

BINDING MEMORANDUM OF UNDERSTANDING

THIS BINDING MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into effective this ____ day of _____ 2025 (“Effective Date”) by and between TOQUERVILLE CITY, a Utah municipal corporation (“City”) on the one hand, and SRC LAND HOLDINGS, LLC (the “Developer”) on the other hand. Throughout this MOU, the City and the Developer may be referred to individually each as a “Party” or collectively as the “Parties”.

RECITALS

WHEREAS, Developer owns approximately 3.74 acres of real property, identified by Washington County Parcel Numbers T-1237 and T-3-1-11-341 (the “Properties”);

WHEREAS, the Properties are located proximal to Toquerville Parkway (the “Parkway”), which is presently under construction;

WHEREAS, the Parties desire to allow for temporary public vehicular access over a portion of the Properties to provide allow for ingress and egress between Westfield Road and the Parkway;

WHEREAS, the Parties desire to define the terms and conditions under which the City may make improvements, maintain, and facilitate public access across the Properties, and under which the Developer may revoke such access if desired.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Incorporation of Recitals.** The Recitals set forth above are expressly incorporated into and made part of this MOU by this reference.
2. **Grant of License.** Developer hereby grants a revocable and nonexclusive license to the City to enter upon and use a portion of the Properties to allow for public vehicular access between Westfield Road and the Parkway (the “License”). The portion of the Properties subject to the License shall be of sufficient width and location to accommodate two lanes of vehicular travel, and shall consist of the real property more particularly described and depicted in *Exhibit A* attached hereto and incorporated herein by this reference (the “Road Area”).
3. **Term.** The License shall commence on the Effective Date of this Agreement and shall continue until the License is either (i) revoked by Developer, as provided in Paragraph 7 below, or (ii) superseded by a recorded easement, dedication or other conveyance approved by both Parties.
4. **City’s Responsibility for Improvements.** City shall, at its sole cost and expense, design, construct, and complete any and all improvements necessary to provide for use of the Road

Area in connection with the License. Such improvements may include, without limitation, grading, road base, asphalt millings, or asphalt. Developer shall have no financial obligation to contribute to improvements in the Road Area.

5. **Maintenance and Operation.** City shall be solely responsible for all ongoing operation, maintenance, and repair of the Road Area, including snow removal, resurfacing, and other actions necessary to maintain safe public vehicular access.
6. **Temporary Closures.** City may temporarily close the Road Area to the public in its sole discretion for any reason, including without limitation, inclement weather, hazardous conditions, or for maintenance and safety purposes.
7. **Developer's Right to Rescind License.** Developer may, at any time, rescind or terminate the License by providing thirty (30) days' written notice to City. Upon receipt of such notice, City shall cease using the Road Area and shall execute and record any documents reasonably necessary to terminate or release the License.
8. **Notices.** All notices or other communications required to be permitted under this Agreement shall be given in writing and shall be deemed properly delivered if sent to the following:

If to City:

Toquerville City
Attn: City Manager
P.O. Box 27
Toquerville, UT 84774

If to Developer:

SRC Land Holdings, LLC
Attn: _____

9. **Mutual Indemnification.** City agrees to indemnify, defend, and hold harmless Developer, its officers, members, agents, employees, and successors from and against any claims, demands, causes of action, damages, or liabilities arising from public use of the Road Area, except to the extent caused by the gross negligence or willful misconduct of Developer. Developer agrees to indemnify, defend and hold harmless the City, its officers, employees, agents, and representatives from and against any claims, demands, causes of action, damages or liabilities arising from or related to the acts or omissions of Developer, its contractors, or agents in connection with the Road Area.
10. **Signage Requirement.** The City shall, at its sole cost and expense, install and maintain conspicuous signage along the Road Area during the term of this MOU. Each sign shall be

clearly visible to approaching traffic and shall include wording substantially as follows:
“TEMPORARY ACCESS ONLY. ROAD IS NOT FULLY IMPROVED. PROCEED AT
YOUR OWN RISK. TEMPORARY ROAD SUBJECT TO CLOSURE BY LANDOWNER.”

11. **Binding Nature.** This MOU is legally binding and enforceable upon the Parties and their respective successors and assigns.

12. **Miscellaneous Terms.**

- a. Amendments. Any amendments to this MOU must be in writing and executed by both Parties.
- b. Applicable Law/Venue. This MOU shall be governed by the laws of the State of Utah. Venue for any disputes shall be the District Court in and for Washington County, Utah.
- c. Entirety of Agreement. This MOU represents the entire agreement between the Parties regarding the subject matter herein and supersedes all prior agreements or understandings, oral or written.
- d. Best Efforts/Time is of the Essence. The Parties agree to use their best efforts to timely fulfill all obligations under this MOU, and acknowledge that time is of the essence.
- e. Severability. If any provision of this MOU is found unenforceable, the remaining provisions shall continue in full force and effect.
- f. Governmental Immunity. Nothing in this MOU waives any governmental immunity of the City, including under the Utah Governmental Immunity Act, Utah Code Ann. §63G-7-101, et seq.
- g. Dispute Resolution. In any action to enforce or interpret this MOU, the prevailing Party shall be entitled to recover costs and reasonable attorney’s fees in accordance with Utah law.
- h. Authority. Each signatory represents and warrants that they are duly authorized to execute this MOU on behalf of the Party they represent.
- i. Counterparts. This MOU may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute a single instrument.

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

CITY:

TOQUERVILLE CITY
a Utah municipal corporation

Attest:

Justin Sip, Toquerville City Mayor

Emily Teaters, Toquerville City Recorder

DEVELOPER:

SRC LAND HOLDINGS, LLC
a Utah limited liability company

Darcy A. Stewart, President

EXHIBIT A
Road Area