



\*W2774940\*

WHEN RECORDED, RETURN TO:

SMHG Landco LLC  
3632 N. Wolf Creek Drive  
Eden, Utah 84310  
Attention: Jeff Werbelow

EH 2774940 PG 1 OF 8  
LEANN H KILTS, WEBER COUNTY RECORDER  
21-JAN-16 425 PM FEE \$25.00 DEP JKC  
REC FOR: WATTS ENTERPRISES

### UTILITY ACCESS EASEMENT AGREEMENT

This UTILITY ACCESS EASEMENT AGREEMENT (this "Agreement") is made this 21 day of JAN 20 16, by and between SMHG LANDCO LLC, its successors and assigns ("Grantor"), and SMHG Phase I LLC, a Delaware limited liability company ("Grantee").

#### RECITALS

A. Grantor is the owner of certain real property located in Weber County, Utah, and more particularly described as all of Section 8, Township 7 North, Range 2 East, Salt Lake Base and Meridian, U.S. Survey ("Grantor's Property").

B. Grantee is the owner of certain real property located in Weber County, Utah, adjacent to Grantor's Property, as more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference ("Grantee's Property").

C. Grantee desires an easement over a portion of Grantor's Property for purposes of installing and maintaining propane gas service including tanks and pipelines ("Facilities"), as well as constructing and maintaining an access road to such facilities ("Access Road"). The portion of Grantor's Property that may be used by Grantee for the purposes described herein is more particularly described on Exhibit "B" attached hereto and incorporated herein by this reference (the "Easement Property"). The Easement Property is also depicted visually on Exhibit "C" which is attached hereto and incorporated herein by this reference. If there are any discrepancies between the legal description and visual depiction, the legal description shall control.

D. On the terms provided for in this Agreement, Grantor has agreed to provide Grantee with an easement over, across, and through the Easement Property.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee hereby agree as follows:

#### AGREEMENT

1. Grant of Easement. Grantor hereby grants to Grantee and the Benefited Parties (defined below) a perpetual non-exclusive easement ("Easement") over, across, and through the Easement Property for pedestrian and vehicular ingress, egress, and access as may be reasonably necessary for the construction, operation, and maintenance of the Facilities and Access Road, as well as stabilizing, cutting slopes, grading and maintaining retaining walls, and installing other improvements and facilities (collectively, the "Improvements") as may be necessary in connection with the Facilities and Access Road.

2. Construction and Maintenance. Grantee shall reasonably coordinate the timing of all construction and maintenance of the Improvements with Grantor so as not to unreasonably interfere with Grantor's use of the Easement Property. Grantee shall maintain the Improvements in good condition and repair at its sole expense.

3. Benefited Parties. The Easement shall be for the use and benefit of the following parties (the "Benefited Parties"): (a) Grantee, its transferees, successors and assigns; and (b) all employees, contractors, subcontractors, agents, licensees, and invitees of Grantee, its transferees, successors and assigns.

4. Notices. All notices made pursuant to this Agreement shall be in writing and shall be given by personal delivery to a responsible person, by electronic transmission, by deposit in the United States mail (certified mail, return receipt requested, postage prepaid), or by express delivery service, freight prepaid. Notices shall be delivered or addressed to Grantor and Grantee at the following addresses, or at such other address as a party may designate in writing:

Grantor: SMHG Landco LLC  
3632 N. Wolf Creek Drive  
Eden, Utah 84310  
Attention: Jeff Werbelow  
JW@summit.co

Grantee: SMHG Phase I LLC  
3632 N. Wolf Creek Drive  
Eden, Utah 84310  
Attention: Jeff Werbelow  
JW@summit.co

The date notice is deemed to have been given, received and become effective shall be the date on which the notice is delivered, if notice is given by personal delivery or electronic transmission, or the date of actual receipt if the notice is sent through the United States mail or by express delivery service.

5. Covenants to Run with the Land. The Easement shall be appurtenant to and run with Grantee's Property. The Easement, rights, and interests granted herein shall constitute covenants running with the land, and shall burden the Easement Property as the servient estate, and benefit Grantee's Property as the dominant estate, and shall be binding upon Grantor, its successors, assigns, and any person acquiring, leasing or otherwise owning an interest in the Easement Property, and shall inure to the benefit of Grantee and the Benefited Parties.

6. Enforcement. In the event either party fails to cure any violation of the terms of this Agreement within thirty (30) days after written notice from the other, the non-defaulting party shall have the right to injunctive relief, to require specific performance of this Agreement, to collect damages from the defaulting party, and to take such actions as may be necessary in the non-defaulting party's discretion to cure such violation and charge the defaulting party with all reasonable costs and expenses incurred by the non-defaulting party as a result of such violation (including, without limitation, the non-defaulting party's reasonable attorneys' fees and related

costs). All rights and remedies provided under this Agreement are cumulative and may be pursued singularly, in any combination, and in any order. The failure to enforce any of the terms and provisions contained herein shall in no event be deemed to be a waiver of the right to thereafter strictly enforce the terms and provisions hereof.

7. General Provisions.

7.1 Recitals Incorporated. The Recitals set forth above are true and correct and are incorporated herein by this reference.

7.2 Construction. This instrument shall be construed in accordance with the laws of the State of Utah without giving effect to its conflict of laws principles.

7.3 Duration. This Agreement and the Easement shall be perpetual. The parties may terminate this Agreement only by a written notice of termination executed by both Grantor and Grantee, and recorded in the Office of the Weber County Recorder.

7.4 Amendment. The parties may amend this Agreement only by a written instrument executed by the parties and recorded in the Office of the Weber County Recorder.

7.5 Partial Invalidity. If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid, the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

7.6 Counsel. Both Grantor and Grantee have been represented by their own counsel in connection with the negotiation and preparation of this Agreement and, consequently, both Grantor and Grantee waive the application of any rule of law that would otherwise be applicable in connection with the interpretation of this Agreement, including any rule of law to the effect that any provision of this Agreement will be interpreted or construed against the party whose counsel drafted that provision.

7.7 Counterparts. This instrument may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

*[Signatures on following page.]*

**IN WITNESS WHEREOF**, Grantor and Grantee have executed this Utility Access Easement Agreement as of the date first indicated above.

**GRANTOR:**

SMHG LANDCO LLC, a Delaware limited liability company

By: Summit Mountain Holding Group, L.L.C., a Utah limited liability company  
Its: Sole Member

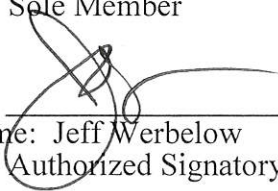
By: Summit Revolution LLC, a Delaware limited liability company  
Its: Sole Member

By:   
Name: Jeff Werbelow  
Its: Authorized Signatory

**GRANTEE:**

SMHG PHASE I LLC, a Delaware limited liability company

By: SMHG Investments LLC, a Delaware limited liability company  
Its: Sole Member

By:   
Name: Jeff Werbelow  
Its: Authorized Signatory

STATE OF UTAH )  
 :ss.  
 COUNTY OF WEBER )

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of JANUARY, 2016, by Jeff Werbelow, Authorized Signatory of Summit Revolution LLC, the Sole Member of Summit Mountain Holding Group, L.L.C., the Sole Member of SMHG Landco LLC.

[Signature]  
NOTARY PUBLIC  
Residing at: OGDEN, UT 84401

My Commission Expires:  
6.18.18



STATE OF UTAH )  
 :ss.  
 COUNTY OF WEBER )

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of JANUARY, 2016, by Jeff Werbelow, Authorized Signatory of SMHG Investments LLC, the Sole Member of SMHG Phase I LLC.

[Signature]  
NOTARY PUBLIC  
Residing at: OGDEN, UT 84401

My Commission Expires:  
6.18.18



**EXHIBIT "A"**

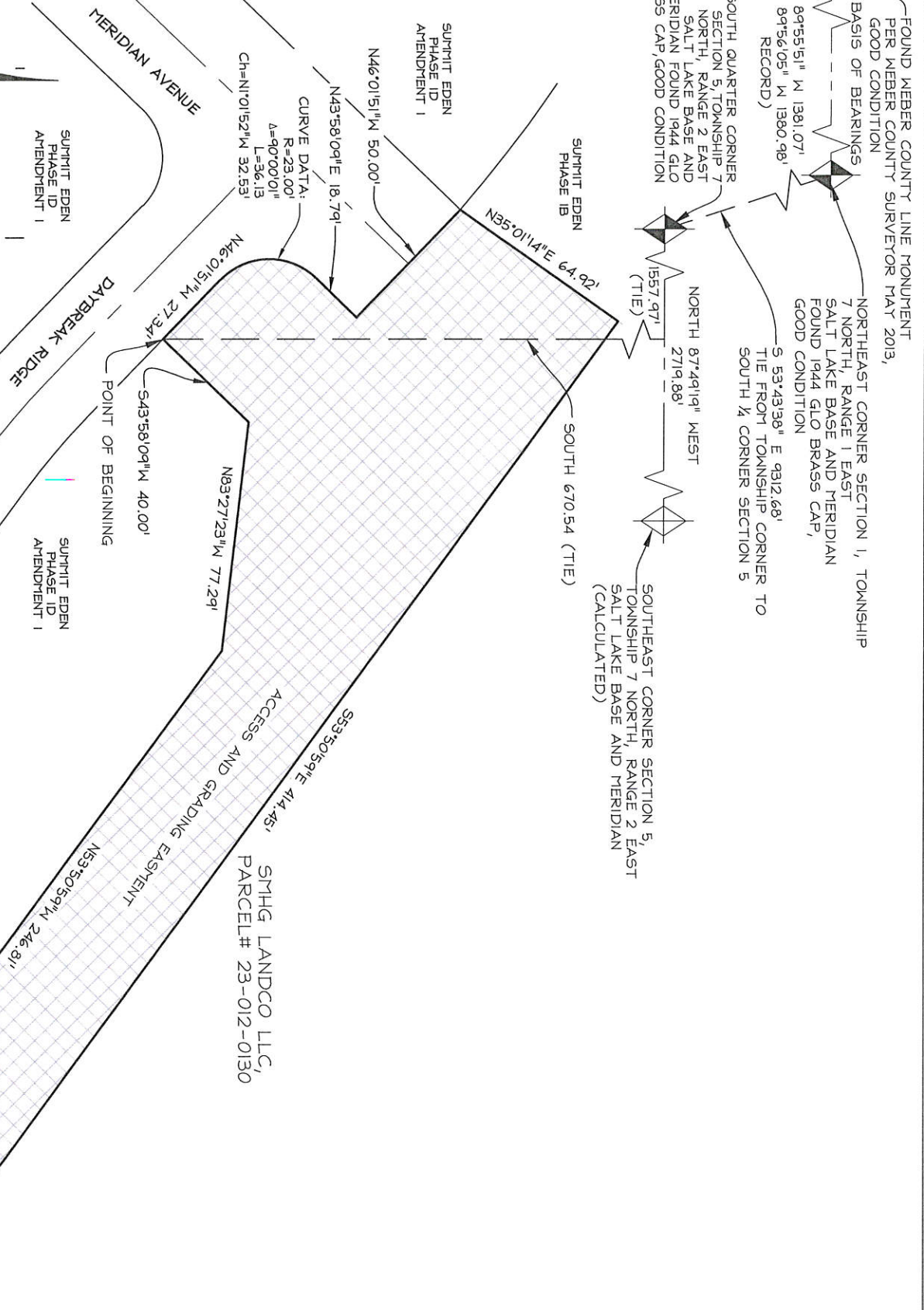
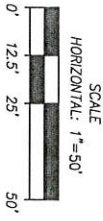
**Grantee's Property**

Development Parcel D, Summit Eden Phase 1D subdivision plat as recorded in the Official Records of Weber County, Utah on January 27, 2014 as Entry Number 2672946.

**EXHIBIT "B"****Legal Description of Easement Property**

Beginning at the Northwest Corner of Development Parcel D5R, Summit Eden Phase 1D Amendment 1, as recorded in the Office of the Weber County Recorder, said point also being on the Northeasterly Boundary of said Summit Eden Phase 1D Amendment 1, said point also lies North 87°49'19" East 1,557.97 feet along the Section Line and South 670.54 feet, from the North Quarter Corner of Section 8, Township 7 North, Range 2 East, Salt Lake Base and Meridian (Basis of Bearings for this Description is North 89°55'51" West Along the Line between the Norwest Corner of Section 1, Township 7 North, Range 1 East, Salt Lake Base and Meridian and the Monument at the intersection of the Weber/Cache County Line, Tie from the Township Corner to the North Quarter Corner of Section 8 Is South 53°43'38" East 9312.68 Feet); running thence along the Northeasterly Boundary of said Summit Eden Phase 1D Amendment 1 the following Four (4) Courses: 1) North 46°01'51" West 27.34 feet, 2) northerly along said Right of Way Line and a 23.00 foot radius curve to the right, (chord bears North 01°01'52" West a distance of 32.53 feet), through a central angle of 90°00'01", a distance of 36.13 feet, 3) North 43°58'09" East 18.79 feet, and 4) North 46°01'51" West 50.00 feet to the Easterly Boundary line of Summit Eden Phase 1B, as recoded in the Office of the Weber County Recorder; thence North 35°01'14" East along said Easterly Line 64.92 feet; thence South 53°50'59" East 414.45 feet; thence South 36°09'01" West 42.15 feet to the said Northeasterly Boundary of Summit Eden Phase 1D Amendment 1; thence along said Northeasterly Boundary the following Three (3) Courses: 1) North 53°50'59" West 246.81 feet, 2) North 83°27'23" West 77.29 feet and 3) South 43°58'09" West 40.00 feet; to the point of beginning.

# 2774040 PG 01 OF 02



**UTILITY ACCESS EASEMENT  
EXHIBIT "C"  
DEPICTION OF EASEMENT PROPERTY**

SHEET NUMBER	1
OF 1 SHEETS	
JOB NUMBER	SLB0793

