

**MIDVALE CITY, UTAH
RESOLUTION NO. 2022-R-32**

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER
A PERPETUAL EASEMENT AGREEMENT WITH
GARDNER JORDAN BLUFFS, L.C.**

WHEREAS, Gardner Jordan Bluffs, L.C. is owner of certain property located approximately 8250 South Bingham Junction, Midvale, Utah ("Property") which includes property along the bank of the Jordan River; and

WHEREAS, Salt Lake County wishes to design and construct a boat launch on the Property on the east bank of the Jordan River; and

WHEREAS, Gardner Jordan Bluffs, L.C. and Midvale City wish to enter into a Perpetual Easement Agreement for the construction, maintenance and access to the boat launch; and

WHEREAS, Midvale City Council believes that the public access to the Jordan River Trail by and through the use of the newly constructed boat launch benefits the residents of Midvale City.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF
MIDVALE, UTAH**

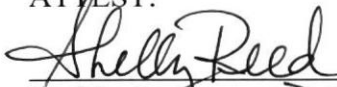
1. The Midvale City Council authorizes the Mayor to enter into a Perpetual Easement Agreement with Gardner Jordan Bluffs, L.C.
2. This Resolution takes effect immediately.

APPROVED AND ADOPTED this 21st day of June, 2022.



Marcus Stevenson, Mayor

ATTEST:



~~Rori L. Anderson, Deputy Recorder~~
~~City Recorder~~ Shelly Reed

(Signatures appear on separate page.)

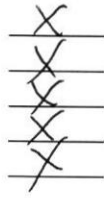
Voting by the City Council

"Aye"

"Nay"



Quinn Sperry
Paul Glover
Heidi Robinson
Bryant Brown
Dustin Gettel



Parcel No. 4036.001:PE
Tax Serial No. 21-35-401-001
County Project No.:
Jordan River Portages
Surveyor WO: W031021026

WHEN RECORDED RETURN TO:
Midvale City Recorder
7505 S Holden Street
Midvale, Utah 84047

Space above for County Recorder's use

Parcel No. 4036.001:PE
Tax Serial No. 21-35-401-001
County Project No.:
Jordan River Portages
Surveyor WO: W031021026

PERPETUAL ACCESS EASEMENT AGREEMENT

THIS PERPETUAL EASEMENT AGREEMENT (this "Agreement") is made and entered into as of this _____ day of May, 2022 (the "Effective Date"), between GARDNER JORDAN BLUFFS, L.C., a Utah limited liability company ("Grantor") and MIDVALE CITY, a municipal corporation of the State of Utah ("Grantee"). Grantor and Grantee are sometimes referred to herein singularly as a "Party" and collectively as the "Parties" with respect to the following:

RECITALS

- A. Grantor owns certain real property located at approximately 8250 South Bingham Junction, Midvale, Utah, also identified as Parcel No. 21-35-401-001 (the "Property").
- B. The Property is adjacent to the Jordan River, and a portion of the Jordan River Trail is located on the Property pursuant to a prior easement granted by Grantor's predecessor-in-interest.
- C. Grantee desires to obtain a perpetual easement across a specified portion of the Property to allow for construction and maintenance of a boat take-out portage on the east bank of the Jordan River (the "Portage") and to allow for access from the Portage to the Jordan River Trail located on Property.
- D. Grantor is willing to grant and convey a perpetual easement to Grantee pursuant to the terms and conditions of this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and based upon the mutual promises and covenants set forth therein, the Parties agree as follows:

1. Perpetual Easement. Grantor hereby grants and conveys to Grantee (i) for the benefit of Grantee and its contractors and employees, a perpetual, non-exclusive easement on, over, and across the portion of the Property described on Exhibit "A" and depicted on Exhibit "B", each attached hereto and incorporated herein by this reference (the "Easement Area"), for purposes of constructing, repairing, cleaning, and maintaining a Portage on the Jordan River and an access trail to such Portage on, over and across the Easement Area, and (ii) for the benefit of Grantee and the general public, a perpetual, non-exclusive pedestrian access easement on, over, and across the Easement Area for purposes of accessing the Portage and the Jordan River trail. The legal description for the Perpetual Easement is more particularly described in Exhibit A and depicted on Exhibit B, both attached hereto and incorporated herein by this reference.
2. Construction. Prior to commencing any construction within the Easement Area and, following initial construction, prior to commencing any alterations or further improvements to the Easement Area, Grantee shall first deliver the plans and specifications for the proposed improvements, landscaping, or alterations, as applicable, to Grantor for Grantor's review and approval, which approval shall not be unreasonably withheld, conditioned or delayed. If Grantor reasonably disapproves of any element of such plans, then Grantor will notify Grantee in writing of any required changes thereto within ten (10) days of Grantor's receipt of the proposed plans, and Grantee will use commercially reasonable efforts to promptly incorporate Grantor's proposed changes into the plans and redeliver it, as revised, to Grantor for its approval in accordance with the procedure set forth above, with Grantor's subsequent review period being five (5) business days after submission to Grantor.
3. Limitation of Liability. The Parties agree that the easement rights granted herein are for recreational purposes and intend for Grantor's liability to be limited as contemplated by Utah Code Ann. Section 57-14-202.
4. Reservation; Condition of Easement Area. Exclusive Use of the Easement Area is expressly not granted herein, and Grantor reserves the right to use the Easement Area for any use not inconsistent with Grantee's permitted use of the Easement Area as set forth in Section 1 above. Grantee accepts the Easement Area in its "as is, where is" condition, without representation or warranty, whether express or implied, whatsoever, and will use such Easement Area at its own risk.
5. Damage; Repairs; Indemnification; Liens. Grantee, on behalf of its agents and contractors, shall repair or replace any damage or destruction to the Easement Area which is caused by the acts or omissions of Grantee or its permitted users to substantially the same condition existing before any such damage or destruction. Grantee shall indemnify, defend, and hold harmless Grantor and its contractors, agents and employees from any claim, damages, losses, expenses and liability, including reasonable attorney fees, to the extent arising from Grantor's or Grantor's contractors, agents, representatives, or employees' acts, events, accidents, or omissions while using the Easement Area or arising out of this Agreement. Should any mechanic's or other lien be filed against the Property or any part thereof by reason of Grantee's acts or omissions or because of a claim against Grantee, Grantee shall cause the same to be

canceled and discharged of record by bond or otherwise within thirty (30) days after notice by Grantor. If Grantee fails to comply with its obligations in the immediately preceding sentence within such thirty (30) day period, Grantor may perform such obligations at Grantee's expense, in which case all of Grantor's costs and expenses in discharging shall be promptly due and payable by Grantee to Grantor.

6. Compliance with Laws. Grantee shall comply with all 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, foreseen or unforeseen, ordinary or extraordinary, including, without limitation, any building, zoning and land use laws.
7. Insurance. Grantee shall maintain general liability insurance sufficient to meet its obligations hereunder and consistent with applicable law, but in no event shall Grantee's insurance limits be less than \$5,000,000.00. Grantee agrees to provide evidence of such insurance to Grantor promptly upon Grantor's request from time to time.
8. Assignment. The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the Parties and their respective heirs, successors, and assigns. The rights and obligations set forth in this Agreement are intended to run with the land and succeeding interests therein. This Agreement may not be assigned by Grantee without prior written consent of Grantor, in Grantor's sole discretion.
9. Integration. This Agreement embodies the entire understanding of the Parties, and there are no further or other agreements or understandings, written or oral, in effect between the Parties relating to this property.
10. Miscellaneous.
 - a. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Utah.
 - b. Authorization. Each individual executing this Agreement represents and warrants that he or she has been duly authorized by appropriate action of the governing body of the Party for which he or she signs to execute and deliver this Agreement and that as result of his/her signature, this Agreement shall be binding upon the Party for which he/she signs.
 - c. Attorneys' Fees. In the event that at any time either Party institutes any action or proceeding against the other relating to the provisions of this Agreement or any default hereunder, then the unsuccessful Party in such action or proceeding agrees to reimburse the successful Party for the reasonable expenses of such action including reasonable attorneys' fees, incurred therein by the successful Party.
 - d. No Public Dedication. Nothing herein shall be construed as a public dedication.

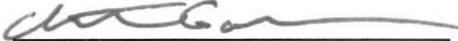
(Signature page(s) follow)

IN WITNESS WHEREOF, this Agreement is executed and effective as of the Effective Date.

GRANTOR:

GARDNER JORDAN BLUFFS, L.C., a
Utah limited liability company, by its
Manager

KC Gardner Company, L.C., a Utah limited
liability company

By: 
Name: Christian Gardner
Its: Manager

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

On this 27 day of MAY, 2022, personally appeared before me CHRISTIAN GARDNER
_____, who, being by me duly sworn said that he/she is the
Manager of KC Gardner Company, L.C., a Utah limited liability company, the Manager of
GARDNER JORDAN BLUFFS, L.C., a Utah limited liability company, and that the within and
foregoing instrument was signed in behalf of said company, and said Manager
acknowledged to me that said company executed the same.




NOTARY PUBLIC
Residing in Salt Lake County, Utah

GRANTEE
MIDVALE CITY

By: _____
Robert M. Hale, Mayor

ATTEST:

Rori Andreason, City Recorder

STATE OF UTAH)
 :ss
COUNTY OF SALT LAKE)

On this ____ day of _____, 2022, personally appeared before me _____,
who being duly sworn, did say that he is the Mayor of Midvale City and that the foregoing
instrument was signed on behalf of Midvale City, by authority of law.

NOTARY PUBLIC
Residing in Salt Lake County, Utah

EXHIBIT A
Legal Description of the Easement Area

A perpetual easement being part of Lot 3, Jordan Bluffs Lot 201A Amended Subdivision recorded April 10, 2020 as Entry No. 13239660 in Book 2020 of Plats, at Page 79 in the Office of the Salt Lake County Recorder. Said easement is located in the Northwest Quarter of Section 35, Township 2 South, Range 1 West, Salt Lake Base and Meridian and is described as follows:

Beginning at a point on the westerly edge of an existing asphalt trail, which is 204.07 feet N. $76^{\circ}56'59''$ E. along a northerly line of said Lot 3 and 155.02 feet South from a northwesterly corner of said Lot 3, said point is also, 2889.26 feet S. $89^{\circ}56'27''$ W. along the Section line and 382.69 feet South from the Northeast Corner of said Section 35; thence S. $17^{\circ}40'27''$ E. 22.11 feet along said westerly edge of existing asphalt trail to a point of non-tangency with a 34.94 foot radius curve to the left, concave southeasterly (Radius point bears S. $10^{\circ}25'15''$ E.); thence Southwesterly 29.10 feet along the arc of said curve, through a central angle of $47^{\circ}42'28''$ (Chord bears S. $55^{\circ}43'31''$ W. 28.26 feet) to the point of reverse curvature with a 36.00 – foot radius curve to the right, concave northwesterly; thence Southwesterly 36.14 feet along the arc of said curve, through a central angle of $57^{\circ}31'31''$ (Chord bears S. $60^{\circ}38'03''$ W. 34.65 feet) to the easterly top bank of the Jordan River; thence N. $23^{\circ}45'26''$ W. 29.74 feet along said easterly top bank of the Jordan River; thence S. $52^{\circ}57'50''$ E. 3.97 feet to the point of tangency with a 14.00 foot radius curve to the left, concave northerly; thence Easterly 23.25 feet along the arc of said curve, through a central angle of $95^{\circ}09'52''$ to the point of reverse curvature with a 56.94 foot radius curve to the right, concave southeasterly; thence Northeasterly 44.62 feet along the arc of said curve, through a central angle of $44^{\circ}53'53''$ (Chord bears N. $54^{\circ}19'14''$ E. 43.49 feet) to the **Point of Beginning**.

The above-described perpetual easement contains 1,482 Sq Ft. in area or 0.034 acre more or less.

EXHIBIT “B”: By this reference, made a part hereof,

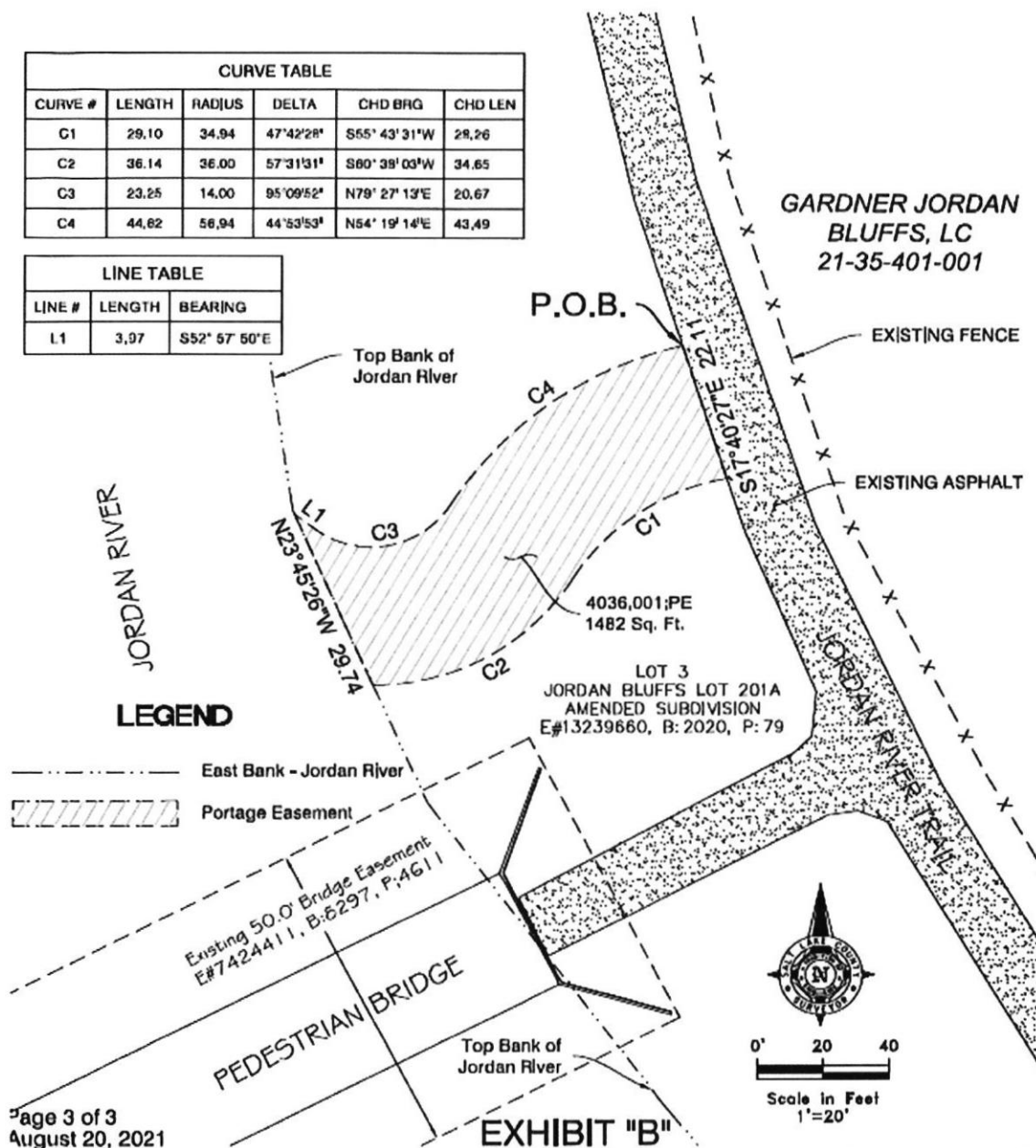
BASIS OF BEARING: S. $89^{\circ}56'27''$ W. along the Section line between the Northeast Corner and the Northwest Corner of said Section 35, Township 2 South, Range 1 West, Salt Lake Base and Meridian.

*Parcel No. 4036.001:PE
Tax Serial No. 21-35-401-001
County Project No.:
Jordan River Portages
Surveyor WO: W031021026*

EXHIBIT B
Map of Easement Area
(See attached)

CURVE TABLE					
CURVE #	LENGTH	RADIUS	DELTA	CHD BRG	CHD LEN
C1	29.10	34.94	47°42'28"	S55° 43' 31"W	28.26
C2	36.14	36.00	57°31'31"	S60° 39' 03"W	34.65
C3	23.25	14.00	95°09'52"	N79° 27' 13"E	20.67
C4	44.62	56.94	44°53'53"	N54° 19' 14"E	43.49

LINE TABLE		
LINE #	LENGTH	BEARING
L1	3.97	S52° 57' 50"E



Gardner Jordan Bluffs, LC
Portage Easement

Prepared for:
SL County Parks & Rec.

Sec. 35, T.2S, R.1W, S.L.B.&M,
Work Order No. W031021026 RE No. 4036

Prepared by the Office of:

Reid J. Demman, P.L.S.
Salt Lake County Surveyor

2001 S. State St. #N1-400
Salt Lake City, Utah 84114-4575
(385) 468-8240

CONSENT AND SUBORDINATION

Wells Fargo Bank, National Association (the "Lender"), as the holder of a lien encumbering certain real property pursuant to that certain Deed of Trust, dated November 15, 2017, executed by Gardner Jordan Bluffs, L.C., as Trustor, in favor of the trustee named therein, for the benefit of Lender, as Beneficiary, and recorded November 16, 2017, as Instrument No. 12660565 of the official records of Salt Lake County, Utah, as amended by that certain First Amendment to Security Agreement dated August 21, 2020 and recorded on August 28, 2020 as Instrument No. 13376229 of the official records of Salt Lake County, Utah, hereby consents to the recording of Perpetual Access Easement Agreement to which this Consent and Subordination is attached and subordinates its lien thereto.

WELLS FARGO BANK, NATIONAL ASSOCIATION,
a national banking association

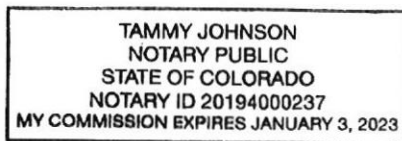
By: [Signature]
Name: Mark Hausman
Title: Director

STATE OF Colorado)

: ss.

COUNTY OF Denver)

On the 31 day of May, 2022, personally appeared before me Mark Hausman, who acknowledged to me that he executed the foregoing instrument as the Director of Wells Fargo Bank, National Association.



[Signature]
Notary Public