

Recording Requested By and
When Recorded Return to:
Geoffrey M. Wardle
Clark Wardle LLP
P.O. Box 639
Boise, Idaho 83701

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

DECLARATION OF ACCESS EASEMENT

This Declaration of Access Easement ("**Declaration**") is made this ___ day of _____, 2021, by KUNA VICTORY, LLC, an Idaho limited liability company, (hereinafter "**Grantor**") on the terms and conditions set forth herein.

RECITALS

WHEREAS, Grantor is the owner of certain real property in Meridian, Idaho that it is presently developing ("**Property**"); and

WHEREAS, consistent with the requirements of the City of Meridian, Grantor desires to grant an easement over a portion of its Property affording the adjoining property described in Exhibit "C" ("**Benefited Parcel**") access to and from Victory Road; and

WHEREAS, access across Grantor's Property is not possible or feasible in light of the fact that the portion of the Grantor's Property will be redeveloped in a future subdivision phase and the Benefited Property currently possesses direct access onto Victory Road; and

WHEREAS, the Grantor agrees to provide access rights consistent with this Declaration in the future, over that portion of the Grantor's Property that is described in Exhibit "A" and depicted in Exhibit "B", subject to the condition precedent set forth below, and the reservation of rights afforded herein.

WITNESSETH

For the uses and on the terms and conditions hereinafter set forth and subject to the conditions and limitations set forth herein, Grantor does hereby grant, convey and confirm an easement pursuant to the terms of this Declaration under, over, through and across the Property owned by Grantor situated in Ada County, Idaho.

This grant is made on the following terms and conditions:

DECLARATION OF ACCESS EASEMENT - 1

1. GRANT OF EASEMENT. Subject to the conditions and limitations below, Grantor grants, conveys, and confirms a perpetual, non-exclusive easement for ingress and egress ("**Easement**") to and from the Benefited Parcel to Victory Road in the location described in Exhibit "A" and depicted in Exhibit "B". This Declaration is hereby expressly limited by the following:

(a) Consistent with the non-exclusive nature of the Easement, Grantor reserves the right to place additional improvements within the Easement, to grant additional easements and rights of way.

(b) The Easement may be relocated from time to time by Grantor in its development of its Property. Grantor reserves the right, from time to time, to relocate and to reconfigure all or a portion of the Easement at Grantor's sole cost and expense, provided however, that such relocation and reconfiguration shall not (a) permanently interfere with the free and unimpeded flow of vehicular and pedestrian traffic between the Benefited Parcel and Victory Road beyond the specific time reasonably required to accomplish any such relocation and reconfiguration. In exercising such reserved right, Grantor shall deliver written notice detailing such relocation and reconfiguration to the owner of the Benefited Parcel no later than thirty (30) days prior to commencing such relocation and reconfiguration. The relocation right contemplated in this Section is in addition to all rights that Grantor possesses under Idaho Code Section 55-313 to relocate access provided by the Easement.

2. CONDITION PRECEDENT TO GRANT OF EASEMENT. The Declaration of Easement by Grantor in Section 1 above, is expressly conditioned upon the occurrence of the following events, (collectively the "**Condition Precedent**"):

(a) Grantor has platted or redeveloped the Property subject to the Easement adjacent to the Benefited Parcel; and

(b) The owner of the Benefited Parcel has redeveloped the Benefited Parcel in such a manner that the City of Meridian and the Ada County Highway District have modified the existing access of the Benefited Parcel to Victory Road necessitating utilization of the Easement.

Each and every right or obligation contained in this Declaration of Easement is contingent upon the occurrence of the Condition Precedent contained in this Section 2.

3. NO PUBLIC RIGHTS. Nothing contained herein shall, or shall be deemed to, constitute a gift or dedication of any portion of the Easement the general public for the benefit of the general public or for any public purpose whatsoever. Grantor shall be permitted, from time to time, to take whatever reasonable action it may deem necessary to prevent any portion of the Easement encumbered by this Declaration from being dedicated or taken for public use or benefit.

4. INDEMNIFICATION. Any person or party utilizing the Easement shall indemnify, defend, protect and hold harmless Grantor, its successors and assigns, for, from and against any and all liabilities, claims, damages, expenses (including, without limitation, reasonable attorneys' fees and reasonable attorneys' fees on any appeal), judgments, proceedings and causes of action

DECLARATION OF ACCESS EASEMENT - 2

of any kind whatsoever resulting from the exercise of the rights granted herein and/or the use of the Easement, except to the extent caused by Grantor or Grantor's agents, employees, contractors, or licensees.

5. BINDING EFFECT. This Declaration, and the covenants and agreements herein contained, shall run with the land and, during the entire term hereof, shall be binding upon Grantor and its successors and assigns.

6. GOVERNING LAW. This Declaration herein granted shall be governed by, construed and enforced in accordance with the laws of the State of Idaho. This Declaration shall be recorded in Ada County, Idaho.

IN WITNESS WHEREOF, this Declaration has been duly executed by and on behalf of Grantor, the day, month and year herein first above written.

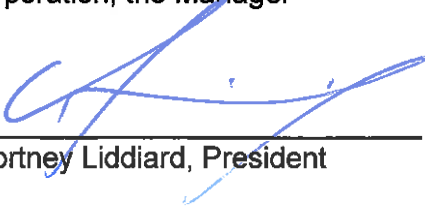
SIGNATURE ON FOLLOWING PAGE

DECLARATION OF ACCESS EASEMENT - 3

GRANTOR:

KUNA VICTORY, LLC
an Idaho limited liability company

By: BV Management Services, Inc., an
Idaho corporation, the Manager

By: 
Cortney Liddiard, President

State of Idaho)
) ss.
County of Bonneville)

On this 26th day of January, 2021, before me,
Brandi Love, a Notary Public in and for said State, personally
appeared Cortney Liddiard, known or identified to me to be the President of BV
Management Services, Inc., the Manager of Kuna Victory, LLC, who subscribed said
company name to the foregoing instrument, and acknowledged to me that he executed
the within instrument on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year in this certificate first above written.



Brandi Love
Notary Public for Idaho
Residing at Idaho Falls ID

DECLARATION OF ACCESS EASEMENT - 4

Date: December 23, 2020
Project: ID-1402-1810
Page: 1 of 1



EXHIBIT A
CROSS ACCESS EASEMENT

This easement is situated in Government Lot 4 of Section 19, Township 3 north, Range 1 East, Boise Meridian, City of Meridian, Ada County, Idaho, being a portion of Parcel A of Record of Survey Property Boundary Adjustment No. 12,282, Instrument no. 2020-042373, Records of Ada county, Idaho, more particularly described as follows:

COMMENCING at the southwest corner of said Government Lot 4, from which the northwest corner of said Government Lot 4 bears N.00°38'36"E., 1330.30 feet; thence along the south boundary of said Lot 4,

- 1) N.89°42'17"E., 1130.45 feet to the southeast corner of said Government Lot 4; thence along the east boundary of said Government Lot 4;
- 2) N.00°29'09"E., 48.00 feet to the southwest corner of Lot 1 Block 2 of the Observation Point Subdivision, Instrument no. 102063319, Records of Ada county, thence along the west boundary of said Lot 1;
- 3) N.00°29'09"E., 20.00 feet to southwest corner of Lot 2 Block 2 of said Observation Point Subdivision and the **POINT OF BEGINNING**, thence;
- 4) S.89°42'17"W., 395.02 feet, thence;
- 5) S.00°17'43"E., 20.00 feet to a point on the south boundary of said Record of Survey Property Boundary Adjustment no. 12,282, thence along said south boundary;
- 6) S.89°42'17"W., 30.00 feet, thence leaving said south boundary;
- 7) N.00°17'43"W., 40.00 feet, thence;
- 8) N.89°42'17"E., 425.29 feet to a point on the west boundary of said Lot 2, thence along said west boundary;
- 9) S.00°29'09"W., 20.00 feet to the **POINT OF BEGINNING**.

VICTORY COMMONS

CROSS-ACCESS EASEMENT

S 1/4
S-24 S-19
R1W
R1E

- P.O.C.-POINT OF COMMENCEMENT
- P.O.B.-POINT OF BEGINNING
- FOUND BRASS CAP MONUMENT
- FOUND ALUMINUM CAP MONUMENT
- CALCULATED POINT



NOT TO SCALE

S. KUNA-MERIDIAN RD

$N00^{\circ}38'36''E$ 1330.30'

GOV'T LOT 4

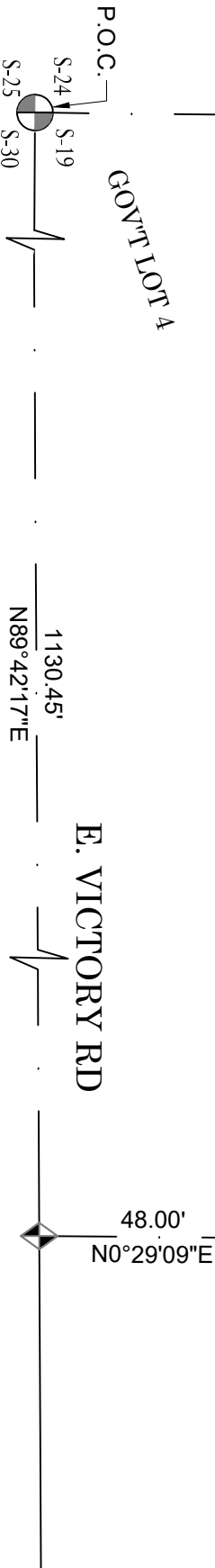
PARCEL "A"
RECORD OF SURVEY
NO. 12,282

PARCEL "A"
RECORD OF SURVEY
NO. 12,282

OBSERVATION POINT
SUBDIVISION
INST# 102063319

LOT 2,
BLOCK 2

LOT 1,
BLOCK 2



E. VICTORY RD

WARNING

IF THIS BAR DOES NOT MEASURE 1" THEN DRAWING IS NOT TO SCALE

EXHIBIT B

GOV'T LOT 4, SECTION 19, T2N., R.1E., B.M.

DRAWING INFO

DATE	12/24/20
SCALE	N.T.S.
REV #	07/23/20
*SEE 2ND SHEET FOR LISTING PROJ. NO. ID-1685-498	

001

PAGE

HORRICKS ENGINEERS

2775 Navigator Dr., Suite 210
Meridian, ID 83642

(208) 895-2520
www.horricks.com

EXHIBIT "C"

Description of Benefited Parcel

Lot 2, Block 2 Observation Point Subdivision as depicted on the Plat thereof, recorded in Bok 89 of Plats at Pages 9276-9278 on June 4, 2020 in the Official Records of Ada County, Instrument NO. 102063319.