



W2929970

Recording requested by:

Thomas & Michele Kenyon
1210 N 3150 E
Layton, UT 84040-3017

EH 2929970 PG 1 OF 12
LEANN H KILTS, WEBER COUNTY RECORDER
10-JUL-18 13B PM FEE \$32.00 DEP DC
REC FOR: THOMAS & MICHELE KENYON

For recorder's use only

DRIVEWAY EASEMENT AGREEMENT

THIS DRIVEWAY EASEMENT AGREEMENT (“**Agreement**”) is made and entered into by and between Valley Enterprise Investment Company, LLC, a Utah limited liability company (“**Grantor**”) and Thomas & Michele Kenyon (collectively, the “**Grantees**”). Grantor and Grantees may be individually referred to in this Agreement as a “**Party**” and collectively referred to as the “**Parties**.”

A. Grantor is the owner of that certain real property located in Weber County, Utah identified as Weber County Parcel No. 20-151-0003 (“**Grantor’s Parcel**”). A legal description of Grantor’s Parcel is attached to and made part of this Agreement as Exhibit “A”. The Grantor’s Parcel is also depicted in that certain diagram that is attached to and made part of this Agreement as Exhibit “D” (the “**Driveway Easement Diagram**”).

B. Grantees are the owners of that certain real property located in Weber County, Utah identified as Weber County Parcel No. 200-151-0004 (the “**Grantees’ Parcel**”). A legal description of Grantees’ Parcel is attached to and made part of this Agreement as Exhibit “B”. The Grantees’ Parcel is also depicted on the Driveway Easement Diagram.

C. The Grantor’s Parcel and Grantees’ Parcel are located within that certain community known as The Summit at Ski Lake, which is governed by The Summit at Ski Lake Owners Association (the “**Association**”) pursuant to certain governing documents including, without limitation, that certain “Amended and Restated Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for The Summit at Ski Lake No. 9” which was recorded in the Weber County Recorder’s Office on February 1, 2012, as Entry No. 2560722 (the “**Declaration**”).

D. Grantees desire to acquire, for the benefit of the Grantees’ Parcel, an easement across a portion of Grantor’s Parcel for the purpose of constructing a portion of a driveway providing access between the Grantees’ Parcel and the street commonly known as Clairatina Drive (the “**Street**”) as shown on that certain plat map labeled “The Summit at Ski Lake No. 13” which was recorded in the Weber County Recorder’s Office on December 18, 2015 in Book 78 at Page 57 as Entry No. 2770168 (the “**Plat Map**”).

NOW, THEREFORE, in exchange for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties acknowledge and agree as follows:

A. Grant of Easement

1. Driveway Easement. Grantor hereby grants to Grantees, for the benefit of the Grantees' Parcel, a permanent, irrevocable and exclusive ingress and egress easement on, over and across that portion of Grantor's Parcel that is identified on the Driveway Easement Diagram as the "**Driveway Easement Area**" and is further described by the metes and bounds description attached to and made part of this Agreement as Exhibit "C." The easement granted by this Agreement shall perpetually be appurtenant to, and shall forever run with, the Grantees' Parcel as the dominant tenement with the Grantor's Parcel functioning as the servient tenement.

2. Parties With Right to Use. The Driveway Easement Area may be used by the Grantees and their family members, licensees, invitees, guests, agents and contractors, as well as any future owners or tenants of the Grantees' Parcel and their respective family members, licensees, invitees, guests, agents, employees and contractors (individually, a "**Grantee Party**" and, collectively, the "**Grantees' Parties**").

3. Use by Grantor Prohibited. The Driveway Easement Area shall not be used by the Grantor for any purpose whatsoever unless the Grantor has first obtained the Grantees' prior written permission, which permission may be granted or denied in the Grantees' reasonable discretion. Likewise, the Driveway Easement Area shall not be used, for any purpose whatsoever, by any future owners or tenants of the Grantor's Parcel (or their respective family members, licensees, invitees, guests, agents, employees or contractors) unless such parties have first obtained the Grantees' prior written permission, which permission may be granted or denied in the Grantees' reasonable discretion.

B. Permitted and Prohibited Uses

1. Driveway. The Driveway Easement Area shall be used for the sole purpose of installing and constructing a portion of a paved driveway ("**Driveway**") providing access between the Street and the Grantees' Parcel (including any residential dwelling or other structure that may be built on the Grantees' Parcel). The Driveway may include certain related improvements such a retaining wall. The remaining portion of the Driveway is to be installed and constructed on the Grantees' Parcel. The entire Driveway may be used for both vehicular and pedestrian traffic.

2. Prohibited Uses. Grantee Parties are prohibited from using the Driveway Easement Area in any manner other than as specifically permitted under this Agreement. Without in any way limiting the previous sentence, Grantees are prohibited from (a) parking or storing any vehicles or trailers of any kind whatsoever on the Driveway Easement Area, or (b) temporarily or permanently constructing, installing or erecting upon the Driveway Easement Area any improvements other than the Driveway and related improvements (*i.e.* retaining wall) that are necessary for proper construction of the Driveway.

3. Fencing Prohibited. Grantees are also prohibited from constructing, installing or erecting any temporary or permanent fencing, or any similar temporary or permanent improvements, around or upon any portion of the Driveway Easement Area.

4. No Expanded Use. Grantees are prohibited from expanding the size or use of the Driveway beyond the boundaries of the Driveway Easement Area. If it is determined that any portion of the Driveway Easement Area, as identified on the Driveway Easement Diagram, extends into the Street, the boundaries of Driveway Easement Area shall be deemed to terminate at the boundaries of the Street as depicted on the Plat Map.

5. No Erosion or Damage to Grantor's Parcel. Grantees are prohibited from utilizing the Driveway Easement Area in any manner that directly or indirectly causes, promotes or exacerbates any erosion of, or any damage to any portion of the Grantor's Parcel. Grantees shall be solely responsible for the cost of remediating, repairing or replacing any such erosion or damage, regardless of whether such remediation, repair or replacement is performed by Grantor or Grantees or any agent thereof. Grantees shall not, however, perform or cause to be performed any such remediation, repair or replacement of the Grantor's Parcel without obtaining Grantor's prior written approval.

C. Driveway Construction and Maintenance

1. Approval of Location, Design and Construction. Grantees acknowledge, understand and agree that the location, design, installation and construction of the Driveway (including the materials used) may be subject to approval by Weber County and/or the Association's Architectural Control Committee as more particularly set forth in the Declaration. Likewise, any relocation, redesign, alteration or modification of the Driveway may also be subject to approval by Weber County and/or the Association's Architectural Control Committee.

2. Materials. The Driveway must be constructed using asphalt, concrete or similar suitable construction material as approved by Weber County and/or the Association's Architectural Control Committee. The same material must be used to construct the entire Driveway (*i.e.*, the materials used to construct that portion of the Driveway located on the Grantor's Parcel must match the materials used to construct the remaining portion of the Driveway located on the Grantees' Parcel).

3. Maintenance, Repair and Replacement. The Grantees and their successors and assigns, shall be solely responsible for paying any and all costs and expenses associated with the design, installation, construction, use, maintenance, repair, relocation, redesign, alteration or modification of the Driveway including, without limitation, any portion of the Driveway, or any related improvements, located on any portion of the Grantor's Parcel. The Driveway shall be maintained and/or repaired as determined by the Grantees and/or the Association's Architectural Control Committee to the extent such authority is granted under the Declaration or any other governing documents of the Association.

4. Plat Map Easements. The Parties acknowledge and agree that the Grantor's Parcel and the Grantees' Parcel are subject to certain easements that are identified and depicted on the Plat Map as "Slope and PUE/Drainage Easement" or "PUE/Drainage Easement" (collectively, the "**Plat Map Easements**"). As noted in the Plat Map Legend, the acronym "PUE" stands for "Public Utility Easement." Grantees acknowledge, understand and agree that (A) certain portions of the Driveway will cross over such Plat Map Easements, and (B) the design, installation and construction of the Driveway must not interfere with the purposes for which the Plat Map Easements have been established. As such, the Driveway must be designed and constructed to accommodate the purposes for which the Plat Map Easements have been established (*e.g.* drainage pipes to accommodate drainage easements, pipes/conduits to accommodate water, sewage, electrical or other utility easements, etc.). Grantees are solely responsible for determining and obtaining any approvals that may be required by Weber County or any utility companies/districts prior to constructing the Driveway over any Plat Map Easements.

D. Miscellaneous

1. Indemnification. Grantees shall indemnify, defend, save and hold Grantor harmless from any and all liability, damages, costs, expenses, causes of action, claims, losses, settlements, fines, penalties and/or reasonable attorneys' fees (collectively, "**Claims/Damages**") related to any personal injury or property damage that may directly or indirectly result from any use or activity on, around or related to use of the Driveway Easement Area by any Grantee Party. Grantees shall not be liable or responsible for any such Claims/Damages that may be alleged or suffered by any party other than a Grantee Party.

2. Successors and Assigns. Each and every one of the benefits and burdens of this Agreement, including the easement granted herein, shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, successors and assigns of the Grantor and Grantees. Upon either Party's conveyance of his or her or its interest in the Grantor's Parcel or the Grantees' Parcel, such Party shall no longer have any obligations, liabilities or responsibilities whatsoever in connection with this Agreement or the easement granted herein, and all such obligations, liabilities or responsibilities shall be assumed by the individual or entity to whom the Party has conveyed his or her or its interest.

3. No Waiver. The waiver by either Party of the performance of any covenant, condition, or promise hereunder shall not invalidate this Agreement nor shall it be considered a waiver by such Party of any other covenant, condition, or promise. The waiver by either or both Parties of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at the later time. The exercise of any remedy shall not exclude the exercise of any other remedy.

4. Governing Law/Venue. This Agreement shall be construed in accordance with and governed by the substantive and procedural laws of the State of Utah. Venue for any and all claims or disputes shall be Weber County, Utah.

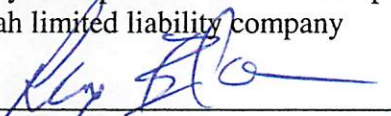
5. Attorney Fees. If any controversy, claim or dispute between the Parties arising out of or relating to this Agreement results in arbitration or litigation, the prevailing Party in such proceedings shall be entitled to recover from the other Party reasonable legal expenses, including attorney fees and costs.

6. Effective Upon Recording. This Agreement, and the easement granted herein, shall become effective and enforceable immediately upon the recording of this Agreement in the Weber County Recorder's Office.

IN WITNESS WHEREOF, the Grantor and Grantees have executed this Agreement as of the date indicated and verified by the notary who shall notarize each Party's signature.

GRANTOR:

Valley Enterprise Investment Company, LLC,
a Utah limited liability company

By: 
Name: Ray Bowden
Title: President

GRANTEES:


Thomas Kenyon


Michele Kenyon

ACKNOWLEDGEMENT

(Grantor's Signature – Valley Enterprise Investment Company, LLC)

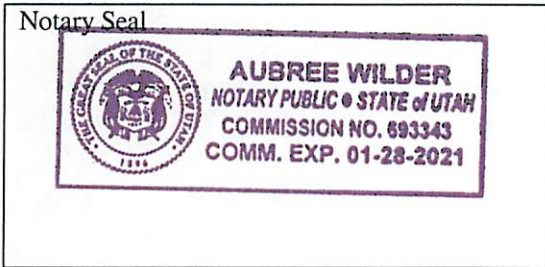
STATE OF UTAH)
)ss.
COUNTY OF Weber)

On this 10 day of July, in the year 2018, before me

Aubree Wilder, a notary public, personally appeared
Notary Public Name

Ray Bowden, proved on the basis of satisfactory evidence
Name of Document Signer

to be the person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged (he/she/they) executed the same. Witness my hand and official seal



Aubree Wilder
(Signature of Notary)

My Commission Expires: 01-28-2021

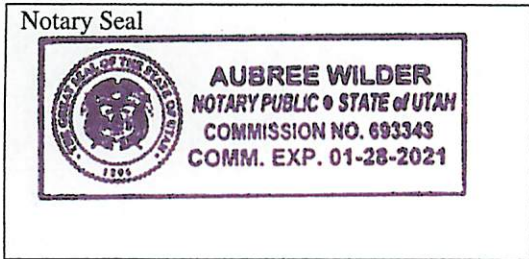
ACKNOWLEDGEMENT
(Grantee Signature – Thomas Kenyon)

STATE OF UTAH)
)ss.
COUNTY OF Weber)

On this 10 day of July, in the year 2018, before me
Aubree Wilder, a notary public, personally appeared
Notary Public Name

Thomas Kenyon, proved on the basis of satisfactory evidence
Name of Document Signer

to be the person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged
(he/she/they) executed the same. Witness my hand and official seal



Aubree Wilder
(Signature of Notary)

My Commission Expires: 01/28/2021

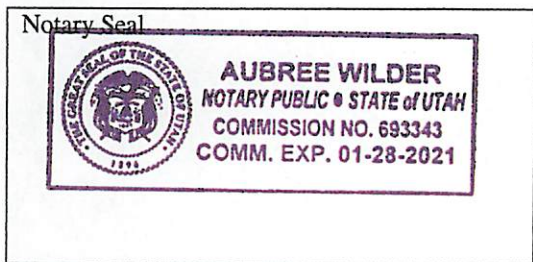
ACKNOWLEDGEMENT
(Grantee Signature – Michele Kenyon)

STATE OF UTAH)
)ss.
COUNTY OF Weber)

On this 10 day of July, in the year 2018, before me
Aubree Wilder, a notary public, personally appeared
Notary Public Name

Michele Kenyon, proved on the basis of satisfactory evidence
Name of Document Signer

to be the person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged
(he/she/they) executed the same. Witness my hand and official seal



Aubree Wilder
(Signature of Notary)

My Commission Expires: 01/28/2021

Exhibit "A"
to
Driveway Easement Agreement

Legal Description of Grantor's Parcel

Lot 52-R, The Summit at Ski Lake No. 13, Weber County, Utah
(Weber County Parcel No. 20-151-0003)

Exhibit "B"
to
Driveway Easement Agreement

Legal Description of Grantees' Parcel

Lot 53-R, The Summit at Ski Lake No. 13, Weber County, Utah
(Weber County Parcel No. 20-151-0004)

Exhibit "C"
to
Driveway Easement Agreement

Metes and Bounds Description of Driveway Easement Area

Beginning at the Southwest corner of lot 52-R The Summit at Ski Lake No. 13 a part of the North half of Section 24, T6N, R1E, SLB&M, Weber County, Utah and running thence N1°36'17"W 58.96 feet along the West line of said lot 52-R, thence S28°45'29"E 69.31, to the North line of Clairetina Court, thence S88°23'43"W 20.31 feet along said street to a point of curvature to a 25 foot radius curve to the right, thence westerly along the arc of said curve for a distance of 11.74 feet, central angle=26°54'56" chord bearing and distance = N78°08'49"W 11.64 feet to the point of beginning containing 965 square feet.

Exhibit "D"
to
Driveway Easement Agreement

Driveway Easement Diagram

[see attached diagram consisting of one (1) page]

