

WHEN RECORDED RETURN TO:

Read R. Hellewell  
KIRTON McCONKIE  
50 E. South Temple, #400  
Salt Lake City, UT 84111

Tax Parcel No.: See Exhibits A & B

*Space above for County Recorder's Use*

### EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (the "Agreement") is made effective this 26<sup>th</sup> day of March, 2015, by and between CARDINAL FUNDING, L.C., a Utah limited liability company ("Grantor"), and WASATCH COMMONS APARTMENTS, L.C., a Utah limited liability company ("Grantee") (Grantor and Grantee are sometimes referred to herein collectively as the "Parties" and individually as a "Party"), with reference to the following:

A. Grantor is the owner of certain real property located in Wasatch County, Utah (the "Grantor Property"), being specifically described on Exhibit A, attached hereto and by this referenced incorporated herein.

B. Grantee is the owner of certain real property located adjacent to the Grantor Property ("Grantee Property"), being specifically described on Exhibit B, attached hereto and by this reference incorporated herein.

C. Grantee desires to obtain a perpetual, non-exclusive easement under, on, through and across that portion of the Grantor Property (the "Easement Area") for the benefit of the Grantee Property, and for the purposes more particularly described herein. The Easement Area is more particularly described in Section 1.2 below.

D. Grantor desires to provide that the easement herein granted shall also benefit real property owned by Grantor which is identified on Exhibit A as "Parcel 2."

E. Grantor is willing to grant the easement to Grantee and for the benefit of Parcel 2 for such purposes, subject to the terms and conditions set forth herein.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and consideration of which are hereby acknowledged, the Parties agree as follows:

1. Easement.

1.1. Grant of Easement. Grantor hereby grants to Grantee, its successors and assigns, for the benefit of the Grantee Property and also for the benefit of Parcel 2, a perpetual, nonexclusive easement (the "Easement") under, on, through and across that portion of the Grantor Property described as the "Easement Area" in Section 1.2 below with such Easement to be used to construct, install, access, use, maintain, operate, repair, replace, inspect and protect underground pipes, valves, meters and other facilities for the transmission of natural gas; including any such pipes, valves, meters and other facilities that exist within the Easement Area as of the date of this Agreement (collectively, the "Improvements"). Any future Improvements shall be designed and installed to minimize the impact upon the Grantor Property and shall comply with existing codes, regulations and laws. Improvements shall include only such surface equipment as is reasonably necessary for the operation and maintenance of the underground lines located within the Easement Area and shall not include any other above ground facilities or other equipment.

1.2. Location of the Easement Area. The Easement granted herein shall be located in Easement Area which shall consist of the northerly most twenty (20) feet of "Parcel 1" of the Grantor Property, as identified on Exhibit A, which is contiguous with the southerly boundary line of Commons Boulevard as shown on the subdivision plat for Wasatch Commons Subdivision Phase 1 recorded September 10, 2010 as Entry No. 362478 in Book 1021 beginning at Page 177 of the official records of the Wasatch County Recorder. The Easement Area is depicted on Exhibit C, attached hereto and incorporated herein by this reference and identified as "Easement Area."

Should there exist any discrepancy between the legal description described in this Section 1.2 and the depiction on Exhibit C, the legal description described in this Section 1.2 shall control.

2. Reservation by Grantor. Grantor hereby reserves the right to use those portions of the Grantor Property located within the Easement Area for any use not inconsistent with the permitted use of the Grantor Property, including, without limitation, landscaping, shrubs, fences, sidewalks, roadways, pavement or curbs.

3. Declaration of Intent; No Merger of Title. Grantor hereby declares that it is Grantor's intent that the Easement granted pursuant to Section 1.1 shall exist as a perpetual, nonexclusive easement for the benefit of both Parcel 2 and the Grantee Property, notwithstanding the fact that Grantor is the owner of both Parcel 2, which constitutes a portion of the dominant estate, and the servient estate. It is the express intent of Grantor that this Agreement remain in full force and effect and that the Easement herein granted not be deemed to have merged with any other estate now held or which may in the future be held by Grantor or any successor-in-interest of Grantor, notwithstanding the fact that Grantor is the owner of both Parcel 2 which shall benefit from the existence of the Easement and the Grantor Property upon which the Easement shall be located. Grantor may presently or may in the future have the sole right to

possess or sell and divest itself of either the Grantor Property, Parcel 2 or both, and that such real property may in fact be owned by different parties without any impairment of the Easement.

4. Condition of the Easement Property. Grantee accepts the Easement Area in the Grantor Property and all aspects thereof in "AS IS", "WHERE IS" condition, without warranties, either express or implied, "with all faults", including but not limited to both latent and patent defects. Grantee hereby waives all warranties, express or implied, regarding the title, condition and use of the Easement Areas on the Grantor Property and the nature and condition of any and all Improvements located within the Easement Area as of the date of this Agreement.

5. Access. Grantee and its agents, servants, employees, consultants, contractors and subcontractors (collectively, "Grantee's Agents") shall have the right to enter upon the Easement Area for the purposes permitted by this Agreement. Grantee and Grantee's Agents shall enter upon the Easement Area at its sole risk and hazard, and Grantee and Grantee's Agents and its successors and assigns, hereby release Grantor from any claims relating to the condition of the Easement Area and the entry upon the Easement Area by Grantee and Grantee's Agents.

6. Entry and Restoration. Grantee and Grantee's Agents shall be permitted to access the Easement Area as necessary to utilize the applicable Easement located on the Easement Area for the purposes described in Section 1.1 above. Grantee agrees to promptly restore the Easement Area, including, without limitation, landscaping, shrubs, fences, sidewalks, roadways, pavement or curbs, located therein to at least the condition that existed prior to work done in the Easement Area by Grantee or by Grantee's Agents to Improvements which serve Grantee Property and which are located in the Easement Area.

7. Insurance. Grantee will ensure that prior to Grantee or Grantee's Agents entering onto the Easement Area, Grantee shall maintain, or shall cause to be maintained, a commercial general liability insurance policy insuring Grantor as an additional insured against claims for personal injury, bodily injury, death, property damage occurring on, in or about the Easement Area with a "Combined Single Limit" covering personal injury liability, bodily injury liability and property damage liability) of not less than One Million Dollars (\$1,000,000.00).

8. Indemnification by Grantee. Grantee hereby agrees to indemnify, defend (with counsel reasonably acceptable to Grantor) and hold harmless Grantor, and any entity controlling, controlled by, or under control with Grantor ("Affiliates"), and its and their Affiliates' officers, directors, employees, managers, members, agents and servants, from and against any and all liens, encumbrances, costs, demands, claims, judgments and/or damage that may be incurred by Grantor or its Affiliates as a result of any injuries to persons or damage to the Easement Area caused by or arising out of (i) the use of the Easement Area by Grantee or Grantee's Agents; and (ii) any work performed on the Easement Area by Grantee and Grantee's Agents except to the extent such claim is caused by the gross negligence and/or willful act or omission of Grantor and/or its affiliates.

9. Covenants Run with the Land. The Easement herein granted, and the rights and obligations granted or created hereby are appurtenances to the Grantee Property and all such

easement, rights or obligations may be transferred and assigned by Grantee without the consent of Grantor. The Easement (a) shall constitute a covenant running with the Grantor Property, and (b) shall inure to the benefit of and be binding upon the Parties hereto and their respective heirs, successors and assigns as to their respective property.

10. Duration. The duration of the Easement shall be perpetual.

11. Attorneys' Fees. In the event it becomes necessary for any Party hereto to employ an attorney in order for such Party to enforce its rights hereunder, either with or without litigation, the non-prevailing Party of such controversy shall pay to the prevailing Party reasonable attorneys' fees and, in addition, such costs and expenses as are incurred by the prevailing Party in enforcing its rights hereunder.

12. Counterparts. This Agreement may be executed in any number of counterparts, provided each counterpart is identical in its terms. Each such counterpart, when executed and delivered will be deemed to be an original, and all such counterparts shall be deemed to constitute one and the same instrument. For convenience in recording, signature pages from multiple counterparts may be detached from their counterparts and attached to a single counterpart to be recorded.

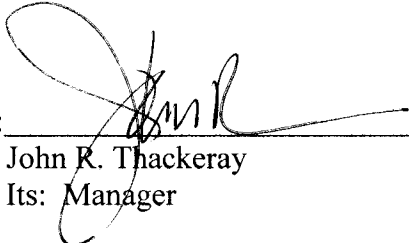
*[signature pages to follow immediately]*



**SIGNATURE PAGE  
TO  
EASEMENT AGREEMENT**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above.

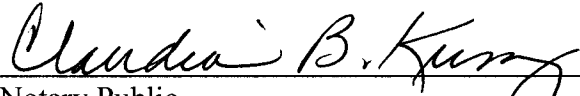
Grantee: WASATCH COMMONS APARTMENTS, L.C.,  
a Utah limited liability company

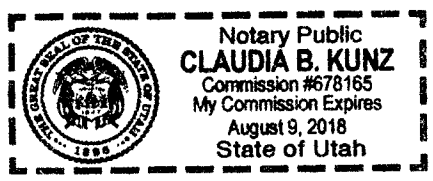
By:   
John R. Thackeray  
Its: Manager

STATE OF UTAH )  
: ss.  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me on the 26<sup>th</sup> day of March, 2015, by John R. Thackeray, the Manager of WASATCH COMMONS APARTMENTS, L.C., a Utah limited liability company.

My Commission Expires:  
8-9-2018

  
Notary Public  
Residing at West Jordan, UT



**EXHIBIT A  
TO  
EASEMENT AGREEMENT**

[Legal Description of the Grantor Property]

The real property referenced in the foregoing instrument as the "Grantor Property" is located in Wasatch County, State of Utah and is more particularly described as:

Parcel 1:

Beginning at a point on the Easterly Right-of-Way Line of State Highway 40, said point also being North 00°06'58" West 686.96 feet along the Section line and East 661.42 feet from the Southwest Corner of Section 20, Township 3 South, Range 5 East, Salt Lake Base and Meridian; and running

- thence North 32°00'26" West 749.34 feet along the Easterly Right-of-Way Line of said State Highway 40 to the Boundary Line of Wasatch Commons Subdivision;
- thence North 57°59'34" East 145.41 feet along the Boundary Line of said Wasatch Commons Subdivision;
- thence Northeasterly 33.19 feet along the arc of a 35.50 foot radius curve to the right (center bears South 32°00'26" East and the chord bears North 84°46'31" East 31.99 feet with a central angle of 53°33'54") along the Boundary Line of said Wasatch Commons Subdivision;
- thence Southeasterly 31.12 feet along the arc of a 94.50 foot radius curve to the left (center bears North 21°33'28" East and the chord bears South 77°52'35" East 30.98 feet with a central angle of 18°52'06") along the Boundary Line of said Wasatch Commons Subdivision;
- thence Southeasterly 34.27 feet along the arc of a 35.50 foot radius curve to the right (center bears South 02°41'22" West and the chord bears South 59°39'32" East 32.95 feet with a central angle of 55°18'12") along the Boundary Line of said Wasatch Commons Subdivision;
- thence South 32°00'26" East 10.00 feet along the Boundary Line of said Wasatch Commons Subdivision;
- thence North 57°59'34" East 12.00 feet along the Boundary Line of said Wasatch Commons Subdivision;
- thence South 32°00'26" East 44.05 feet along the Boundary Line of said Wasatch Commons Subdivision;

**EXHIBIT A**  
**TO**  
**EASEMENT AGREEMENT**  
*(continued)*

thence Southeasterly 14.86 feet along the arc of a 153.00 foot radius curve to the left (center bears North 57°59'34" East and the chord bears South 34°47'24" East 14.86 feet with a central angle of 05°33'55") along the Boundary Line of said Wasatch Commons Subdivision;

thence South 37°34'21" East 36.75 feet along the Boundary Line of said Wasatch Commons Subdivision;

thence Southeasterly 59.80 feet along the arc of a 447.00 foot radius curve to the right (center bears South 52°25'39" West and the chord bears South 33°44'23" East 59.76 feet with a central angle of 07°39'55") along the Boundary Line of said Wasatch Commons Subdivision;

thence South 29°54'26" East 24.60 feet along the Boundary Line of said Wasatch Commons Subdivision;

thence Southeasterly 92.27 feet along the arc of a 2,517.50 foot radius curve to the left (center bears North 60°05'34" East and the chord bears South 30°57'26" East 92.26 feet with a central angle of 02°06'00") along the Boundary Line of said Wasatch Commons Subdivision;

thence South 32°00'26" East 544.02 feet along the Boundary Line of said Wasatch Commons Subdivision;

thence West 267.69 feet to the point of beginning.

Contains 183,651 Square Feet or 4.216 Acres

Tax Parcel No. 00-0007-8431  
Serial No. OWC-0584-0-020-035

Upon the recordation of a subdivision plat of the real property described above, then should there exist any discrepancy between the legal description set forth above and the legal description set forth on said subdivision plat, the legal description set forth on said subdivision plat shall control.

Parcel 2 (Future Parcel):

Beginning at a point being North 00°06'58" West 1074.49 feet along the Section Line and East 749.58 feet from the Southwest Corner of Section 20, Township 3 South, Range 5 East, Salt Lake Base and Meridian; and running thence North 32°00'26" West 123.74 feet; thence Northwesterly 86.43 feet along the arc of a



**EXHIBIT A**  
**TO**  
**EASEMENT AGREEMENT**  
*(continued)*

2,465.00 foot radius curve to the right (center bears North 58°05'01" East and the chord bears North 30°54'43" West 86.43 feet with a central angle of 02°00'32"); thence North 29°54'26" West 68.75 feet; thence North 33°00'52" West 66.80 feet; thence North 32°00'26" West 46.21 feet; thence North 57°59'34" East 6.00 feet; thence North 32°00'26" West 10.00 feet; thence North 0.00 feet; thence Northwesterly 34.27 feet along the arc of a 35.50 foot radius curve to the right (center bears north 57°59'35" East and the chord bears north 04°21'19" West 32.95 feet with a central angle of 55°18'12"); thence Northeasterly 16.62 feet along the arc of a 94.50 foot radius curve to the left (center bears North 66°42'14" West and the chord bears North 18°15'25" East 16.60 feet with a central angle of 10°04'42"); thence Northeasterly 39.10 feet along the arc of a 35.50 foot radius curve to the right (center bears South 76°46'56" East and the chord bears North 44°46'11" East 37.15 feet with a central angle of 63°06'14"); thence Southeasterly 313.04 feet along the arc of a 411.50 foot radius curve to the right (center bears South 13°40'41" East and the chord bears South 81°53'05" East 305.55 feet with a central angle of 43°35'13"); thence South 60°05'28" East 19.31 feet; thence Southeasterly 22.95 feet along the arc of a 15.50 foot radius curve to the right (center bears South 29°54'32" West and the chord bears South 17°40'05" East 20.91 feet with a central angle of 84°50'45"); thence South 24°45'17" West 125.51 feet; thence South 57°59'34" West 97.05 feet; thence South 32°00'26" East 76.45 feet; thence Southeasterly 29.04 feet along the arc of a 280.54 foot radius curve to the right (center bears South 56°57'56" West and the chord bears South 30°04'07" East 29.03 feet with a central angle of 05°55'53"); thence South 27°02'42" East 41.85 feet; thence South 57°59'34" West 104.14 feet to the point of beginning.

Contains 87,036 Square Feet or 1.998 Acres

Tax Parcel No. 00-0020-9342  
 Serial No. OWC-0584-B-020-035

**EXHIBIT B  
TO  
EASEMENT AGREEMENT**

[Legal Description of the Grantee Property]

The real property referenced in the foregoing instrument as the "Grantee Property" is located in Wasatch County, State of Utah and is more particularly described as:

Lot 1, Wasatch Commons Subdivision Phase I, according to the official plat thereof, recorded September 10, 2010 as Entry No. 362478 in Book 1021, beginning at Page 177 of the official records of the Wasatch County Recorder, State of Utah.

Tax Parcel No. 00-0020-9341

Serial No. OWQ-1001-0-020-035

# EXHIBIT C TO EASEMENT AGREEMENT

[Depiction of Easement Area]

