

After Recording Return To:

Tammy Zokan, Esq.
WinCo Foods, LLC
P.O. Box 5756
Boise, ID 83705

E 2568127 B 5155 P 956-967
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
11/19/2010 3:05:00 PM
FEE \$35.00 Pgs: 12
DEP eCASH REC'D FOR FOUNDERS TITLE CO - LAYTON

11-061-0212
11-061-0211
11-061-0199
11-061-0209

This Space Reserved for Recording Purposes

DAVIS COUNTY, UTAH

D-45788

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (this "Agreement"), is made and entered into this ___ day of November, 2010, by and between WINCO FOODS, LLC, a Delaware limited liability company ("Grantor"), whose mailing address is 650 N. Armstrong Place, Boise, Idaho, 83704, and FORT LANE VILLAGE, LC, a Utah limited liability company ("Grantee"). Grantor and Grantee are sometimes each individually referred to as a "Party" and collectively as the "Parties".

RECITALS

A. Grantor is the owner of certain real property in the City of Layton, Davis County, Utah, more particularly described in **Exhibit A** and **Exhibit C**, and attached hereto (the "Servient Estate").

B. Grantee is the owner of certain real property in the City of Layton, Davis County, Utah, more particularly described in **Exhibit B**, attached hereto (the "Benefited Property").

C. The Servient Estate together with the Benefited Property shall collectively be referred to as the "Shopping Center Property".

D. Grantor desires to grant to Grantee a permanent, non-exclusive easement on, over, under and across portions of the Servient Estate on the terms and conditions set forth in this Agreement allowing for pedestrian and vehicular access on, over and across the Servient Estate to and from the Benefited Property and certain public right-of-ways.

E. Grantor and Grantee have entered into a Development Agreement dated July 9, 2010 ("Development Agreement"), and a Memorandum of such Development Agreement has been recorded in the official records of Davis County, Utah as Entry No. 2539097, Book 5063, Pages 712-717.

F. Grantor and Grantee have entered into a Declaration of Easements and Conditions dated July 9, 2010 ("DEC") which has been recorded in the official records of Davis County, Utah as Entry No. 2539087, Book 5063, Pages 621-668. This Agreement is in addition to, and not in lieu of, the DEC.

AGREEMENT

NOW THEREFORE, for good and valuable consideration of the foregoing recitals, which are hereby incorporated into this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. Grant of Easement; Purpose. Grantor, as owner of the Servient Estate, hereby grants to Grantee, as owner of the Benefited Property, and Grantee's contractors, employees, agents, licensees, and invitees (collectively, "Permittees"), for the benefit of the Benefited Property, the following non-exclusive perpetual easement over and across the Servient Estate for pedestrian and vehicular ingress and egress to and from the Benefited Property and the public right-of-way known as Fort Lane at the location as more particularly described in **Exhibit C**, attached hereto and depicted on **Exhibit C-1**, attached hereto (the "Access Easement Area").

2. Access Easement Area Improvements; Development Agreement; DEC.

2.1 Access Easement Area Improvements. Grantor shall construct the following improvements within the Access Easement Area depicted on **Exhibit C-1**: drive aisle, curb/gutter, sidewalk and related improvements across the Servient Estate suitable for pedestrian and vehicular ingress and egress to and from the Easement Area (collectively "Access Easement Improvements").

2.2 Development Agreement; Costs. The costs for the construction of the Access Easement Improvements shall be allocated and charged in accordance with the Development Agreement.

2.3 DEC; Use, Operation and Maintenance; Costs.

(a) **Use, Conditions and Restrictions.** The Access Easement Area shall be subject to the use, conditions, restrictions and other provisions of the DEC.

(b) **Operation and Maintenance; Costs.** The Access Easement Improvements shall be operated and maintained, and all costs related thereto shall be paid, in accordance with the DEC.

3. General Provisions.

3.1 Attorneys' Fees. If either Party commences legal proceedings for any relief against the Party arising out of this Agreement, the prevailing Party shall be entitled to an award of legal costs and expenses, including, but not limited to, reasonable attorneys' fees as determined by a court of competent jurisdiction. The prevailing Party shall be that Party receiving substantially the relief sought in the proceeding, regardless of whether such proceeding was brought to final judgment.

3.2 Amendment and Waiver. No amendment, modification, waiver, discharge, or termination of this Agreement shall be valid unless the same is in writing, duly executed and acknowledged by both Grantee and Grantor, or their respective designees or successors-in-interest, and recorded in the official records of Davis County, Utah. No failure or delay on the part of either Party in exercising any right granted to it under this Agreement, regardless of the length of time for which such failure or delay shall continue, will operate as a waiver of or

impair any such right. No waiver of any breach or condition of this Agreement will or shall be deemed to operate as a waiver of any other or subsequent breach or condition.

3.3 Computation of Time Periods. Unless otherwise specifically provided in this Agreement, all periods of time referred to in this Agreement shall include all Saturdays, Sundays, and state or national holidays; provided, however, that if the date or last date to perform any act or give any notice or approval shall fall on Saturday, Sunday, or state or national holiday, such act or notice may be timely performed or given on the next succeeding business day.

3.4 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original when executed, but which counterparts together shall constitute one and the same instrument.

3.5 Entire Agreement. This Agreement, together with the exhibits attached hereto and other agreements expressly referred to herein, constitutes the entire agreement between the Parties with respect to the Easement described herein and supersedes all prior and contemporaneous agreements and/or understandings, whether written or oral, between the Parties hereto relating to the subject matter hereof. The Recitals set forth above and all exhibits referred to herein and attached to this Agreement and incorporated into this Agreement as if set forth in full.

3.6 Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah, without regard to the choice-of-law or conflicts-of-laws principles of such state.

3.7 Interpretation and Construction. In construing the provisions of this Agreement and whenever the context so requires, the use of the singular shall include the plural, and the use of the plural shall include the singular. The captions and headings in this Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants, conditions, or agreements contained herein.

3.8 Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Servient Estate, Benefited Property, or the Access Easement Area to the general public or for the general public or for any public purpose whatsoever, it being the intention of the parties that this Agreement shall be strictly limited to and for the purposes herein expressed.

3.9 No Third Party Beneficiary Rights. This Agreement is not intended to create, nor shall it be in any way interpreted or construed to create, any third party beneficiary rights in any person or entity not a Party or successor or assign of a Party hereto.

3.10 Notice. Whenever a Party to this Agreement is required or permitted under this Agreement to provide the other Party with any notice, request, demand, consent, or approval ("Notice"), the Notice must be given in writing and delivered to the other Party at the address or facsimile number set forth below: (a) personally; (b) by a reputable overnight courier service; (c) by certified mail, postage prepaid, return receipt requested; or (d) by e-mail or facsimile transmission. Either Party may change its address for Notice by written notice to the other Party delivered in the manner set forth above. Notice will be deemed to have been duly given: (i) on the date personally delivered; (ii) one (1) business day after delivery to an overnight courier service with next-day service requested; (iii) on the third (3rd) business day

after mailing, if mailed using certified mail; or (iv) on the date sent when delivered by facsimile or e-mail (so long as the sender receives electronic confirmation of delivery and a copy of the Notice is sent by one of the other means permitted hereunder on or before the next business day).

IF TO GRANTEE: Fort Lane Village, LC
Attn: Kevin S. Garn
748 W. Heritage Park Blvd., Suite 203
Layton, UT 84042
Phone: (801) 776-0232
Fax: (801) 776-0214
E-mail: ksgproperties@yahoo.com

IF TO GRANTOR: WinCo Foods, LLC
Attn: Morgan Randis
Vice President of Development
650 N. Armstrong Place
Boise, ID 83704
Telephone: (208) 377-0110
Fax: (208) 377-0474
E-mail: morgan.randis@wincofoods.com

3.11 Recordation. This Agreement shall be recorded in the real property records of Davis County, Utah.

3.12 Runs with Land; Successors and Assigns. This Agreement shall run with the land and shall bind and inure to the benefit of the Parties hereto and their respective successors and assigns. At such time as a Party or its successor ceases to have an interest in such Party's parcel, such Party or successor shall thereupon be deemed released and discharged from any and all obligations under this Agreement accruing thereafter.

3.13 Severability. Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or unenforceable shall be invalid or unenforceable only to the extent of such determination, which shall not invalidate or otherwise make ineffective any other provision of this Agreement.

[Signatures on following pages.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first set forth above.

GRANTOR:

WINCO FOODS, LLC,
a Delaware limited liability company

By: David M Butler
Name: David M Butler
Its: CFO

STATE OF IDAHO)
)ss.
County of Ada)

On this 16th day of November, 2010, before me, a Notary Public, personally appeared DAVID M. BUTLER, known or proved to me to be the CFO of WinCo Foods, LLC, a Delaware limited liability company, the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same 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.



Andrea C. Doe
Notary Public
Residing at Boise, ID
Comm. Expires May 16, 2013

[Grantee's signature on following page.]

GRANTEE:

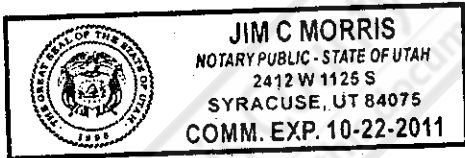
FORT LANE VILLAGE, LC,
a Utah limited liability company

By: [Signature]
Name: KEVIN S GAEN
Its: managing member

STATE OF UTAH)
)ss.
County of Davis)

On this 19 day of November, 2010, before me, a Notary Public, personally appeared KEVIN S GAEN, known or proved to me to be the MANAGER of Fort Lane Village, LC, a Utah limited liability company, the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same 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.



[Signature]
Notary Public
Residing at DAVIS COUNTY
Comm. Expires 10-22-11

EXHIBITS

- Exhibit A – Legal Description of Servient Estate
- Exhibit B – Legal Description of Benefited Property
- Exhibit C – Legal Description of Access Easement Area
- Exhibit C-1 – Depiction of Access Easement Area

EXHIBIT A**Legal Description of Servient Estate**

A PARCEL OF LAND LOCATED IN THE NORTH HALF OR SECTION 28, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, LAYTON CITY, DAVIS COUNTY, UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 177.35 FEET SOUTH $89^{\circ}27'20''$ EAST AND 392.34 FEET SOUTH $00^{\circ}47'13''$ WEST FROM THE DAVIS COUNTY SURVEY MONUMENT FOUND MARKING THE NORTH QUARTER CORNER OF SAID SECTION 28 (THE BASIS OF BEARINGS IS SOUTH $89^{\circ}27'20''$ EAST 2637.52 FEET MEASURED BETWEEN THE DAVIS COUNTY SURVEY MONUMENTS FOUND MARKING THE NORTHWEST CORNER AND NORTH QUARTER CORNER OF SAID SECTION 28), AND RUNNING THENCE SOUTH $00^{\circ}47'13''$ WEST 326.04 FEET; THENCE NORTH $89^{\circ}11'07''$ WEST 79.88 FEET; THENCE SOUTH $00^{\circ}47'13''$ WEST 252.16 FEET; THENCE SOUTH $89^{\circ}20'20''$ EAST 84.77 FEET; THENCE SOUTH $20^{\circ}58'32''$ WEST 165.27 FEET; THENCE NORTH $89^{\circ}12'47''$ WEST 378.03 FEET TO THE EASTERLY BOUNDARY OF INTERSTATE 15, PROJ. NO. S-15-8(211)332 (PARCEL NO. 15-8:68:A, WARRANTY DEED, ENTRY NO. 2497004); THENCE NORTH $16^{\circ}36'49''$ WEST 296.99 FEET ALONG SAID LINE TO A POINT OF CURVATURE WITH A 1100.00 FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHWESTERLY 367.73 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $19^{\circ}09'14''$ (CHORD BEARS NORTH $26^{\circ}11'26''$ WEST 366.02 FEET); THENCE NORTH $46^{\circ}52'45''$ EAST 200.83 TO A POINT ON A 165.00 FOOT RADIUS CURVE TO THE LEFT; THENCE EASTERLY 72.75 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $25^{\circ}15'42''$ (CHORD BEARS SOUTH $76^{\circ}34'56''$ EAST 72.16 FEET); THENCE SOUTH $89^{\circ}12'47''$ EAST 469.93 FEET TO THE POINT OF BEGINNING.

11-061-0212

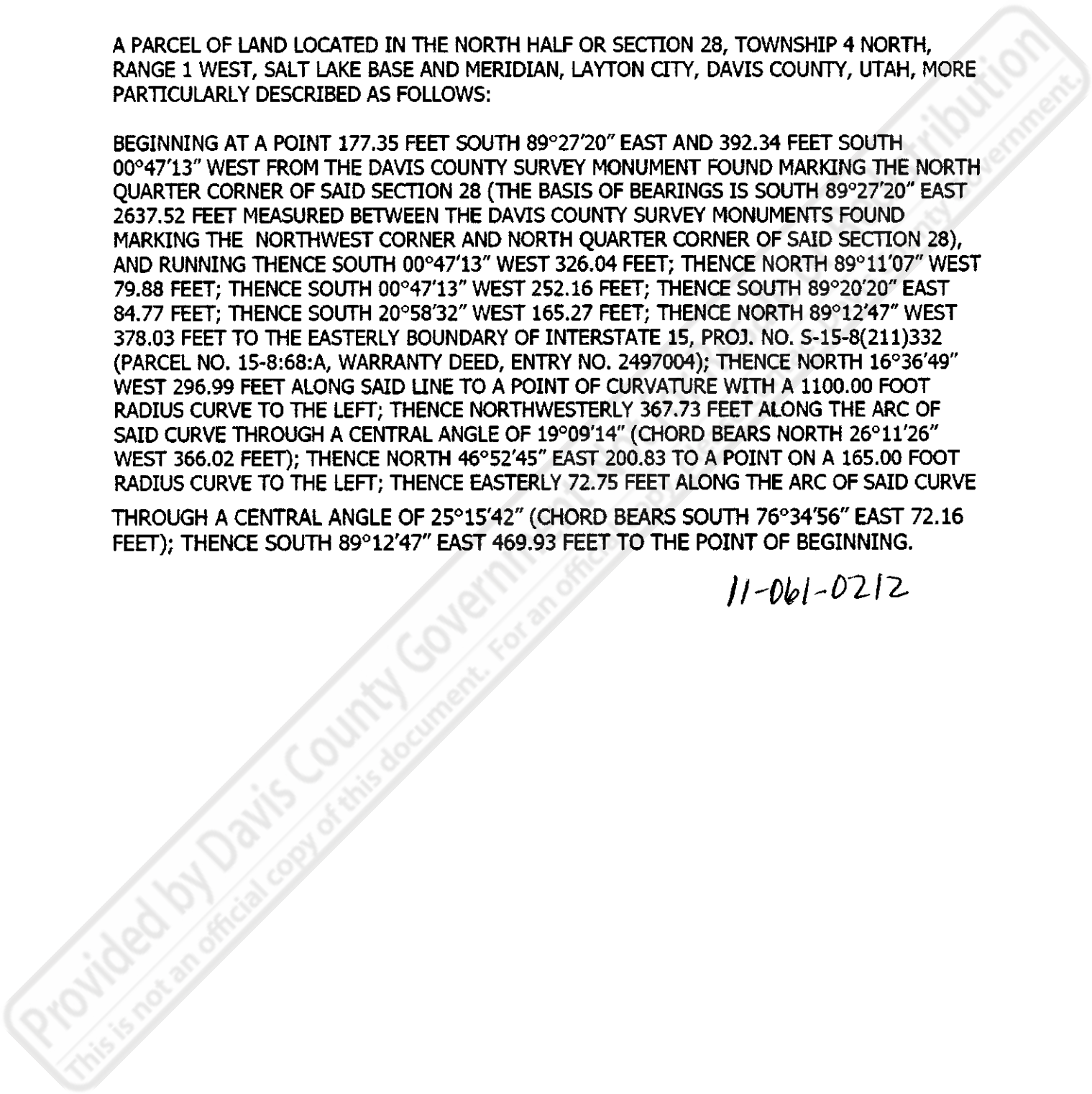


EXHIBIT B**Legal Description of Benefited Property**

A parcel of land located in the North half of Section 28, Township 4 North, Range 1 West, Salt Lake Base and Meridian, Layton City, Davis County, Utah, more particularly described as follows:

BEGINNING at a point on the South boundary line of Gentile Street (SR-109), which is 33.00 feet South $00^{\circ}32'40''$ West from the Davis County Survey monument found marking the North Quarter corner of said Section 28 (the Basis of Bearings is South $89^{\circ}27'20''$ East 2637.52 feet measured between the Davis County Survey monuments found marking the Northwest corner and North Quarter corner of said Section 28), and running thence South $89^{\circ}27'20''$ East 401.21 feet along said street to the West boundary line of Fort Lane; thence South $00^{\circ}47'13''$ West 887.78 feet along said street to the northerly boundary line of Elm Street; thence North $89^{\circ}20'20''$ West 303.88 feet along said street; thence North $00^{\circ}47'13''$ East 202.16 feet; thence South $89^{\circ}11'07''$ East 79.88 feet; thence North $00^{\circ}47'13''$ East 326.04 feet; thence North $89^{\circ}12'47''$ West 469.93 feet to a point of curvature with a 165.00 foot radius curve to the right; thence westerly 72.75 feet along the arc of said curve through a central angle of $25^{\circ}15'42''$ (chord bears North $76^{\circ}34'56''$ West 72.61 feet); thence South $46^{\circ}52'45''$ West 200.82 feet to the easterly boundary of Interstate 15, Proj. No. S-15-8(211)332 and a point on a 1100.00 foot radius curve to the left; thence Northwesterly 77.82 feet along said line and the arc of said curve through a central angle of $04^{\circ}03'12''$ (chord bears North $37^{\circ}47'39''$ West 77.80 feet); thence North $39^{\circ}49'16''$ West 6.25 feet along said line to the original I-15 right-of-way (Project No. I15-7(18)326 and a point on a 2066.15 foot radius curve to the left; thence Northwesterly 144.85 feet along said line and the arc of said curve through a central angle of $4^{\circ}01'01''$ (chord bears North $33^{\circ}26'48''$ West 144.82 feet); thence North $43^{\circ}07'15''$ West 383.01 feet along said line to the Westerly boundary line of said Gentile Street; thence North $85^{\circ}44'07''$ East 202.78 feet along said street; thence South $89^{\circ}27'20''$ East 12.29 feet; thence South $75^{\circ}16'51''$ East 57.17 feet; thence South $89^{\circ}27'20''$ East 145.01 feet; thence South $00^{\circ}47'13''$ West 177.51 feet to a point of curvature with a 200.00 foot radius curve to the left; thence southerly 30.11 feet along said curve through a central angle of $08^{\circ}37'37''$ (chord bears South $03^{\circ}31'35''$ East 30.09 feet); thence South $89^{\circ}12'47''$ East 219.67 feet; thence North $00^{\circ}47'13''$ East 155.00 feet; thence North $37^{\circ}39'25''$ East 25.00 feet; thence North $00^{\circ}47'13''$ East 33.51 feet; thence South $89^{\circ}27'20''$ East 255.02 feet; thence North $00^{\circ}32'40''$ East 14.00 feet to said Gentile Street; thence South $89^{\circ}27'20''$ East 0.83 feet to the POINT OF BEGINNING.

11-061-0211

TOGETHER WITH

A parcel of land located in the North half of Section 28, Township 4 North, Range 1 West, Salt Lake Base and Meridian, Layton City, Davis County, Utah, more particularly described as follows:

BEGINNING at a point 120.44 feet South $89^{\circ}27'20''$ East and 1125.20 feet South $00^{\circ}32'40''$ West from the Davis County Survey monument found marking the North Quarter corner of said Section 28 (the Basis of Bearings is South $89^{\circ}27'20''$ East 2637.52 feet measured between the Davis County Survey monuments found marking the Northwest corner and North Quarter corner of said Section 28), and running thence South $20^{\circ}58'32''$ West 54.38 feet; thence South

00°47'13" West 100.01 feet, more or less, to the Northerly boundary line of that certain Utah Department of Transportation property as described in Book 4692 at page 188; thence along said line the following three courses, North 87°17'15" West 78.49 feet; thence North 86°57'22" West 156.49 feet; thence North 86°02'18" West 4.59 feet to the Questar Gas Company Parcel No. 15-8:68 recorded as Entry No. 2497004; thence following said parcel the following two courses, North 16°36'49" West 55.03 feet; thence South 73°23'11" West 71.92 feet to the easterly boundary of Interstate 15, Proj. No. S-15-8(211)332; thence North 16°36'49" West 116.32 feet along said line; thence South 89°12'47" East 378.03 feet to the POINT OF BEGINNING.

Contains 549.560 square feet or 12.616 acres

11-061-0199

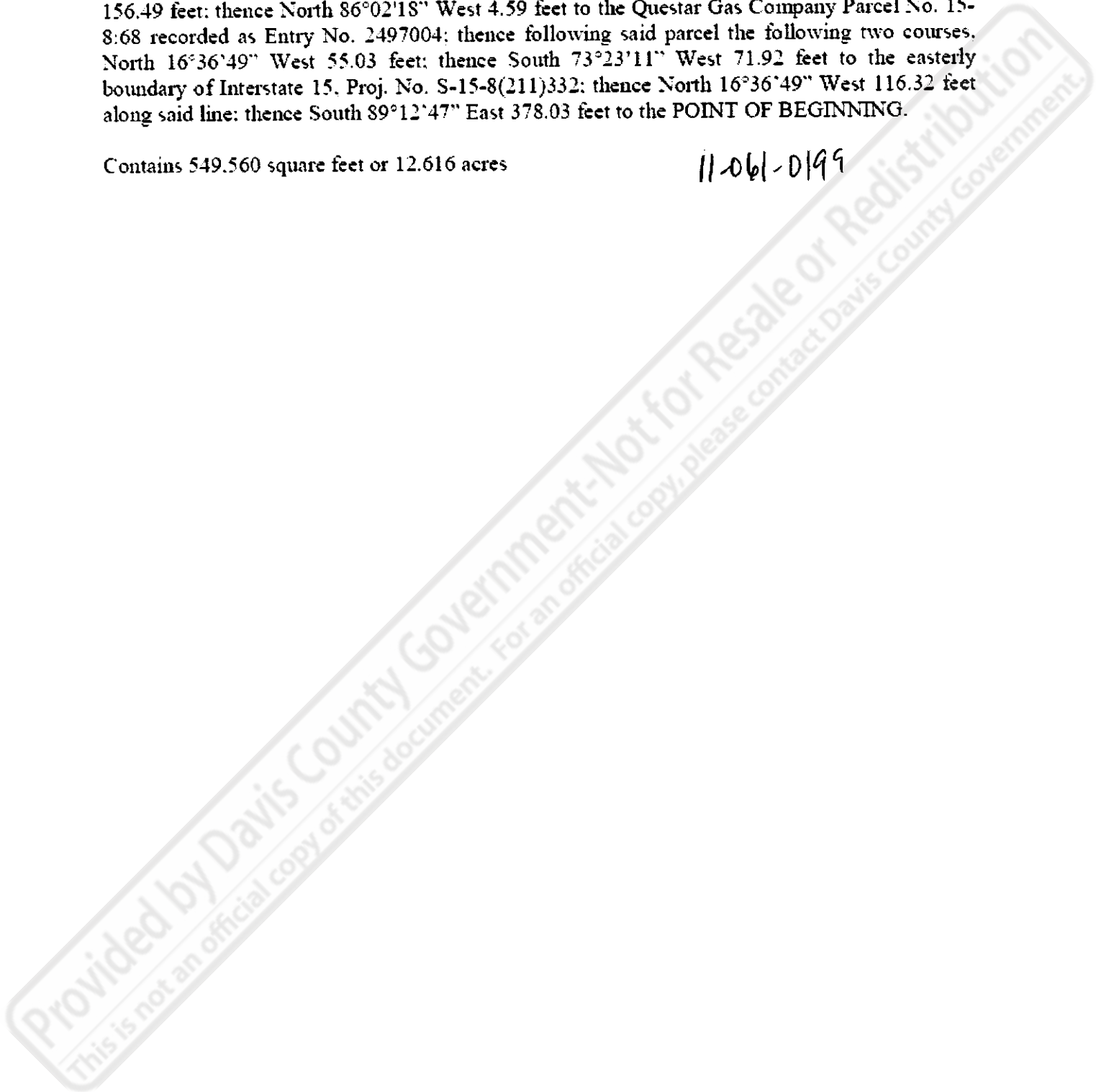


EXHIBIT C

Legal Description of the Access Easement Area

A parcel of land located in the Northeast Quarter Section 28, Township 4 North, Range 1 West, Salt Lake Base and Meridian, Layton City, Davis County, Utah, described as follows:

Beginning at a point on the west right-of-way line of Fort Lane, said point being South 89°27'20" East 401.35 feet to the northerly extension of said west line and along said line and extension South 00°47'13" West 920.78 feet from the Davis County monument found marking the North Quarter Corner of said Section 28 (the Basis of Bearing being South 89°27'20" East between the Davis County monuments found marking the Northwest and North Quarter Corners of said Section 28, thence North 89°20'20" West 303.88 feet; thence North 00°47'13" East 50.00 feet; thence South 89°20'20" East 303.88 feet; thence South 00°47'13" West 50.00 feet, to the Point of Beginning. Said parcel contains 15,194 square feet or 0.35 acres, more or less.

Tax Id No.: Part of 11-061-0209

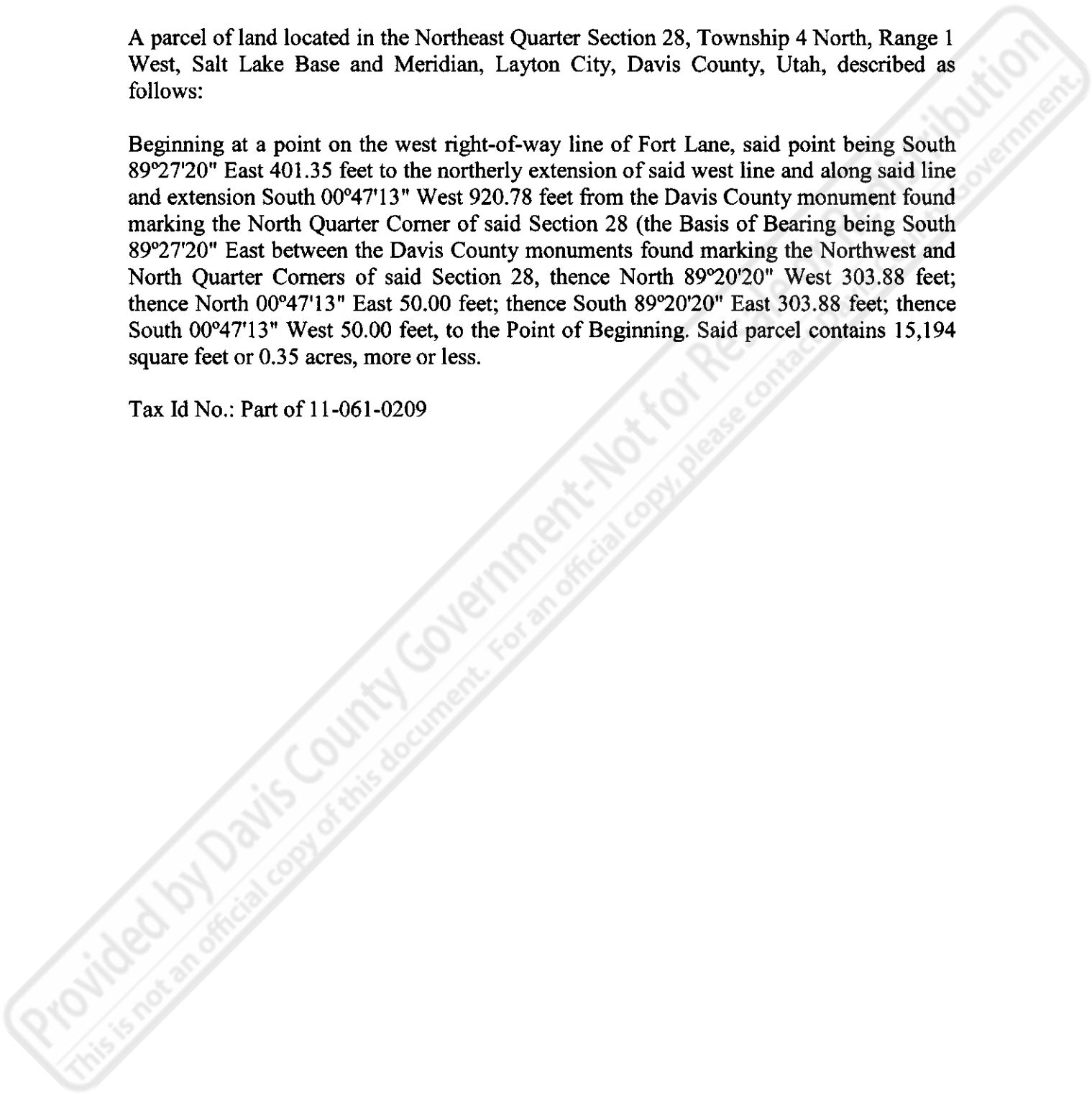
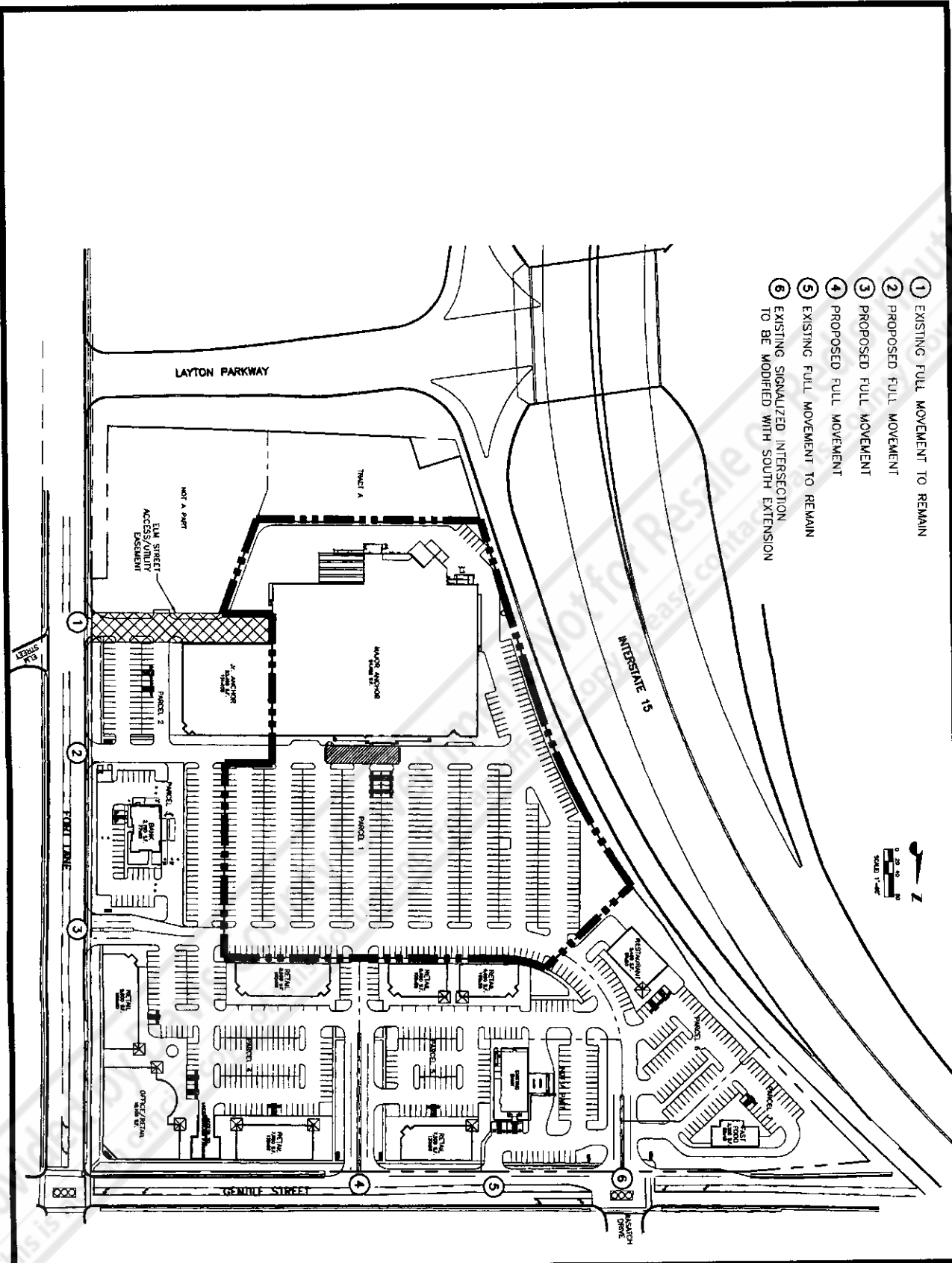


EXHIBIT C-1

Depiction of Access Easement Area

(Attached)

Provided by Davis County Government-Not for Resale or Redistribution
This is not an official copy of this document. For an official copy, please contact Davis County Government.



- ① EXISTING FULL MOVEMENT TO REMAIN
- ② PROPOSED FULL MOVEMENT
- ③ PROPOSED FULL MOVEMENT
- ④ PROPOSED FULL MOVEMENT
- ⑤ EXISTING FULL MOVEMENT TO REMAIN
- ⑥ EXISTING SIGNALIZED INTERSECTION TO BE MODIFIED WITH SOUTH EXTENSION

Galloway
 Planning, Architecture, Engineering
 6300 DTC Parkway, Suite 100
 Greenwood Village, CO 80111
 303.770.8864 O
 303.770.3898 F
 www.gallowayUS.com
© 2010, Galloway & Company, Inc. All Rights Reserved

FORT LANE
 VILLAGE CENTER
 LAYTON, UTAH

Project No: Win01
 Sheet Scale:

Designed By: JSK
 Drawn By: SEF

Date: 06/14/2010
 Disk File: Exh_06--Easement 2

EASEMENT EXHIBIT 2

1 of 1