

COTTONWOOD HEIGHTS

RESOLUTION NO. 2014-60

A RESOLUTION APPROVING TERMINATION OF AN EASEMENT (OLD MILL FENCE MAINTENANCE EASEMENT)

WHEREAS, effective 15 September 2010, the city of Cottonwood Heights (“*City*”) entered into a series of “Fence Agreement” documents (the “*Fence Agreements*”) with the owners (“*Owners*”) of legal title to the six parcels of real property (the “*Parcels*”) that are located at 3123 East Walker Mill Drive, 3135 East Walker Mill Drive, 3147 East Walker Mill Drive, 3163 East Walker Mill Drive, 3179 East Walker Mill Drive and 3195 East Walker Mill Drive in Cottonwood Heights, Salt Lake County, UT; and

WHEREAS, the Fence Agreements subsequently were recorded as encumbrances against the Parcels in the office of the Recorder of Salt Lake County (“*County*”); and

WHEREAS, pursuant to the Fence Agreements, City agreed to construct a privacy fence along the rear lot line of the Parcels, and Owners granted to City and its contractors an easement (the “*Original Easement*”) for construction and future access purposes across the Parcels as provided in section 1(c) of the Fence Agreements; and

WHEREAS, section 1(c) of the Fence Agreements also provides that City would (a) endeavor to obtain a substitute easement (the “*Substitute Easement*”) from County to replace the Original Easement, and (b) terminate the Original Easement on the Parcels when the Substitute Easement was granted by County; and

WHEREAS, effective 26 August 2014, County granted the Substitute Easement to City, and the grant of the Substitute Easement now has been recorded with County’s Recorder; and

WHEREAS, City’s city council (the “*Council*”) met on 23 September 2014 to consider, among other things, approving City’s termination of the Original Easement through execution, delivery and recording of a “Termination of Easement” document (the “*Termination Agreement*”) in the form attached as an exhibit to this resolution; and

WHEREAS, the Council has reviewed the Termination Agreement and is familiar with its terms; and

WHEREAS, in view of its receipt of the Substitute Easement from County, the Original Easement is superfluous and should be terminated by City as provided in the Fence Agreements;

NOW THEREFORE, BE IT RESOLVED by the Cottonwood Heights city council that the Council approves termination of the Original Easement, and hereby authorizes and directs City’s mayor and recorder to execute, acknowledge, deliver and record the Termination Agreement to evidence termination of the Original Easement.

This Resolution, assigned no. 2014-60, shall take effect immediately upon passage.

PASSED AND APPROVED effective 23 September 2014.

COTTONWOOD HEIGHTS CITY COUNCIL

By *Kelly Munn*
Kelvyn H. Cullimore, Jr., Mayor

ATTEST:



Kory Solorio
Kory Solorio, Recorder

VOTING:

Kelvyn H. Cullimore, Jr.	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael L. Shelton	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael J. Peterson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Tee W. Tyler	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

DEPOSITED in the office of the City Recorder this 23rd day of September 2014.

RECORDED this 24 day of September 2014.

WHEN RECORDED, MAIL TO:

COTTONWOOD HEIGHTS
1265 East Fort Union Blvd., Suite 250
Cottonwood Heights, UT 84047

Attn.: City Recorder

SPACE ABOVE FOR RECORDER'S USE

Termination of Easement

THIS TERMINATION OF EASEMENT (this "*Agreement*") is made effective 23 September 2014 by **COTTONWOOD HEIGHTS**, a Utah municipality whose address is 1265 East Fort Union Blvd., Suite 250, Cottonwood Heights, UT 84047 ("*City*").

RECITALS:

A. Effective 15 September 2010, City entered into a series of "Fence Agreement" documents (the "*Fence Agreements*") with the owners ("*Owners*") of legal title to the six parcels of real property (the "*Parcels*") that are located at 3123 East Walker Mill Drive, 3135 East Walker Mill Drive, 3147 East Walker Mill Drive, 3163 East Walker Mill Drive, 3179 East Walker Mill Drive and 3195 East Walker Mill Drive in Cottonwood Heights, Salt Lake County, UT and that are particularly described on the attached exhibit. The Fence Agreements subsequently were recorded as encumbrances against the Parcels in the office of the Recorder of Salt Lake County ("*County*").

B. Pursuant to the Fence Agreements, City agreed to construct a privacy fence along the rear lot line of the Parcels, and Owners granted to City and its contractors an easement (the "*Original Easement*") for construction and future access purposes across the Parcels as provided in section 1(c) of the Fence Agreements.

C. Section 1(c) of the Fence Agreements also provides that City would (i) endeavor to obtain a substitute easement (the "*Substitute Easement*") from County to replace the Original Easement, and (ii) terminate the Original Easement on the Parcels when the Substitute Easement was granted by County.

D. Effective 26 August 2014, County granted the Substitute Easement to City. Consequently, City now intends to terminate the Original Easement on the Parcels.

NOW THEREFORE, City hereby irrevocably terminates the Original Easement on the Parcels, effective immediately.

DATED effective the date first-above written.

CITY:

ATTEST:

COTTONWOOD HEIGHTS, a Utah municipality

Kory Solorio, Recorder

By: _____,
Kelvyn H. Cullimore, Jr., Mayor

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

On __ September 2014, personally appeared before me **Kelvyn H. Cullimore, Jr.** and **Kory Solorio**, who duly acknowledged to me that they executed the foregoing “Termination of Easement” as the mayor and the recorder, respectively, of **COTTONWOOD HEIGHTS**, a Utah municipality.

Notary Public

Exhibit to Fence Agreement

Parcel 1:

Lot 1, OLD MILL ESTATES PLAT "B," according to the official plat thereof on file and of record in the office of the Recorder of Salt Lake County, Utah.

Parcel No. 22-23-401-008

Parcel 2:

Lot 2, OLD MILL ESTATES PLAT "B," according to the official plat thereof on file and of record in the office of the Recorder of Salt Lake County, Utah.

Parcel No. 22-23-401-009

Parcel 3:

Lots 3, OLD MILL ESTATES PLAT "B," according to the official plat thereof on file and of record in the office of the Recorder of Salt Lake County, Utah.

Parcel No. 22-23-401-010

Parcel 4:

Lot 4, OLD MILL ESTATES PLAT "B," according to the official plat thereof on file and of record in the office of the Recorder of Salt Lake County, Utah.

Parcel No. 22-23-401-011

Parcel 5:

LOT 23, OLD MILL ESTATES PLAT "A," according to the official plat thereof on file and of record in the office of the Recorder of Salt Lake County, Utah.

Parcel No. 22-23-451-049

Parcel 6:

Lot 24, OLD MILL ESTATES PLAT "A," according to the official plat thereof on file and of record in the office of the Recorder of Salt Lake County, Utah.

Parcel No. 22-23-451-050