

AFTER RECORDING, PLEASE RETURN TO:

Parr Brown Gee & Loveless
101 South 200 East, Suite 700
Salt Lake City, Utah 84111
Attn: Robert A. McConnell

Ent 535945 Bk 1451 Pg 645 - 659
MARCY M. MURRAY, Recorder
WASATCH COUNTY CORPORATION
2023 Aug 24 04:07PM Fee: \$40.00 KM
For: High Country Title
ELECTRONICALLY RECORDED

Tax Parcel Nos. 00-0021-8550; 8551; 8553; 7766; 8447; 8449

Space above for Recorder's use

PEDESTRIAN WALKWAY EASEMENT
AND
AGREEMENT TO CONSTRUCT
(24, 25, 27, 5A)

THIS PEDESTRIAN WALKWAY EASEMENT AND AGREEMENT TO CONSTRUCT (this "**Agreement**") is executed this 24 day of August, 2023, by **BLX LOT 3 LLC** and **BLX Lot 5 LLC**, each a Delaware limited liability company (collectively referred to herein as "**Grantors**"), in favor of **DEER VALLEY RESORT COMPANY, LLC**, a Utah limited liability company ("**Grantee**" or "**DVRC**").

RECITALS

A. Grantors own, respectively, those certain parcels of real property located in Wasatch County, Utah, which real property is more particularly described on Exhibit A attached hereto and incorporated herein (the "**Grantors Property**").

B. Concurrently with the execution and delivery of this Agreement, BLX Lease 2 LLC, a Delaware limited liability company and affiliate of Grantors ("**Ski Lease 2**"), has leased to Grantee certain real property, a portion of which is described in this Agreement (the "**Ski Lease 2 Property**"), located in Wasatch County, State of Utah.

C. The referenced Ski Lease 2 Property includes two planned surface parking lot facilities, which parking lot facilities are located on that portion of the Ski Lease 2 Property more particularly described on Exhibit B attached hereto and incorporated herein by this reference (the "**Parking Lot Parcels**").

D. As a condition to the lease of the Ski Lease 2 Property, Grantors have agreed to execute and deliver this Agreement.

E. Grantors have agreed to install and maintain a pedestrian walkway ("**Walkway**") in accordance with the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) paid to Grantors and other good and valuable consideration, receipt of which is hereby acknowledged, the parties covenant and agree for themselves, their heirs, successors and assigns, as follows:

1. Walkway. Grantors shall, at Grantors' sole cost and expense, as soon as reasonably practicable but in no event later than the opening day of the ski resort operated on the lands leased by Ski Lease 2 to Grantee (the "Resort"), install, maintain, relocate and replace, as necessary, the Walkway. The location of the Walkway is within the "26' wide Fire and Emergency Vehicle Access Easement" recorded in the Wasatch County Recorder's Office on May 3, 2023 as Entry No. 532079 and generally shown on Exhibit C, attached hereto and incorporated herein by this reference (the "**Concept Plan**"). The Walkway shall be hard-surfaced, not less than twelve feet (12') in width and shall, wherever located from time-to-time within such area, extend from the northern edge of Ski Beach Way to the southern end of Glencoe Mountain Way, as shown on the Concept Plan, and to one or more locations along eastern edge of the Ski Beach, as such Ski Beach is shown on the Concept Plan. The area located under the Walkway, as the Walkway exists from time-to-time within the "26' wide Fire and Emergency Vehicle Access Easement", is referred to herein as the "**Easement Area**."

2. Reservation by Grantors. Grantors hereby reserve the right to use the Easement Area for any use not inconsistent with Grantee's permitted use of the Easement Area, including, but not limited to, vehicular and pedestrian access. Grantors further reserve the right, in Grantors' sole discretion, to relocate the Walkway and the Easement Area from time-to-time to facilitate the development of the Grantors Property and all construction and related activities incident to such development, provided that such relocations do not prevent access to the Ski Beach or otherwise unreasonably burden the purpose of the Easement Area to facilitate access from the Ski Lease 2 Property to the Ski Beach. Notwithstanding the foregoing, Grantors shall provide Grantee with written notice of the revised Easement Area and in no event shall Grantors terminate the use of any portion of the Walkway or the Easement Area in a given location during the Resort operating season. Notwithstanding anything in this Agreement to the contrary, in no event shall the Easement Area be deemed to include any portion of a building envelope for any building constructed on the Grantors Property unless such portion of the building envelope is designated as a "Village Common Area and Facility" pursuant to that certain Declaration of Covenants, Conditions, Restrictions and Easement for Village at Mountainside, recorded in the office of the Wasatch County Recorder on August 21, 2020 as Entry No. 483151 in Book 1308 at Page 148 (as the same may be supplemented, amended or otherwise modified from time-to-time, the "**Village Declaration**"). Upon Grantors identification of a building envelope within the Grantors Property, Grantors and Grantee shall execute and record an amendment to this Agreement vacating in its entirety the easement granted herein with respect to such building envelope or applicable portion thereof; provided, however, Grantee shall have no obligation to execute such supplement or amendment if a Walkway meeting the requirements of this Agreement that is outside of such building envelope is not then in existence or created by the amendment or supplement.

3. Access. Grantee and its agents, employees, consultants, guests, invitees and other related parties (collectively, "**Grantee's Permittees**") shall have the right to enter upon the Easement Area for pedestrian ingress and egress and for such other purposes as are expressly permitted by this Agreement. Grantee and Grantee's Permittees shall enter upon the Easement Area at its/their sole risk and hazard, and Grantee and its successors and assigns, hereby release Grantors from any claims relating to the condition of the Easement Area and the entry upon the Easement Area by Grantee and Grantee's Permittees.

4. Indemnity. Grantee shall, at Grantee's sole expense and with counsel reasonably acceptable to Grantors, indemnify and hold harmless Grantors from and against all claims, losses, costs, damages, expenses, liabilities, liens, actions, causes of action, assessments, fines and penalties of any kind including court costs and attorneys' fees actually incurred from any cause other than Grantors' negligence or willful misconduct, arising out of or relating directly or indirectly to this Agreement. Grantee's foregoing obligation extends to and includes claims for: (i) the acts and omissions of the Grantee or Grantee's Permittees; or (ii) the use of the Easement Area or the exercise of the Grantee's or Grantee's Permittees' rights under this Agreement by Grantee, or Grantee's Permittees, or its/their successors or assigns. Grantors shall, at Grantors' sole expense and with counsel reasonably acceptable to Grantee, indemnify and hold harmless Grantee from and against all claims, losses, costs, damages, expenses, liabilities, liens, actions, causes of action, assessments, fines and penalties of any kind including court costs and attorneys' fees actually incurred from any cause other than Grantee's negligence or willful misconduct, arising out of or relating directly or indirectly to this Agreement. Grantors' foregoing obligation extends to and includes claims for the acts and omissions of the Grantors. The terms and conditions of this provision shall remain effective, notwithstanding the expiration or termination of this Agreement.

6. Maintenance and Restoration. Except as expressly provided below, Grantors, at their sole cost and expense, will maintain the Walkway and the Easement Area; provided, however, upon build-out of applicable portions of the Walkway and the identification of all or portions thereof as Village Common Area or Facilities under the Village Declaration, Grantors may assign the obligation to maintain such portions of the Walkway as are Village Common Area or Facilities to the "Village Association," as defined in the Village Declaration. If the Walkway or the Easement Area is damaged by Grantee's or Grantee's Permittees' (ordinary wear and tear excepted) negligence or willful acts, Grantee shall, at its sole cost and expense, promptly repair any such damage and restore the Walkway and Easement Area to the same or better condition that existed before such damage. Grantee shall be responsible for any loss, damage, or injury to the Easement Area (ordinary wear and tear excepted) caused by Grantee or Grantee's Permittees' acts, omissions, or negligence in making, or failing to make, any repairs required to be made by Grantee. If Grantee fails to make any repairs as required under this Agreement, Grantors shall have the right (but not the obligation) to make such repairs and be reimbursed by Grantee for reasonable costs and expenses incurred by Grantors for such repairs.

7. Insurance. Grantee agrees to obtain and maintain a policy of commercial general liability insurance insuring Grantee's interests against claims for personal injury, bodily injury, death, property damage occurring on, in or about the Easement Area and the ways immediately adjoining the Easement Area, with a "Combined Single Limit" covering personal injury liability,

bodily injury liability, and property damage liability of not less than Two Million Dollars (\$2,000,000.00). Grantors must be endorsed as an additional insured on such policy.

8. Notices. Any notice required or desired to be given under this Agreement shall be considered given either: (i) when delivered in person to the recipient named below, or (ii) three (3) days after deposit in the United States mail in a sealed envelope or container, either registered or certified mail, return receipt requested, postage prepaid, addressed by name to the person and/or party intended. All notices shall be given at the following addresses:

If to Grantors:

c/o Extell Development Company
805 Third Avenue, 7th Floor
New York, New York 10022
Attention: Gary Barnett
Email: gbarnett@extell.com

with copies to:

Extell Development Company
P.O. Box 980728
Park City, Utah 84060
Attention: Kurt Krieg
Email: kkrieg@extell.com

and:

Paul Hastings LLP
200 Park Avenue
New York, New York 10166
Attention: Bruce S. DePaola, Esq.
Email: brucedepaola@paulhastings.com

If to Grantee:

Deer Valley Resort Company, LLC
P.O. Box 889
Park City, Utah 84060
Attention: President
Email: legal@altrerramtnc.com

with copies to:

Alterra Mountain Company
3501 Wazee Street, Suite 400
Denver, Colorado 80216
Attention: Chief Legal Officer
Email: legal@altrerramtnc.com

and:

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Attention: Krista Miniutti
Email: kminiutti@stblaw.com

Either party may designate a different individual or address for notices, by giving written notice thereof in the manner described above.

9. Liens. Grantors and Grantee agree to keep the other party's property free from any liens arising out of any obligations incurred by, through, for, or under Grantors as it pertains to Grantee's Parcel, or Grantee as it pertains to the Grantors Property. Furthermore, Grantors and Grantee agree to indemnify, hold harmless and agree to defend the other party from any liens that may be placed on such other party's parcel as a result of the action or inaction of the indemnifying party. Any such liens shall be released of record within thirty (30) days. Nothing in this section is intended to create an obligation on the part of Grantee to install or maintain the Walkway.

10. Compliance with Laws. Grantee and Grantors will comply with all applicable present or future laws, statutes, codes, acts, ordinances, rules, regulations, orders, judgments, decrees, injunctions, permits, licenses, authorizations, directions and requirements of and agreements with all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers.

11. Miscellaneous.

11.1 Interpretation. Section titles and captions to this Agreement are for convenience only and shall not be deemed part of this Agreement and in no way define, limit, augment, extend, or describe the scope, content, or intent of any part of this Agreement. This Agreement has been arrived at through negotiation between Grantors and Grantee.

11.2 Applicable Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Utah.

11.3 Run with the Land/Successors. Subject to the terms and conditions of this Agreement, the easement granted herein shall run with the land, and the terms and conditions of this Agreement shall inure to the benefit of the Ski Lease 2 Lands and be binding upon the parties, their successors and assigns.

11.4 Waiver. No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any rights or remedy for a breach of this Agreement will constitute a waiver of any such breach or of such right or remedy or of any other covenant, agreement, term, or condition.

11.5 Rights and Remedies. The rights and remedies of any of the parties stated herein are not intended to be exclusive, and the exercise of one or more of the provisions of this Agreement does not preclude the exercise of any other provisions. Each of the parties confirms that damages at law may be an inadequate remedy for a breach or threatened breach of any provision hereof. The respective rights and obligations hereunder may be enforceable by specific performance, injunction, or other equitable remedy, but nothing herein contained is intended to or will limit or affect any rights at law or by statute or otherwise of any party aggrieved as against the other party for a breach or threatened breach of any provision hereof, it being the intent of this paragraph to make clear the agreement of the parties that the respective rights and obligations of the parties hereunder will be enforceable in equity as well as at law or otherwise.

11.6 Enforceability and Litigation Expenses. If any action, suit, or proceeding is brought by a party hereto with respect to a matter or matters covered by this Agreement or if a party finds it necessary to retain an attorney to enforce its rights under this Agreement, all costs and expenses of the prevailing party incident to such proceeding or retention, including reasonable attorneys' fees, will be paid by the non-prevailing party.

11.7 Authorization. Each individual executing this Agreement represents and warrants that he or she has been duly authorized by appropriate action of the party hereto for which he/she signs to execute and deliver this Agreement in the capacity and for the entity set forth where he/she signs and that as a result of his/her signature, this Agreement is binding upon the party for which he/she signs.

11.8 No Public Use/Dedication. The Grantors Property is and will at all times remain the private property of Grantors. The Grantee's and Grantee's Permittees' use of the Easement Area on the Grantors Property is allowed and limited to the express purposes contained herein. Neither Grantee, nor its successors or assigns, nor the public may acquire or be entitled to claim or assert any rights to the Grantors Property beyond the express terms and conditions of this Agreement.

11.9 Duration. This Agreement and the easement granted herein will continue as to all of the Easement Area, or any portion thereof (as applicable), until the earliest to occur of the following (each, a "**Termination Event**"): (i) the expiration or termination of the lease agreement pursuant to which Grantee is leasing the Ski Lease 2 Property; (ii) Grantor's and Grantee's written acknowledgement terminating this Agreement with respect to the easement granted herein or portion thereof, and (iii) upon Grantee's election in its sole discretion, exercisable by written notice to Grantor. Upon a Termination Event with respect to the Easement, Grantor and DVRC will, as the case may be and as applicable, execute and acknowledge a written notice of termination of this Agreement, in recordable form; provided that the failure to do so shall not affect the termination of this Agreement with respect to the easement granted herein, which termination shall be self-operating upon the occurrence of a Termination Event. From and after any Termination Event, if requested by either Party, the applicable Parties shall provide to the other a written acknowledgement, disclaimer and waiver, in recordable form, confirming the relinquishment and termination of all applicable rights and obligations in, to and with respect to, the Easement Area granted pursuant to this Agreement.

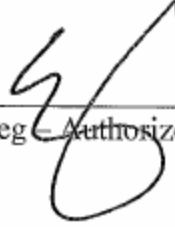
11.10 Counterparts. This Agreement may be executed in any number of duplicate counterparts, each of which shall be deemed an original, and when taken together shall constitute one and the same original Agreement, which shall be fully binding upon each party who executes the same. A copy, facsimile or email transmission of any part of this Agreement, including the signature page, shall have the same force and effect as an original.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Grantors have signed this Agreement effective the day and year first above written.

GRANTORS:

**BLX LOT 3 LLC,
BLX LOT 5 LLC,**
each a Delaware limited liability company


By:  _____
Kurt Krieg - Authorized Signatory

STATE OF UTAH)
) ss.
COUNTY OF WASATCH)

On August 14, 2023 before me, Christina Fredrikson, Notary Public, personally appeared Kurt Krieg, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entities upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.





Notary Public

DVRC:

DEER VALLEY RESORT COMPANY, LLC
a Utah limited liability company

By:  _____

Name: Todd Bennett

Title: President and Chief Operating Officer

[Acknowledgement Follows]

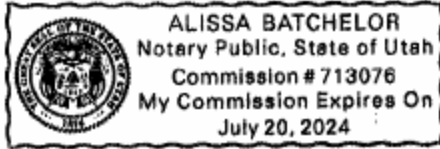
STATE OF UTAH)

)

COUNTY OF Summit) ss.:

On the 11th day of August, 2023, personally appeared before me Todd Bennett, who being duly sworn, did say that he is the President and Chief Operating Officer of Deer Valley Resort Company, LLC, a Utah limited liability company, and that the foregoing instrument was signed in his capacity of such entity.

Alissa Batchelor
NOTARY SIGNATURE AND SEAL

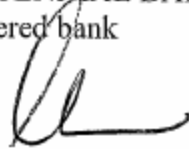


CONSENT AND ACKNOWLEDGMENT
OF
CENTENNIAL BANK

CENTENNIAL BANK (“CENTENNIAL”), acknowledges, agrees with and consents to the execution of that certain Pedestrian Walkway Easement and Agreement to Construct (the “Easement”) to which this Consent and Acknowledgment is attached. CENTENNIAL further consents to and agrees to the recording of the Easement by BLX LOT 3 LLC and BLX LOT 5 LLC, as Grantors, and consents and agrees that the lien of that certain Deed of Trust, Assignment of Leases and Rents and Security Agreement (as the same may be amended prior to the date hereof, the “Deed of Trust”), dated as of February 14, 2023, and recorded on February 14, 2023, as entry number 529578 in Book 1434 at Page 1037 of the Official Records of Wasatch County, State of Utah (as the same may be amended from time to time, the “Deed of Trust”), together with any other instrument executed, filed or recorded in connection therewith, and recorded against the existing Lots of record that are the subject of the Easement, which Lots of record are identified on Exhibit “A” attached to the Easement, shall be subordinate to the Easement and further subordinates all of its right, title, and interest in and to the real property encumbered by the Deed of Trust to the Easement, including the easements shown thereon and dedicated pursuant thereto.

Dated: August 24, 2023

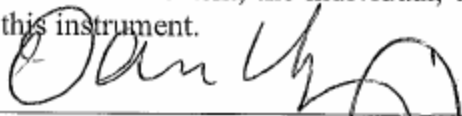
CENTENNIAL BANK, an Arkansas state chartered bank



By: Sanjay Maridev Ramakrishna
Its: Director—Portfolio Manager

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

On the 14th day of August in the year 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Sanjay Maridev Ramakrishna, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or person upon behalf of which the individual acted, executed this instrument.



NOTARY PUBLIC

OLENA WINSHIP
NOTARY PUBLIC-STATE OF NEW YORK
No. 01WI6195964
Qualified in Kings County
My Commission Expires 11-03-2024

EXHIBIT A

[Legal Description of the Grantors Property]

LOTS 24, 25 and 27, MIDA Lot 3A Subdivision Plat, according to the official plat thereof recorded in the office of the Wasatch County Recorder on May 26, 2023 as Entry No. 532857 in Book 1442 at Page 1527.

Wasatch County Serial: 0IG-3A240-025-024 ; 0IG-3A25-0-025-024 ; 0IG-3A27-0-025-024

Wasatch County Parcel ID: 00-0021-8550; 00-0021-8551; 00-0021-8553

Lot 5A, MIDA Master Development Plat Amended 2022, according to the official plat thereof recorded in the office of the Wasatch County Recorder on July 27, 2022 as Entry No. 522596 in Book 1417 at Page 852.

Wasatch County Serial: 0IX-L05A-A-025-024

Wasatch County Parcel ID: 00-0021-7766

EXHIBIT B

[Legal Description of Parking Lot Parcels]

Lot 30, MIDA MASTER DEVELOPMENT PLAT AMENDED 2023, Recorded April 18, 2023
as Entry No. 531618 on file and of record in Wasatch County Recorder's Office.

Tax Serial No. 0IX-L030-0-025-024

Tax Parcel No. 00-0021-8447

Lot 32, MIDA MASTER DEVELOPMENT PLAT AMENDED 2023, Recorded April 18, 2023
as Entry No. 531618 on file and of record in Wasatch County Recorder's Office.

Tax Serial No. 0IX-L032-0-025-024

Tax Parcel No. 00-0021-8449

EXHIBIT C

[Concept Plan]

PEDESTRIAN ACCESS EASEMENT

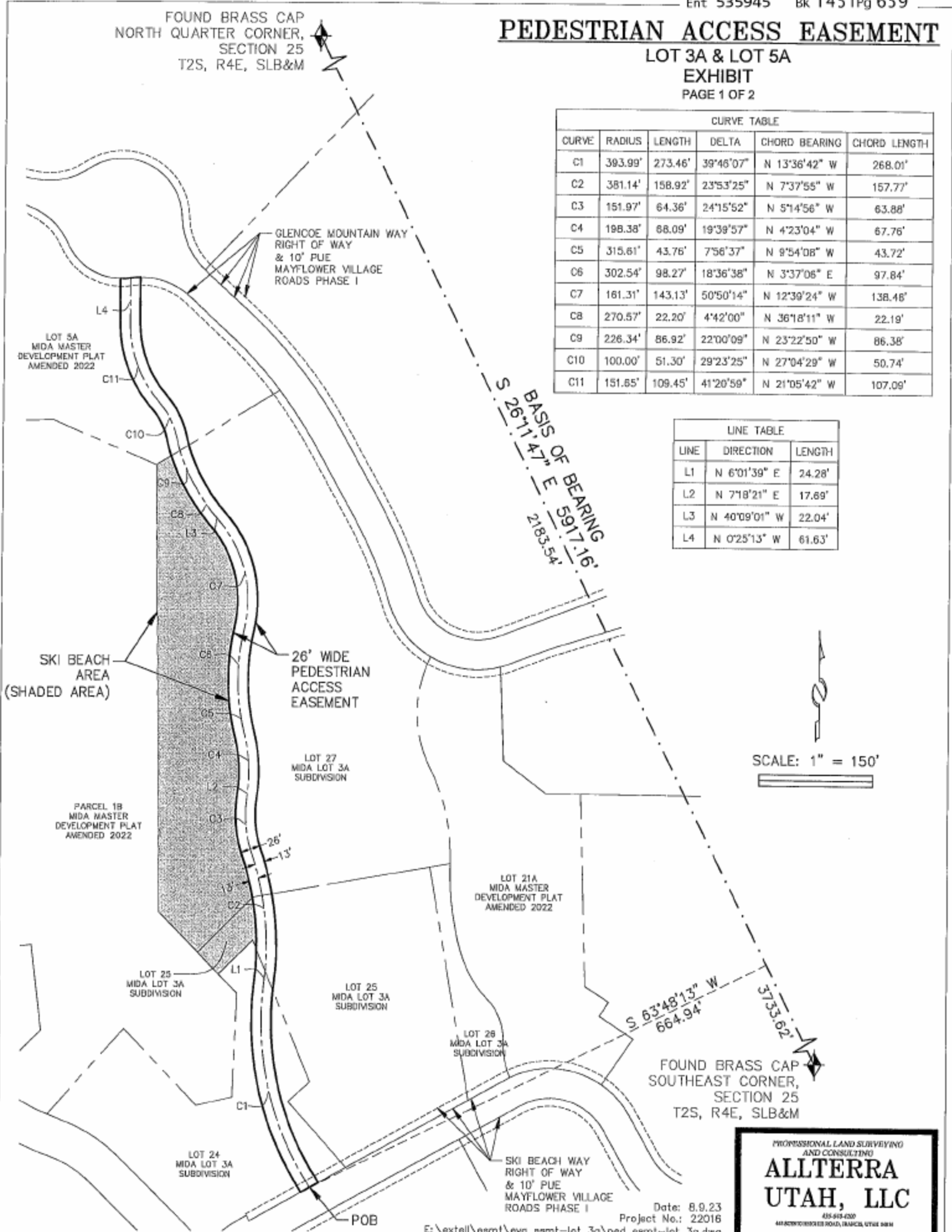
LOT 3A & LOT 5A

EXHIBIT

PAGE 1 OF 2

CURVE TABLE					
CURVE	RADIUS	LENGTH	DELTA	CHORD BEARING	CHORD LENGTH
C1	393.99'	273.46'	39°46'07"	N 13°36'42" W	268.01'
C2	381.14'	158.92'	23°53'25"	N 7°37'55" W	157.77'
C3	151.97'	64.36'	24°15'52"	N 5°14'56" W	63.88'
C4	198.38'	88.09'	19°39'57"	N 4°23'04" W	67.76'
C5	315.61'	43.76'	7°56'37"	N 9°54'08" W	43.72'
C6	302.54'	98.27'	18°36'38"	N 3°37'06" E	97.84'
C7	161.31'	143.13'	50°50'14"	N 12°39'24" W	138.46'
C8	270.57'	22.20'	4°42'00"	N 36°18'11" W	22.19'
C9	226.34'	86.92'	22°00'09"	N 23°22'50" W	86.38'
C10	100.00'	51.30'	29°23'25"	N 27°04'29" W	50.74'
C11	151.85'	109.45'	41°20'59"	N 21°05'42" W	107.09'

LINE TABLE		
LINE	DIRECTION	LENGTH
L1	N 6°01'39" E	24.28'
L2	N 7°18'21" E	17.69'
L3	N 40°09'01" W	22.04'
L4	N 0°25'13" W	61.63'



SCALE: 1" = 150'

PROFESSIONAL LAND SURVEYING AND CONSULTING

ALLTERRA UTAH, LLC

435-915-0300
4440 WESTWOODS ROAD, TRAPCA, UTAH 84098

Date: 8.9.23
Project No.: 22016

E:\extell\esmt\eva esmt-lot 3a\ped esmt-lot 3a.dwg

Exhibit C-2