



**Ralph Chamness**  
Chief Deputy  
Civil Division

**SIM GILL**  
DISTRICT ATTORNEY

**Jeffrey William Hall**  
Chief Deputy  
Justice Division

**Lisa Ashman**  
Administrative  
Operations

**Blake Nakamura**  
Chief Deputy  
Justice Division

MAIL  
RECEIVED  
SLCO FACILITIES  
JUN - 8 2018

June 8, 2018

Derrick L. Sorensen  
Senior Appraiser  
Salt Lake County  
2001 South State Street, Suite S3-110  
Salt Lake City UT 84190

RE: Intermountain Gardner Transformation Center

Dear Derrick:

Please find the above-referenced document, Resolution & Operations and Maintenance Access Easement Agreement, is approved as to form and is being returned to you for further processing.

If you have any questions or concerns, please contact me at extension 87782

Sincerely,

Christopher Preston  
Deputy District Attorney  
Civil/Litigation Division

RESOLUTION NO. \_\_\_\_\_

ADOPTED \_\_\_\_\_, 2018

A RESOLUTION OF THE SALT LAKE COUNTY COUNCIL AUTHORIZING  
AN OPERATIONS AND MAINTENANCE ACCESS EASEMENT  
AGREEMENT WITH IHC HEALTH SERVICES, INC.

RECITALS

A. IHC Health Services, Inc. (“IHC”) owns a parcel of real property located at 5026 South State Street, Murray, Utah, identified as Parcel No. 22-07-156-009 (the “Property”)

B. The County desires to obtain from IHC a nonexclusive perpetual easement across a portion of the Property to construct, access, and maintain all flood control structures and appurtenances thereto, as part of a stream maintenance program for Little Cottonwood Creek (the “Easement”). An Operations and Maintenance Access Easement Agreement Easement Agreement (the “Agreement”) has been prepared by the parties, providing the terms and conditions of the Easement.

C. It has been determined that the best interests of the County and the general public will be served by acquiring the Easement as provided in the terms and conditions of the attached Agreement. The execution of the Agreement will be in compliance with all applicable statutes and ordinances.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Salt Lake County Council that the attached Agreement is accepted and approved and the Mayor is authorized to execute the Agreement on behalf of Salt Lake County.

APPROVED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

SALT LAKE COUNTY COUNCIL

By: \_\_\_\_\_  
Aimee Winder Newton, Chair

ATTEST:

\_\_\_\_\_  
Sherrie Swensen  
Salt Lake County Clerk

Council Member Bradley voting \_\_\_\_\_  
Council Member Bradshaw voting \_\_\_\_\_  
Council Member Burdick voting \_\_\_\_\_  
Council Member DeBry voting \_\_\_\_\_  
Council Member Granato voting \_\_\_\_\_  
Council Member Jensen voting \_\_\_\_\_  
Council Member Newton voting \_\_\_\_\_  
Council Member Snelgrove voting \_\_\_\_\_  
Council Member Wilson voting \_\_\_\_\_

APPROVED AS TO FORM:

R. Christopher Preston  
R. Christopher Preston  
Deputy District Attorney  
Date: 6/7/2018

WHEN RECORDED, RETURN TO:

Salt Lake County  
Attn: Salt Lake County Flood Control  
2001 S. State St., N3-120  
Salt Lake City, UT 84190

WITH A COPY TO:

IHC Health Services, Inc.  
Attn: Corporate Real Estate Department  
36 S. State St., 23<sup>rd</sup> Floor  
Salt Lake City, Utah 84111

Tax Parcel Numbers: 22-07-156-009

**OPERATIONS AND MAINTENANCE ACCESS EASEMENT AGREEMENT**  
(Murray City, Utah)

IHC HEALTH SERVICES, INC., a Utah nonprofit corporation (“Grantor”), and SALT LAKE COUNTY, a body corporate and politic of the State of Utah (“Grantee”), enter into this OPERATIONS AND MAINTENANCE ACCESS EASEMENT AGREEMENT (this “Agreement”) on June \_\_\_\_, 2018.

**Background**

- A. Grantor owns the real property in Murray City, Utah, described in Exhibit A (the “Property”).
- B. Grantee desires to receive and Grantor has agreed to grant a nonexclusive, perpetual right-of-way and easement under, through, and across portions of the Property described and depicted in Exhibit B (the “Easement Area”), described below, subject to the following terms.

**Terms**

1. Grant of Easement. Grantor hereby grants to Grantee a nonexclusive, perpetual right-of-way and easement (the “Easement”) under and across the Easement Area for the sole purpose of operating and maintaining flood control measures along Little Cottonwood Creek. The Easement also includes the right for Grantee to access the Easement Area to accomplish the purpose described above. Grantee agrees that, except in the case of an emergency, it will enter onto the Easement Area at commercially reasonable times and using existing access ways. Before undertaking any maintenance within the Easement Area, Grantee agrees to notify Grantor in writing at least three (3) days prior to beginning work (except for in case of an emergency, for which no advance notice is required).
2. Release of Prescriptive Easements. Other than the Easement and other interests in the Property expressly set forth in recorded instruments, Grantee disclaims and terminates any interests in the Property including, without limitation, any prescriptive easements, and shall have no further rights, interest or claims in or to such prescriptive easements or other interests in the Property.
3. Reservation. Grantor reserves the right to use the Easement Area in common with Grantee so long as Grantor does not unreasonably interfere with the rights granted to Grantee under this Agreement. Grantor may install and maintain landscaping, hardscaping, sidewalks, driveways, drainage and other improvements on the Easement Area (collectively, the “Permitted Improvements”). Grantor will

only install landscaping that will not interfere with this Easement as the landscaping grows and matures. Except for the Permitted Improvements, Grantor agrees not to construct or erect any other improvements, buildings or structures on the Easement Area or to change the contour of the Easement Area without obtaining Grantee's written consent, which will not be unreasonably withheld, conditioned or delayed. Grantor also reserves the right to grant permits, licenses and easements over, across, through and under the Easement Area for any other lawful purpose, subject to this Agreement.

4. Repairs. If Grantee damages or destroys any Permitted Improvements or Grantor's other improvements or property in connection with Grantee's exercise of its rights under this Agreement, Grantee will repair or replace the damaged improvements and restore the damaged property as near to the original condition as is reasonably possible. Grantee will complete all repair work within 30 days of receiving written notice from Grantor describing the damage. If Grantee cannot complete the repair work within 30 days due to circumstances outside of Grantee's control, Grantee may take additional time as may be necessary under the circumstances to complete the work so long as Grantee begins the work within the 30-day period (or, in the case of a weather-related force majeure event, within 30 days of the date when Grantee can begin such work under such circumstances) and diligently pursues it to completion.
5. Compliance with Laws. Grantee will comply with all applicable federal, state and local laws, rules and regulations when entering upon the Easement Area and exercising its rights under this Agreement. Grantee will diligently complete all construction, maintenance and repair activities permitted under this Agreement within a commercially reasonable time frame under the circumstances.
6. No Liens. Grantee will not permit any lien or claim of mechanics, laborers or materialmen to be filed against the Easement Area or the Property for any work, labor or materials furnished, alleged to have been furnished or to be furnished pursuant to any agreement by Grantee. In the event that a lien or claim is filed, Grantee will cause the lien or claim to be paid and discharged within 30 days after the date of the filing or recording of the lien or claim unless the lien claim is contested or disputed by Grantee. If Grantee contests the lien claim, Grantee will cause a bond for at least 100% of the amount of the disputed lien claim to be issued in favor of Grantor (the "Bond") within 30 days after the date of the filing or recording of the lien. The Bond will be maintained during the entire time of any proceeding in which Grantee contests the lien.
7. Indemnification. Grantee is a body corporate and politic of the State of Utah and by entering into this Agreement, Grantee does not waive any defenses or governmental immunity under the Utah Governmental Immunity Act, Title 63G, Chapter & Utah Code Ann. (2017) as amended (the "Act"). Nothing contained in this Agreement shall be construed to increase Grantee's liability to third parties beyond that set forth in the Act. Subject to the foregoing, and except to the extent due to the gross negligence or willful misconduct of Grantor, Grantee will, to the extent it is consistent with the terms of Act, indemnify Grantor from and against all damages, claims, losses, costs, expenses, or other liabilities that arise by reason of use of the Easement, the Easement Area, or any other portion of the Property by Grantee or its contractors, employees, or invitees, including claims for death or injury to person or damage to property, attorneys' fees and court costs. The provisions of this paragraph will survive any termination of the Easement or this Agreement.
8. Environmental Matters. Grantee will not permit any contamination, dumping or other environmental waste to be left, stored, disposed, or released in or on the Easement Area or the Property. Additionally, Grantee will not create, exacerbate or cause any "Environmental Condition" (as defined below) on or about the Property or the Easement Area. For purposes of this Agreement, "Environmental Condition" means (a) contamination or pollution of soil, air, surface or groundwater, (b) the disposal,

placement, existence, presence or release or threat of release of a "Hazardous Material" (as defined below) and the affects thereof, or (c) noncompliance with or violation of "Applicable Law" (as defined below) including, without limitation, any lack of required governmental permits or approvals. "Hazardous Material" means (x) any substance, the presence of which requires investigation, remediation, or other response or corrective action under Applicable Law, or (y) any substance which is defined as a hazardous waste, hazardous substance, extremely hazardous substance, hazardous material, hazardous matter, hazardous chemical, toxic substance, toxic chemical, pollutant or contaminant, or other similar term, in or pursuant to Applicable Law, or (z) any asbestos or asbestos-containing material, PCBs or equipment or articles containing PCBs, petroleum, diesel fuel, gasoline or other petroleum hydrocarbons. "Applicable Law" means all existing federal, state or local laws, common law, statutes or regulations, including, without limitation, those relating to the protection of human health and safety, protection of the environment, or prevention of pollution.

9. Notice. All communications, consents, and other notices provided for in this Agreement will be in writing and will be effective on the date sent by receipted hand delivery, confirmed facsimile or e-mail, nationally-recognized, overnight courier, or registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

(a) To Grantee:

SALT LAKE COUNTY  
Attn: Salt Lake County Flood Control  
21001 S. State St., N3-120  
Salt Lake City, UT 84190

(b) To Grantor:

IHC HEALTH SERVICES, INC.  
36 South State Street, 23rd Floor  
Salt Lake City, UT 84111  
Attention: Corporate Real Estate Director

10. No Public Dedication. Nothing in this Agreement will be deemed or considered to be a dedication of all or any part of the Easement Area or the Property for the general public or for any other public purpose whatsoever.

11. Miscellaneous.

- (a) This Agreement constitutes the entire agreement between the parties pertaining to its subject matter and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties. No supplement, modification, or amendment of this Agreement will be binding unless executed in writing by all parties. No waiver of any of the provisions of this Agreement will be deemed, or will constitute, a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver. No waiver will be binding unless executed, in writing, by the party making the waiver, except as otherwise provided herein.
- (b) This Agreement may be signed in one or more counterparts with the same effect as if the parties executing the counterparts had all executed one document. The exhibits attached to this Agreement are incorporated by this reference.

- (c) If any provision is held to be invalid and unenforceable, the provision will be severable from, and the invalidity and unenforceability will not be construed to have any effect on, the remaining provisions of this Agreement.
- (d) This Agreement constitutes a covenant running with the land and will be binding upon and inure to the benefit of successors and assigns of Grantor and Grantee.
- (e) This Agreement is to be governed by and construed in accordance with Utah law. Time is of the essence. The failure of a person to insist upon strict performance of any of the terms, covenants, conditions or agreements contained herein will not be deemed a waiver of any rights or remedies, and will not be deemed a waiver of any subsequent breach or default.
- (f) The provisions of this Agreement are not intended to create, nor will they be in any way interpreted or construed to create, a joint venture, partnership or any similar relationship between the parties. The provisions of this Agreement will be construed as a whole and not strictly for or against any party. Nothing in this Agreement is intended to create an enforceable right, claim, or cause of action by any third-party against any party to this Agreement.

*[signatures and acknowledgments on following page(s)]*

IN WITNESS WHEREOF, Grantor and Grantee have executed this Agreement as of the date first written above.

IHC HEALTH SERVICES, INC.,  
a Utah nonprofit corporation

By: *Clay Ashdown*  
Clay L. Ashdown, Vice President

SALT LAKE COUNTY,  
a body corporate and politic of the State of Utah

By: \_\_\_\_\_  
Mayor or Designee

APPROVED AS TO FORM  
District Attorney's Office  
By: *R. Christopher Preston*  
Attorney  
R. CHRISTOPHER PRESTON  
Date: 6/8/2018

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

The foregoing Operations and Maintenance Easement Agreement was acknowledged before me this 6 day of JUNE, 2018, by Clay L. Ashdown, the Vice President of IHC HEALTH SERVICES, INC., a Utah nonprofit corporation.



*Diane McDermaid*  
NOTARY SIGNATURE AND SEAL

STATE OF UTAH                    )  
  : ss.  
COUNTY OF UTAH                )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_, who being duly sworn, did say that s/he is the \_\_\_\_\_ of Salt Lake County, Office of Mayor, and that the foregoing instrument was signed on behalf of Salt Lake County, by authority of law.

WITNESS my hand and official stamp the date in this certificate first above written:

My Commission Expires: \_\_\_\_\_

NOTARY PUBLIC

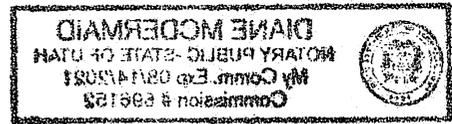
Residing in: \_\_\_\_\_

APPROVED AS TO FORM  
District Attorney's Office

Attorney

R. CHRISTOPHER PESTON

Date: \_\_\_\_\_



## **EXHIBIT A**

### **Description of the Property**

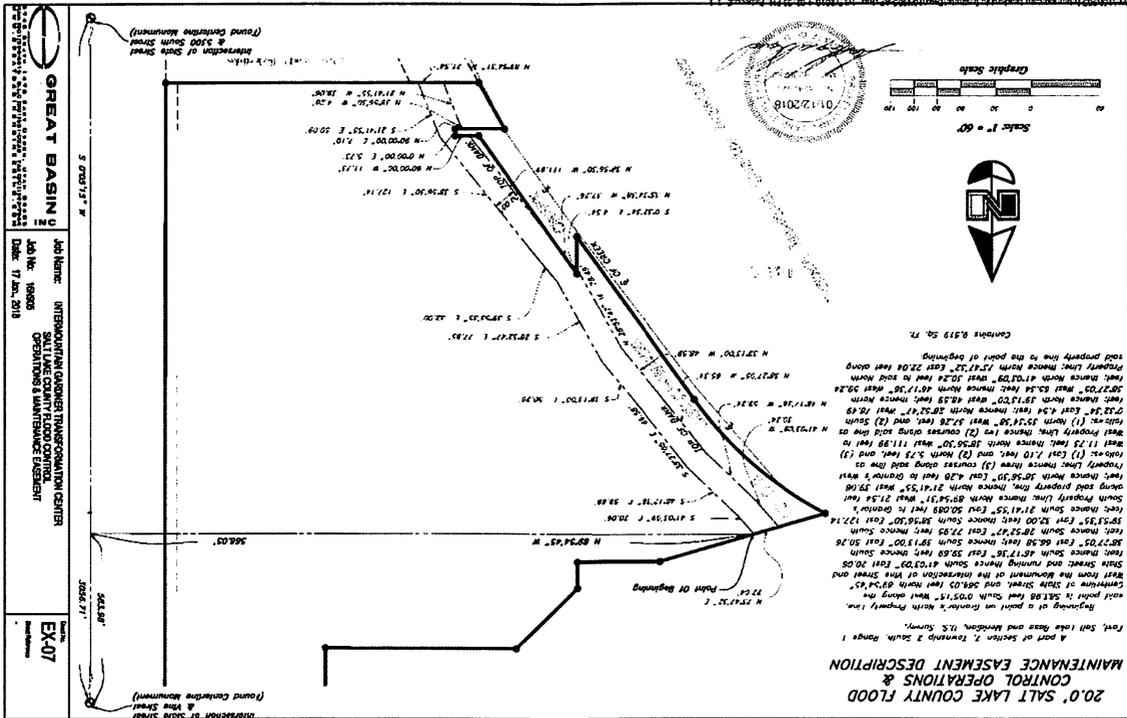
Tax Parcel #22-07-156-009

A parcel of land in the Northwest Quarter of Section 7, Township 2 South, Range I East, Salt Lake Base and Meridian, U.S. Survey, Murray City, Salt Lake County, Utah, said entire tract is described in that QUIT-CLAIM Deed recorded at Entry # 8480201, in Book 8715, at Page 2837, Salt Lake County Recorder's Office. The boundary of said parcel of land is described as follows:

Beginning at the Northwest corner of Lot 1, Council Plaza Subdivision, as platted and recorded in Book 95-10P, Page 259, in the Salt Lake County Recorder's Office, said point being 1899.90 feet South and 415.20 feet East and 142.98 feet South  $89^{\circ}50'34''$  East and 249.84 feet South  $0^{\circ}09'26''$  West from the Northwest Corner of said Section 7; thence North  $89^{\circ}54'31''$  West 58.43 feet to the Northeasterly line of Intermountain Medical Center Subdivision, as platted and recorded in Book 2003P, Page 39, in the Salt Lake County Recorder's Office; thence along said Northeasterly subdivision line the following five (5) courses: (1) North  $29^{\circ}12'00''$  West 45.33 feet; (2) due\* East 42.16 feet; (3) due\* North 5.73 feet; (4) due\* West 20.00 feet; (5) North  $35^{\circ}31'00''$  West 144.25 feet; thence North  $0^{\circ}32'34''$  West 3.29 feet to the Southerly Line of Lot 3, of said Council Plaza Subdivision; thence South  $89^{\circ}50'34''$  East 62.24 feet along said Southerly Line to the Westerly Line of said Council Plaza Subdivision; thence South  $25^{\circ}44'00''$  East 184.19 feet along said Westerly Line to the point of beginning.

The above described parcel of land contains 8,561 square feet in area, or 0.197 acre, more or less.

The Basis of Bearing is a line bearing South  $0^{\circ}05'15''$  West between the Monuments at 53rd Street and Vine Street along State Street was used as the Basis of Bearings for this Survey.



Description and Depiction of Easement Area

EXHIBIT B