

AFTER RECORDING, RETURN TO:

VHW PROPERTIES NO. 5, L.L.C.
1739 Devonshire Drive
Salt Lake City, UT 84108

139958-WHP

APNs: 00-0009-9254
00-0009-8645

DECLARATION OF ACCESS EASEMENT

THIS DECLARATION OF ACCESS EASEMENT (“**Declaration**”) is made as of October 28, 2021 (the “**Effective Date**”) by VHW PROPERTIES NO. 5, L.L.C., a Utah limited liability company (“**Declarant**”).

A. Declarant owns, among other lands, certain real property located in Wasatch County, State of Utah, more particularly described on Exhibit A (the “**Burdened Property**”);

B. The Burdened Property is located adjacent to certain real property more particularly described on Exhibit B (the “**Benefited Property**”); and

C. Declarant executes this Declaration in order to provide for certain access easement rights over a portion of the Burdened Property and for the benefit of the Benefited Property, in accordance with the terms herein.

NOW, THEREFORE, Declarant executes, and shall cause to be recorded, this Declaration, subject to the following terms, conditions, and provisions:

1. **Access Easement.** Without representation or warranty, Declarant hereby declares and grants for the benefit of the Benefited Property a non-exclusive easement and right of way (the “**Easement**”), upon, over, and across the existing private drive (the “**Private Drive**”), approximately 30 feet in width, located on that portion of the Burdened Property depicted as the “Easement Area” on Exhibit C (the “**Easement Area**”), for the purposes of vehicular and pedestrian access to the Benefited Property and for no other purpose. Declarant reserves the right to full use and enjoyment of the Easement Area for any purpose not inconsistent with the terms and provisions of this Declaration. Benefited Property Owner shall at all times maintain the Private Drive in good condition and repair at Benefited Property Owner’s sole cost and expense.

2. **Term.** The term of the Easement shall commence on the Effective Date and continue until the earlier of (i) the date the Easement Area ceases to be used for vehicular and pedestrian access to the Benefited Property; or (ii) the date the record fee owner of the Benefited Property (“**Benefited Property Owner**”), fails to satisfy its obligations hereunder, including without limitation, the indemnity obligations set forth in Section 3 below, at which time the Easement shall automatically terminate.

3. **Indemnification.** For purposes of this Declaration, “**Permittees**” shall mean Benefited Property Owner’s tenants, subtenants, licensees, guests, and invitees, and any of their respective agents, invitees, members, customers, employees, and contractors. Benefited Property Owner shall indemnify, defend, and hold harmless Declarant, and Declarant’s affiliates, members, managers, agents, tenants, and representatives for, from, and against all claims, damages, expenses (including, without limitation, reasonable attorney fees), liabilities, and judgments resulting from or relating to Benefited Property Owner or its Permittees performance of any of the obligations set forth in this Declaration or Benefited Property Owner’s or its Permittees’ use of the Easement Area, except to the extent such claims are due solely to the gross negligence or wrongful act or omission of Declarant.

4. **Acceptance.** Any use of the Easement Area or acceptance of the benefits of the Easement shall (i) automatically be deemed assumption by such party of all of the terms, covenants, and provisions of this Declaration, and (ii) be deemed a waiver by Benefited Property Owner and its Permittees of any other right or claim relating to the Burdened Property except as set forth in this Declaration.

5. **Runs With The Land.** All provisions of this Declaration, including the benefits and burdens, shall run with the land and are binding upon and shall inure to the benefit of the respective successors-in-title of Declarant and Benefited Property Owner.

6. **No Public Dedication; No Third Party Beneficiaries.** The provisions of this Declaration are not intended to and do not constitute a dedication for public use of the Easement, and the rights herein created are for private use of Benefited Property Owner and its Permittees, and no other. This Declaration is not intended to confer benefits on any other party.

7. **Miscellaneous.** If any term, provision, or condition contained in this Declaration shall to any extent be deemed invalid or unenforceable, the remainder of the Declaration shall not be affected thereby, and each remaining term, provision, and condition of this Declaration shall be valid and enforceable to the fullest extent permitted by law. This Declaration shall be governed by the laws of the State of Utah, without giving effect to its conflict of laws principles. All references in this Declaration to exhibits shall be deemed to be references to the exhibits attached to this Declaration. All such exhibits attached hereto are incorporated into this Declaration as though fully set forth herein. No modification, waiver, or amendment of any provision of this Declaration shall be made except by a written instrument signed by the Declarant or its successor-in-title. In the event of any action to enforce the provisions of this Declaration, the prevailing party shall be entitled to receive its costs and attorney fees.

[Signature Page Follows]

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the Effective Date.

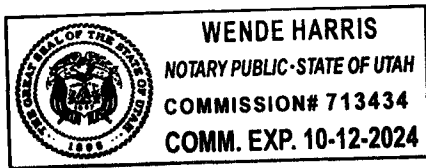
DECLARANT:

VHW PROPERTIES NO. 5, L.L.C.,
a Utah limited liability company

By: Von H. Whitby
Name: Von H. Whitby
Title: Managing Member

STATE OF UTAH)
 : ss
COUNTY OF SALT LAKE)


The foregoing instrument was acknowledged before me this 28 day of October, 2021 by Von H. Whitby, the Managing Member of VHW PROPERTIES NO. 5 L.L.C., a Utah limited liability company.

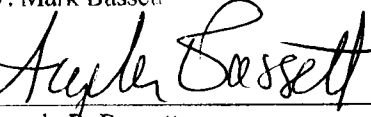


Wende Harris
Notary Public

CONSENTED TO BY:

BENEFITED PROPERTY OWNER:

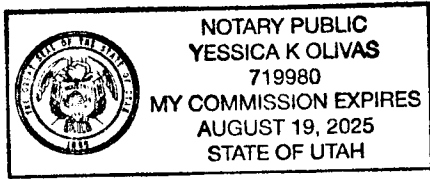
By: 
W. Mark Bassett

By: 
Angela B. Bassett

STATE OF UTAH

COUNTY OF Wasatch)
: ss

The foregoing instrument was acknowledged before me this 22 day of November, 2021 by W. Mark Bassett and Angela B. Bassett, Husband and Wife as Joint Tenants.



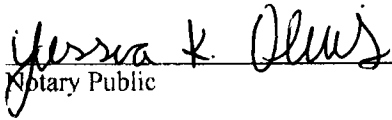

Notary Public

EXHIBIT A
[Legal Description of the Burdened Property]

A part of the East Half of Section 4, Township 4 South, Range 6 East, Salt Lake Base and Meridian, U.S. Survey in Wasatch County, Utah:

Beginning at a point located 2649.17 feet South 0°08'52" East along the Section Line from the Northeast Corner of said Section 4; said Section Corner is an existing Rebar and Cap set per the 1994 Record of Survey File Number 320 by MCM Engineering and is located 2723.81 feet South 88°35'30" West along the Township Line from a Rebar and Cap found marking the North Quarter Corner of Section 3; and running thence South 89°53'13" West 1292.51 feet to the sixteenth section line; thence North 0°15'07" West 615.73 feet along said sixteenth section line to the South Line of the Wolf Creek Plat 3A; thence along said South Line the following two courses: North 89°49'42" East 970.44 feet; and South 69°22'26" East 345.67 feet to the Section Line; thence South 0°08'52" East 494.31 feet along said Section Line to the point of beginning.

EXHIBIT B

[Legal Description of the Benefited Property]

BEGINNING AT A POINT THAT IS SOUTH 2373.68 FEET AND WEST 1311.89 FEET FROM THE NORTHEAST CORNER OF SECTION 4, TOWNSHIP 4 SOUTH, RANGE 6 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE NORTH 922.36 FEET; THENCE WEST 1058.17 FEET; THENCE SOUTH 752.36 FEET; THENCE EAST 616.52 FEET; THENCE SOUTH 170.00 FEET; THENCE EAST 441.65 FEET TO THE PLACE OF BEGINNING.

EXHIBIT C
[Depiction of Easement Area]

