by and construed in accordance with the laws of the State of Utah.

IN WITNESS WHEREOF, the parties hereto have signed this Encroachment Agreement on the dates indicated below, to be effective as of the date last signed.

**Walden:**

<u>10/9/24</u> Date	<u></u> Michael Cameron Walden
<u>10/9/24</u> Date	<u></u> Brooke Walden

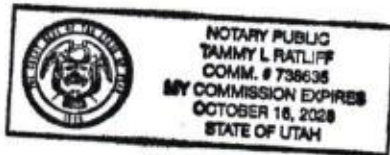
**Owen:**

<u>April 26, 2025</u> Date	<u></u> Wesley Manson Owen
<u>4/26/25</u> Date	<u></u> Anne Owen

### ACKNOWLEDGMENT

STATE OF UTAH     )  
                              : SS.  
COUNTY OF DAVIS)

On Oct 9<sup>th</sup>, 9, 2024, Michael Cameron Walden and Brooke Walden personally appeared before me and proved on the basis of satisfactory evidence to be the persons whose names are subscribed to in this document, and acknowledged that they executed the same.



Tammy L. Ratliff  
NOTARY PUBLIC

### ACKNOWLEDGMENT

STATE OF UTAH     )  
                              : SS.  
COUNTY OF DAVIS)

On April, 26, <sup>2025</sup>~~2024~~, Wesley Manson Owen and Anne Owen personally appeared before me and proved on the basis of satisfactory evidence to be the persons whose names are subscribed to in this document, and acknowledged that they executed the same.



Heidi Schulz  
NOTARY PUBLIC