



W3147567

E# 3147567 PG 1 OF 15
Leann H. Kilts, WEBER COUNTY RECORDER
26-Apr-21 1140 AM FEE \$40.00 DEP PC
REC FOR: FIRST AMERICAN TITLE INSURANCE COI
ELECTRONICALLY RECORDED

RECORDING REQUESTED BY
& AFTER RECORDING RETURN TO:

Doug & Susan Oler
687 E. 3050 N.
North Ogden, UT 84414

Tax Parcel Nos.: 19-149-0007, 19-065-0016

(space above for Recorder's use)

ACCESS AND UTILITY EASEMENT AGREEMENT

THIS ACCESS AND UTILITY EASEMENT AGREEMENT (this "**Agreement**") is made as of the 26th day of April, 2021 (the "**Effective Date**"), by FOX RUN BUSINESS CONDOMINIUMS OWNERS ASSOCIATION, a Utah nonprofit corporation ("**Grantor**"), and DOUG AND SUSAN N. OLER, husband and wife ("**Grantee**"). Grantor and Grantee may be referred to herein each individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

A. Grantor is the owner of a parcel of land located in Ogden, Weber County, Utah, consisting of tax parcel number 19-149-0007, commonly known as the common area of Foxrun Business Condominiums, as 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 west of the Grantor Property, consisting of tax parcel number 19-065-0016, as 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. Legal ingress and egress to the Grantee Property has existed over and across the Grantor Property.

D. The Parties now desire to enter into this Agreement to memorialize, for the benefit of the Grantee Property, vehicular access rights and utility rights on, over, under, through, and across the Grantor Property 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 a non-exclusive access and utility easement (the "**Easement**") on, over, under, through, and across the Grantor Property for the sole purpose of (i) providing ingress and egress to and from the Grantee Property and Rulon White Boulevard via the Grantor Property, and (ii) the connection, installation and maintenance of utilities within the Grantor Property to provide utility services to the Grantee Property (the "**Improvements**").

2. **Access.** Grantee and its invitees, licensees, tenants, contractors, and agents (collectively, the “**Grantee’s Agents**”) shall have the right to enter upon the Grantor Property for the purposes permitted by this Agreement at their own risk. Grantee and Grantee’s Agents, successors, and assigns release Grantor from any claims relating to the condition of the Grantor Property and the entry upon the Grantor Property by Grantee, Grantee’s Agents, and other such parties.

3. **General Use Restrictions.** Grantee’s use of the Easement as provided for herein shall be compliant with the General Use Restrictions set forth in Article X of that certain Declaration of Covenants, Condition and Restrictions of Fox Run Business Condominiums recorded with the Weber County Recorder on July 18, 2000, at Entry No. 1716695, at Book 2082, Page 715.

4. **Reservation by Grantor.** Grantor hereby reserves the right to use the Grantor Property for any use not inconsistent with Grantee’s permitted use of the same.

5. **Easement Obstructions.** Grantor shall not install or construct any permanent building, structures, or other improvements in the Grantor Property or cause any changes to be made in the grades in the Grantor Property. No fence or other barrier shall be erected or permitted within or across the Grantor Property which would prevent or obstruct ingress and egress to and from the Grantee Property and Rulon White Boulevard; provided, however, that Grantee and Grantee’s Agents may erect temporary barricades reasonably necessary for security and/or safety purposes during construction of the Improvements in coordination with Grantor.

6. **Damage.** Grantee agrees to promptly repair any damage, other than normal wear and tear, to the Grantor Property and improvements located thereon (including, without limitation, any and all landscaping, trees, fences, water and/or sewer pipes, lines and ditches, curbs, gutters, asphalt surfaces, fences, signs, lighting, etc.) caused by Grantee or Grantee’s Agents exercise of its/their rights hereunder.

7. **Maintenance of Easement.** Grantor shall be responsible for the repair and upkeep of the Grantor Property, which repair and upkeep shall be performed in a workmanlike, diligent and efficient manner and shall include maintenance of paved surfaces in a level and smooth condition, free of potholes, with the type of material as originally used or a substitute equal in quality; plowing of snow and ice from paved surfaces; and restriping as required to keep the same clearly visible. All such maintenance, repair and replacement shall be accomplished in a first-class, lien-free manner in accordance with standards pursuant to similarly situated property of similar size maintained in Weber County, Utah, and consistent with any covenants, conditions and restrictions applicable to the Properties. If either Party damages the Grantor Property, that Party agrees to promptly repair the Grantor Property at its expense to the condition existing immediately prior to the damage. In consideration of Grantor’s routine maintenance, upkeep and repair of the Grantor Property, the Parties (or their successors and/or assigns) agree to share in the costs of such maintenance, upkeep and repair on an 80/20 basis—80% of the costs attributable to the Grantor Property, 20% of the costs attributable to the Grantee Property.

8. **Liens.** Grantee shall keep the Grantor Property free from any liens arising out of any work performed, materials furnished, or obligations incurred by, through, for or under Grantee, and shall indemnify, hold harmless and defend Grantor from any liens that may be placed on the Grantor Property pertaining to any work performed, materials furnished or obligations incurred by, through, for, or under Grantee or Grantee’s Agents. Any such liens shall be released of record within thirty (30) days.

9. **Compliance with Laws.** The Parties will comply with all applicable present or future laws, statutes, codes, acts, ordinances, rules, regulations, orders, judgments, decrees, injunctions, rules,

regulations, permits, licenses, authorizations, directions and requirements of and agreements with all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers in the exercise of their respective rights under this Agreement.

10. **Insurance.** Each Party shall maintain comprehensive general liability insurance, including contractual liability coverage, naming the other Party as an additional insured and providing coverage with a combined bodily injury, death and property damage limit of Two Million and 00/100 Dollars (\$2,000,000.00) or more per occurrence. Each Party shall provide the other with a certificate of insurance, which certificate shall provide that the coverage referred to therein shall not be modified or cancelled without at least thirty (30) days written notice to each named insured thereunder.

11. **Notices.** Any notice required or desired to be given under this Agreement will be considered given: (i) when delivered in person to the recipient named below, (ii) when delivered by a reputable overnight delivery service, or (iii) 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 Party intended. All notices shall be given at the Party's address on file with the Weber County Treasurer's Office for property tax statements. Either Party may designate a different individual or address for notices, by giving written notice thereof in the manner described above.

12. **Miscellaneous.** This Agreement 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. No supplement, modification or amendment of this Agreement shall be binding unless in writing and executed by 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. Each Party hereby waives the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions should be construed against the Party who (or whose attorney) prepared the Agreement or any earlier draft of the same. This Agreement may be signed in multiple counterparts, all of which taken together shall constitute one and the same agreement. After execution and delivery of this Agreement, a copy of the signed Agreement shall be considered for all purposes as an original of the Agreement to the maximum extent permitted by law, and no Party to this Agreement shall have any obligation to retain a version of the Agreement that contains original signatures in order to enforce the Agreement, or for any other purpose, except as otherwise required by law.

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

[Signatures and Acknowledgments Follow]

**SIGNATURE PAGE
TO
ACCESS AND UTILITY EASEMENT AGREEMENT**

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GRANTOR:

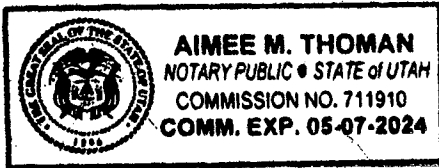
FOX RUN BUSINESS CONDOMINIUMS OWNERS
ASSOCIATION, a Utah nonprofit corporation

By: *Brett Hadley*
Print Name: Brett Hadley
Title: President

STATE OF UTAH)
) ss
COUNTY OF WEBER)

The above and foregoing instrument was acknowledged before me this 22 day of April, 2021, by Brett Hadley, President of the FOX RUN BUSINESS CONDOMINIUMS OWNERS ASSOCIATION, a Utah nonprofit corporation.

Aimee M. Thoman
Notary Public



**SIGNATURE PAGE
TO
ACCESS AND UTILITY EASEMENT AGREEMENT**

GRANTEE:

By: *Doug Oler*
Print Name: Doug Oler

By: *Susan N. Oler*
Print Name: Susan N. Oler

STATE OF UTAH)
) ss
COUNTY OF WEBER)

The above and foregoing instrument was acknowledged before me this 21st day of April, 2021, by Doug Oler and Susan N. Oler.

Sara Read
Notary Public

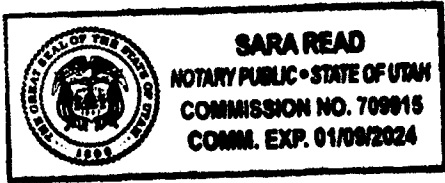


EXHIBIT A

(Legal Description of the Grantor Property)

ALL COMMON AREAS WITHIN FOXRUN BUSINESS CONDOMINIUMS, WEBER COUNTY,
UTAH.

Tax Parcel No. 19-149-0007

EXHIBIT B

(Legal Description of the Grantee Property)

ALL OF LOTS 36 AND 37, WEBER INDUSTRIAL PARK, PLAT B, WEBER COUNTY, UTAH. EXCEPTING THEREFROM THE WEST 40 FEET OF THE ABOVE DESCRIBED LOTS. ALSO EXCEPTING THE SOUTH 209.37 FEET OF SAID LOT 37. ALSO EXCEPTING FOXRUN BUSINESS CONDOMINIUMS.

Tax Parcel No. 19-065-0016

TO
ACCESS AND UTILITY EASEMENT AGREEMENT

PARCEL NOS.:

MEMBER NAME:

19-162-0004

SUBMINIATURE INSTRUMENTS CORP.,
a Utah corporation

By:

[Handwritten Signature]

Print Name:

JOHN T GAINES

Its:

owner

STATE OF

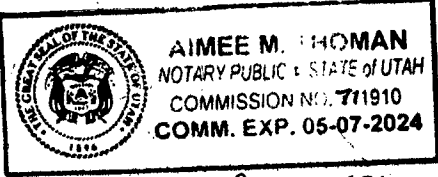
Utah

COUNTY OF

Weber

) ss

The above and foregoing instrument was acknowledged before me this 19 day of
~~March~~ April, 2021, by John T GAINES as owner of SUBMINIATURE
INSTRUMENTS CORP., a Utah corporation.



Notary Public

[Handwritten Signature]

COMMISSION No. 711910

**JOINDER
TO
ACCESS AND UTILITY EASEMENT AGREEMENT**

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PARCEL NOS.:

19-303-0003
19-303-0002

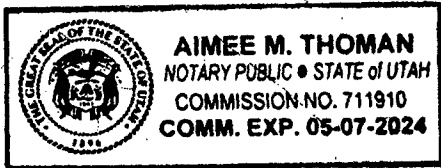
MEMBER NAME:

THE CUTTING EDGE INVESTMENTS, LLC,
a Utah limited liability company

By: Brett Hadley
Print Name: Brett Hadley
Its: Owner

STATE OF Utah)
COUNTY OF Weber) ss

The above and foregoing instrument was acknowledged before me this 29 day of March, 2021, by Brett Hadley as owner of THE CUTTING EDGE INVESTMENTS, LLC, a Utah limited liability company.



[Signature]
Notary Public

**JOINDER
TO
ACCESS AND UTILITY EASEMENT AGREEMENT**

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PARCEL NOS.:

19-162-0006

MEMBER NAME:

JSS PROPERTIES, LLC,
a Utah limited liability company

By: 

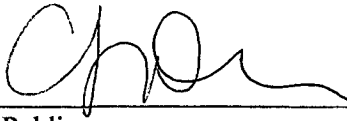
Print Name: JOHN A. SHEPHERD

Its: OWNER

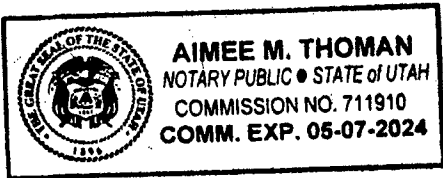
STATE OF Utah)

COUNTY OF Weber) ss

The above and foregoing instrument was acknowledged before me this 30 day of March, 2021, by John Shepherd, as owner of JSS PROPERTIES, LLC, a Utah limited liability company.



Notary Public



**JOINDER
TO
ACCESS AND UTILITY EASEMENT AGREEMENT**

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PARCEL NOS.:

19-180-0001

MEMBER NAME:

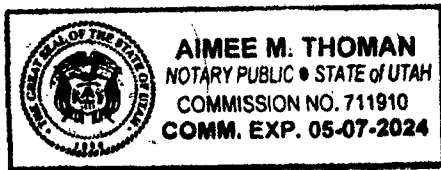
RHH HOLDING LLC,
a Utah limited liability company

By: *Douglas Hadley*
Print Name: Douglas Hadley
Its: Owner

STATE OF Utah)
COUNTY OF Weber) ss

The above and foregoing instrument was acknowledged before me this 30 day of March, 2021, by Douglas Hadley, as owner of RHH HOLDING LLC, a Utah limited liability company.

[Signature]
Notary Public



**JOINDER
TO
ACCESS AND UTILITY EASEMENT AGREEMENT**

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PARCEL NOS.:

19-180-0004
19-180-0005
19-180-0006

MEMBER NAME:

CHERRY SPRING INVESTMENTS, LTD.,
a Utah limited partnership

By: Douglas Oler
Print Name: DOUGLAS OLER
Its: OWNER

STATE OF UTAH)
COUNTY OF WEBER) ss

The above and foregoing instrument was acknowledged before me this 26th day of March, 2021, by Douglas Oler, as owner of CHERRY SPRING INVESTMENTS, LTD., a Utah limited partnership.



[Signature]
Notary Public

**JOINDER
TO
ACCESS AND UTILITY EASEMENT AGREEMENT**

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PARCEL NOS.:

19-162-0002
19-162-0003
19-180-0003

MEMBER NAME:

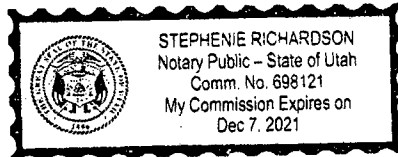
WOODS LEASING L.L.C.,
a Utah limited liability company

By: Thomas H Wood
Print Name: THOMAS H. WOOD
Its: MANAGING PARTNER

STATE OF Utah)
COUNTY OF Weber) ss

The above and foregoing instrument was acknowledged before me this 19 day of April, 2021, by Thomas H. Wood as Managing Partner of WOODS LEASING L.L.C., a Utah limited liability company.

Stephenie Richardson
Notary Public



**JOINDER
TO
ACCESS AND UTILITY EASEMENT AGREEMENT**

PARCEL NOS.:

19-180-0002

MEMBER NAME:

PJB PROPERTIES, LLC,
a Utah limited liability company

By: *Paul Brent Knigh*
Print Name: Paul Brent Knigh
Its: Owner

STATE OF Utah)
COUNTY OF Weber) ss

The above and foregoing instrument was acknowledged before me this 19 day of April, 2021, by Paul Brent Knigh as owner of PJB PROPERTIES, LLC, a Utah limited liability company.

Aimee M. Thoman
Notary Public

