

CONSTRUCTION ACCESS EASEMENT AGREEMENT

THIS CONSTRUCTION ACCESS EASEMENT AGREEMENT ("Agreement") is made as of the March 3, 2011 (Effective date) by and between THE WELLES-VAIL, LLC, a Colorado limited liability company, a Colorado nonprofit corporation ("Welles" or "Grantor"), and CREEKVIEW PROPERTY, LLC, a Colorado limited liability company ("Creekview" or "Grantee").

RECITALS:

A. "Vail Townhouses Condominiums" ("VTC"), situated in Vail, Colorado, is a condominium project and association (the "VTC Association") existing pursuant to the Amended and Restated Declaration for Vail Townhouses Condominiums, recorded at Reception No: 915809, in the Eagle County, Colorado, and as thereafter amended (the "Declaration"), and the "Third Amended and Restated Condominium Plat for Vail Townhouse Condominiums" recorded at Reception No: 200924515, Eagle County Public Records (the "VTC Map").

B. Creekview, as Grantee, is the proposed "purchaser" of Unit 6A of VTC pursuant to a purchase agreement with the existing owner of Unit 6A (the "Gallardos Unit" or "Unit 6A"). Welles is the vested owner of Unit 6B, VTC (the "Welles Unit" or "Unit 6B"). Unit 6A and Unit 6B are collectively referred to as the "Units." The Units are situated on Lot 6 of VTC and comprise all the Units being a part of Lot 6 of VTC.

C. Grantee intends to undertake a substantial renovation of the Creekview Unit, and, in conjunction therewith, a lesser renovation of the Welles Unit (collectively the "Project"). The Renovations and Work to be performed shall be in accordance with Approved Plans agreed upon by the parties.

D. Welles and Creekview entered into that certain "Project Agreement" of event date with this Agreement (the "Project Agreement") providing for terms upon which the Project would be undertaken. The Approved Plans are an exhibit to the Project Agreement.

E. In order to commence construction of the Project, Grantee has requested that the Grantor grant an easement to Grantee for access to perform the work for the Welles Unit. Grantor has agreed to grant the requested easement in accordance with and subject to the terms and provisions of this Agreement. Capitalized terms not defined in this Agreement shall have the meaning ascribed to them in the Project Agreement.

NOW, THEREFORE, in consideration of the above premises, and the mutual covenants and agreements set forth herein, Grantor and Grantee covenant and agree as follows:

1. Grant of Construction Easement. The Grantor, hereby grants and conveys to Grantee, an irrevocable, temporary, non-exclusive construction easement upon, over and beneath the Welles Unit for the sole purpose of completing the Construction (as defined below) of the Project (the "Easement"). The Easement shall extend only to those portions of the Welles Unit for which access has been granted under the Project Agreement, as is reasonably necessary for



construction of the Welles Unit in accordance with the Approved Plans (defined in the Project Agreement). This Easement is Effective as of April 25, 2011 (the "Commencement Date"), and shall remain in full force and effect until November 15, 2011, with respect to the Welles Unit (the "Unit Release Date") and April 24, 2012, as to the Welles Parking Space (the "Parking Space Release Date"). The Easement may be used solely by Grantee and its general contractor and subcontractors in accordance with the Project Agreement (collectively with the Grantee, the "Permittees").

2. Construction Process; Mechanic's Liens.

(a) Grantee covenants to the Grantor that the construction will be in accordance with the Approved Plans under the Project Agreement (the "Construction"). Any modification of the Approved Plans required by the Town is subject to the limitations set forth in the Project Agreement. Grantee covenants that the Construction will be undertaken in a good and workmanlike manner, in conformity with all applicable foundation, building permit and legal requirements of the Town (which permits must be issued prior to commencement of Construction).

(b) Pursuant to the Project Agreement, except for the use of the Welles Parking Space between the Commencement Date and the Unit Release Date, the Grantee shall not perform physical work or construct or place any building materials or other object on the Welles Parking Space and at no time shall any materials or items be stored in the Welles Unit, except with the Grantor's prior written consent, and any of the foregoing, unless consented to, may be removed by Grantor without liability for damage arising therefrom and with Grantee bearing all costs and expenses of such removal.

(c) Grantee will not cause or permit any mechanic's lien or claims to be made against any part of the Welles Unit from the Construction or the Project. If any mechanic's lien or claim is recorded against Welles' property interests, then Grantee shall, within ten (10) days after the recording of such lien claim, obtain the release of the affected property interests of Welles from such lien or claim, whether by discharge, bonding or otherwise. If Grantee shall fail to furnish the requisite release within the aforesaid ten (10) day period, the Grantor may, at its option, secure the release of the lien or claim by any means available, including bonding, settlement or otherwise, in which case Grantee shall, within ten (10) days after notice of demand from Welles, reimburse Welles for all costs and expenses incurred in securing the lien release, including reasonable attorneys' fees.

(d) A consulting structural engineer engaged by Grantor and Grantee in connection with this Agreement and the Project Agreement (referral to herein as the "Structural Representative") shall be furnished the Approved Plans and, due to the age of the Gallardo Unit and the nature of the Construction activities contemplated by this Agreement, shall monitor any potential movement of and report any resulting damage to the Project or either of the Units. All Construction shall be in accordance with the Structural Representative's recommendations.

3. Non-Exclusive. The Easement granted under the Agreement is non-exclusive, and the Grantor expressly reserves the right to the use and occupy the Welles Unit for any and all purposes that are not inconsistent with the terms of the Easement and the Project Agreement.

Grantor agrees not to materially interfere with the Construction, the Project or the use of the Easement by Grantee and its Permittees, so long as no default shall have occurred under this Agreement or the Project Agreement, which continues beyond any applicable cure period.

4. Indemnity and Lien Rights. Grantee, and its successors and assigns, shall fully indemnify and defend Grantor and its successors and assigns, and shall hold Grantor harmless from and against any claims, causes of action, suits, liabilities, damages or losses and expenses of whatever kind or nature that arise from or are sustained by Welles as a result of any personal injury, bodily injury, sickness, disease, death or property loss or damage, including lost profits, occasioned from the undertaking of the Construction, and any negligence or willful misconduct of the Grantee or any Permittee occurring in relation to the use and enjoyment of the Easement, and by any action or inaction of any contractor or employee, agent or servant of any contractor engaged by, through or under Grantee, or any breach of the Grantee's obligations under this Agreement or the Project Agreement. This indemnity will also cover and include costs and expenses, including reasonable attorneys' fees and consultant's fees and expenses, caused by, relating to or arising out of any matter indemnified under the foregoing provisions, including with respect to any liens asserted Welles Unit against as a result of work performed by or for Grantee pursuant to the rights and privileges granted to Grantee by this Easement whether such damage, loss, claim, expense or lien is caused in whole or in part by the act, omission, error, professional error, mistake, negligence or other fault of Grantee, its contractors or subcontractors or any employee or agent of the same. The foregoing shall not be construed to waive or limit any requirements imposed upon the indemnified party by law stemming from the negligence or willful misconduct by the Grantor. Welles shall have first priority lien rights subject only to taxes and assessments to enforce the foregoing indemnity obligations of Grantee, which lien rights Welles may enforce by filing a lien against the Creekview Unit upon the occurrence of a default for all sums due or that may become due to Welles as a result of such default. GRANTEE SHALL CAUSE THE LIEN RIGHTS OF ALL CONTRACTORS OF EVERY NATURE PERFORMING WORK FOR THE PROJECT TO BE SUBORDINATED TO THE LIEN RIGHTS OF GRANTOR, WHICH LIEN RIGHTS OF GRANTOR SHALL DATE BACK TO THE EFFECTIVE DATE OF THIS AGREEMENT. This Indemnification provision shall survive termination or expiration of this Agreement.

5. Remedies; Attorneys' Fees.

(a) The rights of either party hereunder may be enforced by any remedies available at law or in equity, including, without limitation, the recovery of damages, and where appropriate, injunctive or other equitable relief to prevent the occurrence or continuance of any default hereunder, or to enforce the performance and observance of the terms of this Agreement. All remedies shall be cumulative with and in addition to, and not exclusive of, one another; any and all remedies may be pursued by the non-defaulting party either successively or concurrently; and the exercise of any one remedy shall not be construed as or constitute a bar to the exercise of any other remedy. All unpaid balances due either the Grantor or Grantee herein shall bear interest at the rate of eighteen percent (18%) per annum, or such lesser rate as may be required by law.

(b) In the event any legal proceeding arises out of this Agreement, the prevailing party shall be entitled to recover from the other party all of the prevailing party's costs and

expenses incurred in connection therewith, including reasonable attorneys' fees (and any presiding court will be bound to make this award).

6. Completion of Construction. The Easement shall terminate on the Unit Release Date, as to the Welles Unit and on the Parking space Release Date, as to the Welles Parking Space. Upon the termination of the Easement due to completion of Construction or otherwise, either party, upon the request of the other, shall execute and deliver a recordable instrument confirming that such termination has occurred, whereupon the parties are released from any further obligations and duties hereunder, except as expressly survive. The provisions of this section shall survive termination.

7. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

8. Modification and Waiver. No purported modification of the terms of this Agreement, or purported waiver by any party of any of its rights and interests hereunder, shall be binding unless and except to the extent specifically set forth in a written instrument executed by the party against whom enforcement of the purported modification or waiver is sought.

9. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument and agreement.

10. Notices. Any notice required or permitted under the terms of this Agreement shall be in writing, may be given by the parties hereto or such parties' respective legal counsel, and shall be deemed given and received (i) when hand delivered to the intended recipient, by whatever means; (ii) three (3) business days after the same is deposited in the United States mails, with adequate postage prepaid, and sent by registered or certified mail, with return receipt requested; (iii) one (1) business day after the same is deposited with an overnight courier service of national or international reputation having a delivery area encompassing the address of the intended recipient, with the delivery charges prepaid; or (iv) when received via facsimile to the below facsimile number provided (provided such facsimile delivery and receipt is confirmed on the facsimile facilities of the noticing party). Any notice delivered under this Agreement shall be delivered to the appropriate address or to the facsimile number set forth below.

If to Creekview:

Kursten Canada, Esq.
Garfield & Hecht, P.C.
P.O. Box 5450
Avon, Colorado 81620
Phone: (970) 949-0707
Fax: (970) 949-1810

If to Welles:

The Welles – Vail, LLC.
Attn: Debbie Welles
4950 Sanford Circle W.
Englewood, CO 80113

With a copy to:
Wendy R. St. Charles, Esq.
Sherman & Howard L.L.C.
1000 S. Frontage Rd. W., Suite 200
Vail, CO 81657
Direct Dial: 970-790-1612
Fax: 970-476-7118

Either party may change its addresses and/or fax numbers for notices pursuant to a written notice which is given in accordance with the terms hereof.

14. Representations. Grantor makes no representation as to the condition of the Welles Unit, Lot 6 of VTC upon which the Units are situated or any other matter.

15. Recording. This Agreement shall be recorded in the real property records of Eagle County, State of Colorado, at the expense of Grantee but only upon Creekside's acquisition of the Gallardo Unit.

[Balance of page intentionally left blank]

A handwritten signature in black ink, appearing to read "Gary Gallardo". The signature is written in a cursive style with a large, sweeping initial "G".

IN WITNESS WHEREOF, Grantor and Grantee have made this Construction Access Easement Agreement as of the day, month and year first above written.

CREEKVIEW PROPERTY, LLC, a Colorado limited liability company

By: Gela J. Gallardo
Name: _____
Its: _____

WELLES:

THE WELLES-VAIL, LLC, a Colorado limited liability company

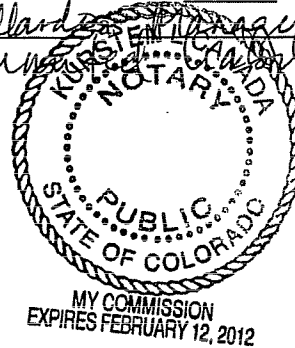
By: _____
Name: Virginia C. Welles, Manager

The foregoing instrument was acknowledged before me this 3rd day of March, 2011, by Gela J. Gallardo, Manager of Creekview Properties, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____

Notary Public



The foregoing instrument was acknowledged before me this ___ day of _____, 2011, by Virginia C. Welles, as Manager of The Welles-Vail, LLC.

Witness my hand and official seal.

My commission expires: _____

Notary Public

IN WITNESS WHEREOF, Grantor and Grantee have made this Construction Access Easement Agreement as of the day, month and year first above written.

CREEKVIEW PROPERTY, LLC, a Colorado limited liability company

By: _____
Name: _____
Its: _____

WELLES:

THE WELLES-VAIL, LLC, a Colorado limited liability company

By: Virginia Welles
Name: Virginia C. Welles, Manager

The foregoing instrument was acknowledged before me this _____ day of _____, 2011, by _____ as _____ of Creekview Properties, LLC..

Witness my hand and official seal.

My commission expires: _____

Notary Public

The foregoing instrument was acknowledged before me this 18th day of MAR 04, 2011, by Virginia C. Welles, as Manager of The Welles-Vail, LLC.

Witness my hand and official seal.

My commission expires: 11/15/13

Notary Public

