

RECORDING REQUESTED BY &
WHEN RECORDED RETURN TO:

JKG BRC Northshore, LLC
Attn: R. Roman Groesbeck
166 East 14000 South, Suite 210
Draper, UT 84020

Tax Parcel Nos.: 47:408:0001; 66:956:0003

(space above for Recorder's use)

ACCESS EASEMENT AGREEMENT

THIS ACCESS EASEMENT AGREEMENT (this “**Agreement**”) is entered into as of the 22nd day of September 2023 (the “**Effective Date**”), by and between JKG BRC NORTHSHORE, LLC, a Utah limited liability company (“**Grantor**”), and WDG SARATOGA, LLC, a Utah limited liability company (“**Grantee**”). Grantor and Grantee may be referred to herein individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

A. Grantor is the owner of a parcel of land in Saratoga Springs, Utah County, Utah, legally described on Exhibit A attached hereto and incorporated herein by reference (the “**Grantor Property**”).

B. Grantee is the owner of a parcel of land located adjacent and to the north of the Grantor Property, legally described on Exhibit B attached hereto and incorporated herein by reference (the “**Grantee Property**”); the Grantor Property and the Grantee Property may be referred to herein individually as a “**Property**” and collectively as the “**Properties**”).

C. Grantee desires to obtain from Grantor, and Grantor is willing to grant to Grantee, a permanent, non-exclusive access easement on, over and across that certain portion of the Grantor Property legally described and depicted on Exhibit C attached hereto and incorporated herein by reference (the “**Easement Area**”) to provide vehicular access to and from the Grantee Property and Saratoga Road (1200 East) via the Easement Area.

D. The Parties desire to enter into this Agreement to establish the foregoing easement and certain maintenance obligations associated with the Easement Area, all as more particularly set forth herein.

AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing and the mutual covenants and agreements herein contained, the Parties hereby agree as follows:

1. **Grant of Easement.** Grantor hereby grants and conveys to Grantee, and its successors and assigns, for the benefit of the Grantee Property, a permanent, non-exclusive access easement (the “**Easement**”) on, over and across the Easement Area. The Easement is granted to Grantee for the sole purpose of providing vehicular access to and from the Grantee Property and Saratoga Road (1200 East) via

the Easement Area. Grantee, its invitees, licensees, guests, tenants, agents, employees, consultants, contractors and subcontractors (collectively, “**Agents**”) shall have the right to enter upon the Easement Area for the purposes permitted by this Agreement. As full and total consideration for the Easement granted herein, Grantee has paid to Grantor contemporaneously herewith the sum of One Hundred Thirty-six Thousand and No/100 Dollars (\$136,000.00).

2. **Reservation; Covenants.** Grantor hereby reserves the right to use the Easement Area for any use not inconsistent with Grantee’s permitted use of the Easement Area. Notwithstanding the forgoing, or anything herein to the contrary, Grantor covenants and agrees, for itself and its successors and/or assigns, not to construct, install or otherwise place within the Easement Area any structure or object, nor to engage in any behavior or take any actions, that would materially impede or otherwise unreasonably hinder in all instances Grantee’s use of the Easement Area for providing vehicular access to and from the Grantee Property, in accordance with Grantee’s rights under this Agreement.

3. **Condition of the Easement Area.** Grantee accepts the Easement Area 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, and the existence of hazardous materials, if any. Grantee hereby waives all warranties, express or implied, regarding the title, condition, and use of the Easement Area, including, but not limited to any warranty of merchantability or fitness for a particular purpose. Grantee shall obtain any and all consents, approvals, permissions, and agreements to cross, encumber or encroach upon any other easements or rights of others related to its use of the Easement Area.

4. **Maintenance Obligations.**

4.1 **Responsible Party.** For purposes of this Section 4, the term “**Responsible Party**” shall mean Grantor, or, should Grantor or its successors and/or assigns fail to perform or designate a third party to perform (such as a lessee under a lease of all or a portion of Grantor’s Property) the maintenance obligations set forth in this Section 4, Grantee, its successors and/or assigns.

4.2 **Maintenance, Repair and Replacement.** Responsible Party shall maintain in good order and repair the Easement Area; provided, however, the other Party shall be obligated to reimburse Responsible Party as provided for in Section 4.4; and, provided further, a Party shall be solely responsible for the costs and expenses of repairing any damage caused to the Easement Area directly attributed to said Party and/or its Agents. Responsible Party’s maintenance of the Easement Area shall be in accordance with all laws, rules, and ordinances respecting the same. Maintenance of the Easement Area by Responsible Party shall include, but is not limited to, the following:

- i. Maintaining all surfaces in a level, smooth and evenly covered condition with the type of surfacing material originally installed or such substitute as shall be in all respects equal in quality, use and durability, in every case in accordance with approved industry standards;
- ii. Keeping the Easement Area reasonably clear of snow, ice and debris; and
- iii. Maintaining the Easement Area and all improvements therein in good working condition and repair.

Responsible Party will use reasonable efforts to minimize any interference or disruption to the other Party's use and occupancy of the Easement Area. Responsible Party shall provide thirty (30) days' notice to the other Party in the event any interference or disruption to the other Party's use and occupancy of the Easement Area is anticipated as a result of any scheduled maintenance or repairs to the Easement Area, such notice being in accordance with the requirements set forth in Section 6 below.

4.3 Liens. Except as provided for in Section 4.5, Responsible Party shall keep the Easement Area free from any liens arising out of any work performed, materials furnished, or obligations incurred by, through, for or under Responsible Party, and shall indemnify, hold harmless and agree to defend the other Party from any liens that may be placed on the Easement Area pertaining to any work performed, materials furnished or obligations incurred by, through, for, or under Responsible Party or any of its Agents.

4.4 Cost Sharing. The non-responsible Party, its successors and assigns, shall reimburse Responsible Party for its actual out-of-pocket costs incurred in maintaining and repairing the Easement Area (the "**Maintenance Costs**"). Each Party shall bear fifty percent (50%) of the Maintenance Costs. A Party shall submit payment to Responsible Party for its proportionate share of the Maintenance Costs within thirty (30) days after receipt from Responsible Party of an itemized invoice detailing such costs. The non-responsible Party shall have the right to request any underlying invoices/receipts from the Responsible Party with respect to any invoice submitted for payment. Any payment not made within thirty (30) days shall be deemed delinquent and shall accrue interest at the rate of twelve percent (12%) per annum.

4.5 Enforcement; Attorney's Fees. If any payment due to Responsible Party under Section 4.4 is not received within ninety (90) days of when due, Responsible Party shall send a notice to the other Party clearly marked, "**FAILURE TO RESPOND WILL RESULT IN A LOSS OF LEGAL RIGHTS**" both on the exterior of the envelop and on the top of the notice setting forth the amount due and that if the amount is not paid within fifteen (15) days then the delinquent payment shall then accrue interest at the rate of eighteen percent (18%) per annum and Responsible Party shall have the right to file a lien against a Property to enforce the same. Any such lien shall be unconditionally subordinate to any lease encumbering all or any part of the Property and any mortgage lien of record. No such lien shall be effective unless and until any lender of record is provided the same notices as to each Party. The foreclosure of such lien shall be by judicial action only (no non-judicial foreclosure shall be permitted) and no such action shall join any tenant of all or any portion of the Property. Each Party shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, easements, liens and charges now or hereafter imposed by the provisions of this Agreement. The Party prevailing in any such action shall be entitled to collect from the non-prevailing Party the reasonable costs and expenses, including, without limitation, reasonable attorney's fees, the prevailing Party incurs prosecuting or defending such action. Failure by a Party to enforce any covenant or restriction contained in this Agreement shall not be deemed a waiver of the right to do so thereafter.

4.6 Damage Fees. Each Party agrees to reimburse a damaged Party for any actual losses and expenses due to property damage to property located on the Easement Area that results from a Party's or its Agents': (i) entry onto, presence upon, or work performed on the damaged Party's property located on the Easement Area; and (ii) failure to comply with any of the terms or conditions of this Agreement. In no event shall any Party be liable under this Agreement for any special, exemplary or consequential damages.

4.7 **Estoppel Certificates.** Each Party agrees it will, within ten (10) business days after the written request from another Party, certify by written instrument, duly executed and acknowledged, to any purchaser or proposed purchaser, or mortgagee or proposed mortgagee, or any other party specified in the request, to the best of the Party's current, actual knowledge: (i) whether any amounts are owed and delinquent under this Agreement; (ii) whether the Party claims any lien against the Easement Area; and (iii) such other matters as may be reasonably requested that are not an amendment to this Agreement.

5. **Indemnification.** Each Party (the "**Indemnifying Party**") agrees to indemnify, release and defend, with counsel of the other Party's choice, and hold the other Party and its employees, officers, divisions, subsidiaries, partners, members and affiliated companies and entities and its and their employees, officers, shareholders, members, directors, agents, representatives, and professional consultants and its and their respective successors and assigns (collectively, the "**Indemnitees**") harmless from and against any loss, damage, injury, accident, fire, or other casualty, liability, claim, cost, or expense (including, but not limited to, reasonable attorneys' fees) of any kind or character to any person or property, including the property of the Indemnitees (collectively the "**Claims**", or a "**Claim**") arising on, from or relating to (i) any use of the Easement Area, the other Party's Property, and/or adjacent areas by the Indemnifying Party, (ii) any act or omission of Indemnifying Party, (iii) any bodily injury, property damage, accident, fire or other casualty to or involving Indemnifying Party and its property on the Easement Area and/or adjacent areas, and (iv) any enforcement by the other Party of any provision of this Agreement and any cost of removing the Indemnifying Party's employees or its property or equipment from the Easement Area or restoring the same as provided herein, in either case as a result of the Indemnifying Party's voluntary actions or omissions; provided, however, that the foregoing indemnity shall not apply to any such Claim that is caused solely by the gross negligence or willful misconduct of the Indemnitees. The terms and conditions of this indemnification provision shall remain effective, notwithstanding the expiration or termination of this Agreement.

6. **Notices.** Any notice required or desired to be given under this Agreement shall be considered given either: (i) when delivered in person to the intended Party, or (ii) three (3) days after deposit in the United States mail, either registered or certified mail, return receipt requested, postage prepaid, addressed by name to the intended Party. All notices shall be given to such Party at the address set forth in a notice filed of record in Utah County, or if no such notice is filed, then the address on file in the Utah County Assessor's Office for tax notices. Either Party may designate a different individual or address for notices, by giving written notice thereof in the manner described above.

7. **Termination.** This Agreement and the Easement set forth herein shall automatically terminate upon written consent of the Parties. If this Agreement is terminated by the written consent of the Parties, the Parties will execute and record an instrument terminating this Agreement and the Easement.

8. **Authorization.** Each Party represents and warrants that the individual executing this Agreement on its behalf has been duly authorized by appropriate action of the governing body of the Party 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 shall be binding upon the Party for which he/she signs.

9. **No Public Use/Dedication.** The Easement Area is and shall at all times remain the private property of Grantor. The use of the Easement Area is permissive and shall be limited to the express purposes contained herein. Neither Grantee, nor its successors or assigns, nor the public shall acquire nor be entitled to claim or assert any rights to the Easement Area beyond the express terms and conditions of this Agreement.

10. **No Third-Party Beneficiaries.** In assuming and performing the obligations of this Agreement, each Party is acting as an independent party and shall not be considered or represent itself as a joint venture, partner, agent, or employee of any other Party. There is no intent by any Party to create or establish third-party beneficiary status or rights in any third-party. Except for the Easement granted herein which shall inure to the benefit of all tenants, licensees, invitees, contractors, successors and/or assigns, and the rights of any third parties operating on behalf of the Responsible Party as set forth herein, this Agreement shall not be deemed to confer any rights upon any individual or entity which is not a Party hereto, and each Party expressly disclaims any such third-party benefit.

11. **Entire Agreement.** This Agreement (including all attached Exhibits) constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof and all prior and contemporaneous agreements, representations and understandings of the Parties hereto, oral or written, are hereby superseded and merged herein.

12. **Miscellaneous.** No supplement, modification or amendment of this Agreement shall be binding unless in writing and executed by the Parties. This Agreement shall be binding on and inure to the benefit of the respective successors, assigns, and personal representatives of the Parties hereto. This Agreement shall be construed in accordance with and governed by the laws of the State of Utah. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions, whether or not similar, nor shall any waiver be a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver. The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of the provisions hereof. The Recitals set forth above are incorporated into this Agreement by reference. If any provision of this Agreement or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this Agreement and such provisions as applied to other persons, places, and circumstances shall remain in full force and effect; provided, however, the invalid provision does not have a materially adverse effect on either Party. This Agreement is the result of negotiations among the Parties, neither of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions hereof shall be construed in accordance with their usual and customary meanings. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument. Time is of the essence for the terms and provisions of this Agreement.

[Signatures and Acknowledgments Follow]

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

GRANTOR:

JKG BRC NORTSHORE, LLC,
a Utah limited liability company

By: JKG, LLC,
a Utah limited liability company
Its: Sole Member

By: JKG Investment Holdings, LLC,
a Utah limited liability company
Its: Manager

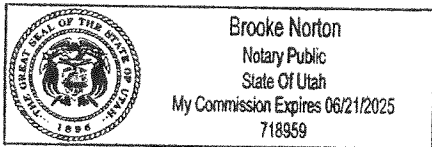
By: KW Bountiful Investments, LLC,
a Utah limited liability company
Its: Manager

By: KW Ventures, LLC,
a Utah limited liability company
Its: Manager

By: _____
Name: Kip L. Wadsworth
Its: Manager

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

On this 3rd day of October, 2023, before me Brooke Norton, a notary public, personally appeared Kip L. Wadsworth, Manager of KW Ventures, LLC, a Utah limited liability company, which is the Manager of KW Bountiful Investments, LLC, a Utah limited liability company, which is the Manager of JKG Investment Holdings, LLC, a Utah limited liability company, which is the Manager of JKG, LLC, a Utah limited liability company, which is the Sole Member of JKG BRC Northshore, LLC, a Utah limited liability company, proved on the basis of satisfactory evidence to be the person whose name is subscribed to in this document, and acknowledged that he executed the same.

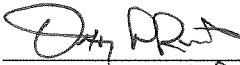


Notary Public

CONSENT AND SUBORDINATION OF LENDER
(Grantor)

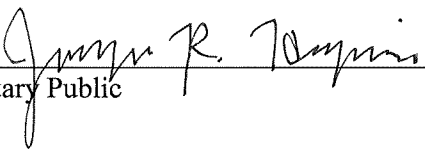
FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the undersigned, as the beneficiary and holder of that certain Construction Loan Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated November 2, 2022, and recorded in the official records of the Utah County Recorder on November 3, 2022, as Entry No. 115541:2022 (the "**Grantor Deed of Trust**"), which Grantor Deed of Trust encumbers the Grantor Property, hereby: (i) consents to the execution and delivery of this Agreement by Grantor affecting the Grantor Property; and (ii) subordinates all of its rights, title and interests under the Grantor Deed of Trust in and to the Grantor Property to the rights, title, interests, obligations and benefits created by, or arising under, this Agreement, so that this Agreement shall unconditionally be and remain at all times an interest in real property prior and superior to the Grantor Deed of Trust.

ZIONS BANCORPORATION, N.A.
dba Zions First National Bank

By: 
Name: Timothy P Raccuia
Its: SENIOR VICE PRESIDENT

STATE OF UTAH)
COUNTY OF SALT LAKE)^{ss}

The above and foregoing instrument was acknowledged before me this 4th day of October 2023, by Timothy P. Raccuia, as Senior Vice President of ZIONS BANCORPORATION, N.A. dba Zions First National Bank.


Notary Public

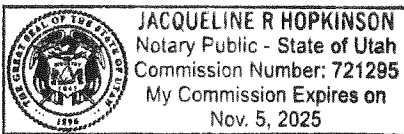


EXHIBIT A

(Legal Description of the Grantor Property)

LOT 1A, GRANTOR COMMERCE CENTER SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

EXHIBIT B

(Legal Description of the Grantee Property)

LOT 3, SARATOGA COMMONS SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF
ON FILE AND OF RECORD IN THE UTAH COUNTY RECORDER'S OFFICE.

EXHIBIT C

(Legal Description and Depiction of the Easement Area)

***ACCESS EASEMENT – LOT 1A
NORTHSHORE COMMERCE CENTER SUBDIVISION***

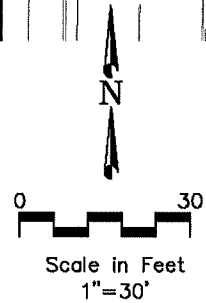
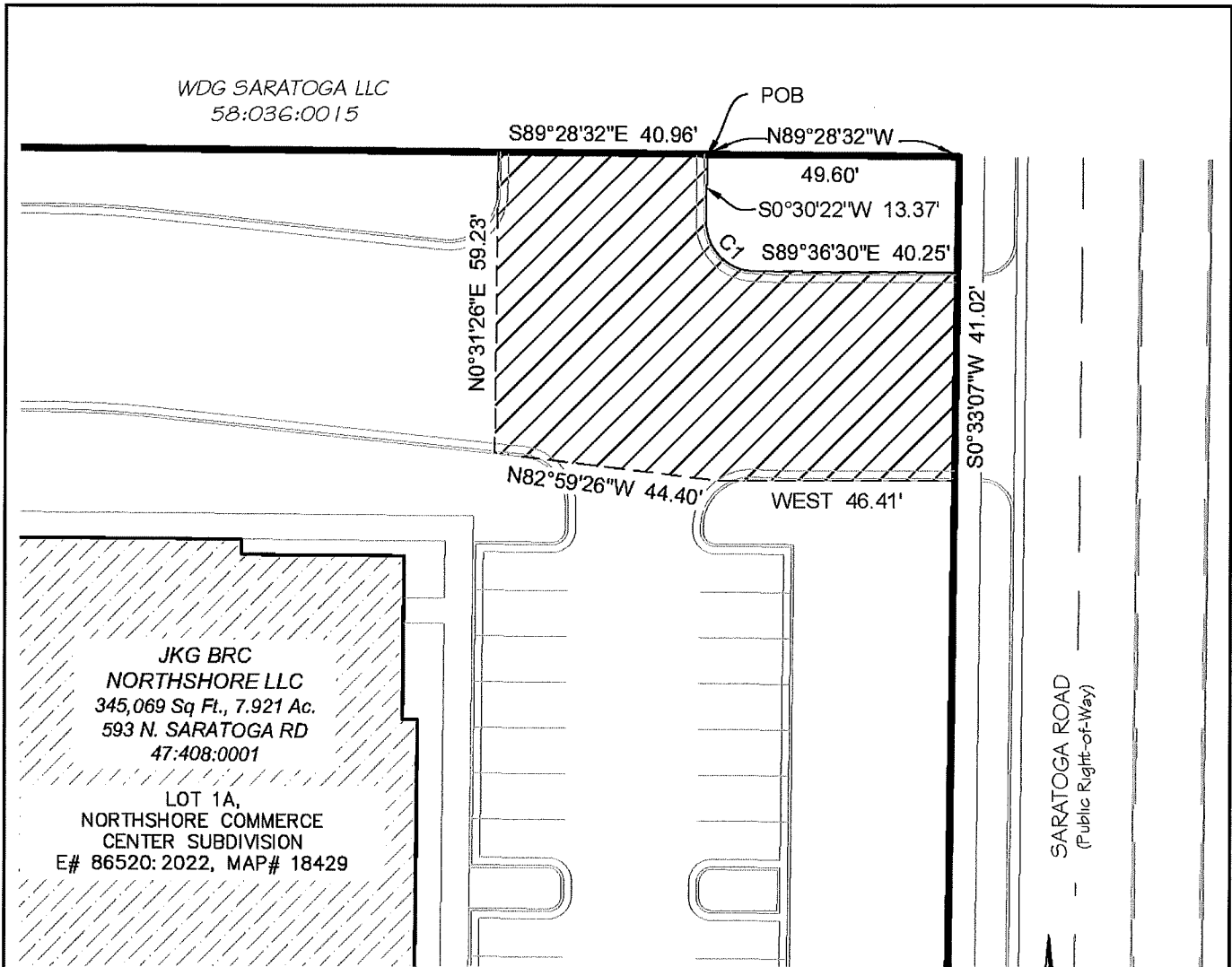
An access easement being part of Lot 1A, Northshore Commerce Center Subdivision recorded August 2, 2022 as Entry No. 86520:2022, having Map No. 18429 in the Office of the Utah County Recorder. Said easement is located in the Northwest Quarter of Section 19, Township 5 South, Range 1 East, Salt Lake Base and Meridian and described as follows:

Beginning at a point on the northerly line of said Lot 1A, which is 49.60 feet N. 89°28'32" W. along the northerly lot line of said Lot 1A from the northeasterly corner of said Lot 1A; thence S. 00°30'22" W. 13.37 feet to a point of tangency with a 9.50 – foot radius curve to the left, concave northeasterly; thence Southeasterly 17.78 feet along the arc of said curve, through a central angle of 89°09'40" (Chord bears S. 43°53'54" E. 13.34 feet); S. 89°36'30" E. 40.25 feet to a easterly line of said Lot 1A; thence S. 00°33'07" W. 41.02 feet along said easterly line of Lot 1A; thence West 46.41 feet; thence N. 82°59'26" W. 44.40 feet; thence N. 00°31'26" E. 59.23 feet to the northerly line of said Lot 1A; thence S. 89°28'32" E. 40.96 feet along said northerly line of Lot 1A to the **Point of Beginning**.

The above-described easement contains 4,582 sq. ft. in area or 0.105 acres more or less.

EXHIBIT "B": By this reference, made a part hereof.

BASIS OF BEARING S. 00°08'33" E. per said Northshore Commerce Center Subdivision along the Section line between the Northeast Corner and the East Quarter of Section 24, Township 5 South, Range 1 West, Salt Lake Base and Meridian.



CURVE TABLE					
CURVE #	LENGTH	RADIUS	DELTA	CHD BRG	CHD LEN
C1	14.78	9.50	89°09'40"	S43° 53' 54"E	13.34

- LEGEND**
- Boundary
 - Adjacent parcel
 - Access Easement

EXHIBIT "B"

JKG BRC Northshore LLC Access Easement Assessor Parcel No: 47: 408: 0001 Part of the Northwest Quarter of Sec. 19, T.5S., R.1E., S.L.B.&M.	PREPARED BY: 10718 South Beckstead Lane, Suite 102, South Jordan, Utah 84095 Phone: 435-503-7641
	Revised September 6, 2023
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