


P-19  
L-25

WHEN RECORDED, MAIL TO:  
Clifford V. Dunn, LLC  
P.O. Box 2318  
St. George, UT  
84771

DOC # 20070008386

Easements Page 1 of 19  
Russell Shirts Washington County Recorder  
02/16/2007 12:16:17 PM \$ 71.00 BY DUNN CLIFFORD V



**MASTER COMMUNICATIONS EASEMENT  
FOR  
ELIM VALLEY**

THIS EASEMENT ("Easement") is made and entered into as of the 14 day of FEBRUARY 2007 (the "Effective Date"), by and between **Roland Neil Family Limited Partnership**, a Utah limited partnership ("Grantor"), and **EVD Communications Infrastructure, LLC**, a Utah limited liability company ("Grantee," which term shall include any successor and assign of Roland Neil Family Limited Partnership). All references to the parties collectively shall be the "Parties" and individually shall be the "Party."

**WITNESSETH:**

WHEREAS, Elim Valley Planning and Development, LLC optionee (hereinafter "Optionee") and developer of certain real property located in Washington County, Utah, which has been optioned by Optionee for the purpose of being developed as part of a master planned community commonly known as Elim Valley, and the property that is subject to Optionee's option is further described in the legal descriptions set forth on Exhibit A attached hereto and incorporated herein by this reference (the "Property");

WHEREAS, Grantor owns a majority interest in Optionee;

WHEREAS, Optionee, as the developer of Elim Valley, wishes to provide a premiere site of communications services for the benefit of the residents of the Property;

WHEREAS, Optionee recognizes that a substantial initial investment will be required to create the infrastructure necessary to provide such communications services to the Property and that providing such communications services will require an extensive commitment by the provider of such services to the Property;

WHEREAS, in order to facilitate such a substantial initial investment in the communications infrastructure and the provision of such communications services, Optionee, as part of its first exercising of its option with the owner of the Property, created the rights and easements required for the creation of such infrastructure at the Property and the provision of such communications services to the Property and Grantor is now granting such rights and easements to Grantee;

WHEREAS, Grantor intends that Grantee, without right of assignment, will use such rights and easements to install, own and operate such communications infrastructure and to provide or to arrange for the provision of communications services to the Property, and Grantor understands that Grantee, or assigns, may grant sub-easements and licenses concerning such

rights and easements to other owners of such communication infrastructure and providers of communications services to the Property;

WHEREAS, Grantor anticipates that such infrastructure owners and service providers will create such communications infrastructure at the Property and will provide such communications services to the Property by entering into contracts with Optionee, one or more of its affiliates, the homeowners associations formed or to be formed by Optionee for the Property (hereinafter referred to collectively as the "HOA"), and/or the residents and other potential subscribers at the Property to supply or provide such communications services and/or to use and enjoy such communications infrastructure; and

WHEREAS, Optionee also is or will be the Declarant under the Declaration of Covenants, Conditions and Restrictions for Elim Valley that encumber or will encumber the Property (the "CC&R's") and as such intends that the portions of the Property to be conveyed to the HOA pursuant to the CC&R's will be encumbered by the easements created pursuant to this Easement.

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

#### 1. Definitions.

**Multi-Channel Video Services.** "Multi-Channel Video Services" means the service that provides multi-channel cable television and other video and/or sound programming services, in either analog or digital format, including programming sources received via satellite and off air local transmission and advanced services such as pay per view, video on demand, interactive television and web enabled television.

**Voice Services.** "Voice Services" means local and long distance voice telecommunications services transmitted over the traditional circuit switched public switched telephone network, delivered within the Property in whole or in part via wired or cable transmission, including adjunct services such as voice mail, call waiting, caller ID, conference calling and call forwarding.

**Data Services.** "Data Services" means data transmission, including but not limited to connectivity with the internet using internet protocol (IP) or the equivalent or successor protocol via wired Ethernet, wireless (802.xx) transmission or other transmission media or protocol, and internet applications such as e-mail, WWW, hypertext, browsing, web hosting, dial transfer, internet chat, and internet telephony.

**Security Services.** "Security Services" means installation and/or monitoring of burglar, fire and other security systems and related equipment, including but not limited to wired or wireless detection and transmission equipment.

**Additional Services.** "Additional Services" means any services, other than the Multi-Channel Video Services, Voice Services, Data Services or Security Services that can be provided over the infrastructure.

**Infrastructure.** “**Infrastructure**” means internal wiring (other than within a single residential condominium unit), external wiring, cables, poles, conduits, molding, pipes, antennas, transmitters, receivers, servers, switch equipment, software, edge equipment, central processing units, audio, video or information servers, satellite earth stations, electrical connections, one or more service centers for the installation, operation and maintenance of video and internet head end equipment, telephone switching equipment and termination of transmission lines, and other facilities and equipment for the provision and delivery of Multi-Channel Video Services, Voice Services, Data Services, Security Services or Additional Services.

**Services.** “**Services**” means the Multi-Channel Video Services, Voice Services, Data Services, Security Services, and Additional Services, each as more particularly defined above.

**2. Grant of Easements.** Grantor hereby grants and assigns specifically unto Grantee the following easements (each an “**easement**”) in, on/over, and through the entire Property:

**2.1 Blanket Easement.** Grantee is hereby granted and shall retain an easement on, over, under and through all of the Property (the “**Blanket Easement**”) to (i) sell, market and provide, and to arrange for such sale, marketing and provision of (“**Provide**”) Voice, Data, Security, Multi-Channel Video Services and Additional Services within the Property, and (ii) design, construct, install, operate, market, maintain, upgrade, repair, replace, access and remove, and to arrange for such design, construction, installation, operation, marketing, maintenance, upgrade, repair, replacement, access and removal of (“**Operate**” or “**Operation**”) Infrastructure within the Property to Provide Services. Subject to applicable law, even on portions of the Property which subsequently become a public street, road, sidewalk or highway or public right of way, no Infrastructure installed by or on behalf of Grantee or any holder of any sub-easement or license granted by Grantee may be used by any other person without the express written permission of Grantee or such holder of any sub-easement or license granted by Grantee, which permission may be withheld for any reason. Grantee’s easement rights set forth herein shall include, without limitation, the right to (i) transmit signals related to the provision of Services over the Infrastructure to serve end users located outside of the Property, and (ii) Operate wiring and cable within conduit installed for such purpose by Optionee within the Property and Operate any such conduit.

**2.2 Perimeter Easement.** Grantee is hereby granted and shall retain a five-foot easement (the “**Perimeter Easement**”) on, over, under and through the outermost perimeter of the Property, and along any road or lot boundary within the Property, provided that if a public right of way or public easement intrudes into the Property, the Perimeter Easement shall be located from the edge of such right of way or easement to five feet inside the Property from such edge. The Perimeter Easement shall be to Provide Services and to Operate Infrastructure to Provide Services.

**2.3 Easement in Common Areas.** Grantee is hereby granted and shall retain an easement on, over, under and through any common area or common property (including but not limited to utility areas, attics, and roofs of structures comprising common property) of any homeowners association (including the HOA), now existing or hereinafter established within the Property (the “**Common Area Easement**”), to Provide Services and to Operate Infrastructure to Provide Services.

**2.4 Easement Under Roads and Public Right of Ways Established within the Property.** Grantee is hereby granted and shall retain an easement on, over, under and through any road, street or highway within the Property, to (i) Provide Services, and (ii) Operate Infrastructure to Provide Services (the "Road Easement"). After the Infrastructure of Grantee has been installed, the private Road Easement shall be contained to the space in which such Infrastructure is located and such adjacent area for ingress and egress to such Infrastructure as and when necessary for Operation of such Infrastructure. If such road, street or highway within the Property is subsequently dedicated to any public body or if any other portion of the Property is subsequently dedicated as a public right-of-way, such dedication or conveyance shall be subject to the private Road Easement. In such case, subject to applicable law, (i) the Road Easement within such public road, street, highway or right-of-way shall be non-exclusive with respect to other providers of Services that have the legal right to access such public road, street, highway or right-of-way, (ii) the Road Easement shall remain a private easement, (iii) the public shall have no interest in the private Road Easement, (iv) neither the public nor any person or entity granted any rights by any public authority shall have the right to use any of the Infrastructure of Grantee in such private Road Easement, and (v) Grantee may relocate its Road Easement in the public road, street, highway or right-of-way (and the Infrastructure located therein) provided that Grantee pays for all costs of such relocation and upon completion leaves the Property in neat manicured condition, and if any Government entity prior to or after accepting any portion of the Property for dedication, requires any of such Infrastructure in the Road Easement to be relocated, Grantee shall do so at its cost and in all instances where such Infrastructure is relocated, the Road Easement shall be modified to be the area where the Infrastructure is relocated, and such relocated Road Easement shall remain a private easement of Grantee in such public road, street, highway or right-of-way and such dedication of such public right-of-way shall remain subject to Grantee's private easement.

**2.5 Access Easements.** Grantee is hereby granted and shall retain easements (each an "Access Easement") for ingress and egress to the Infrastructure to the extent not reasonably accessible by public access easements and necessary to the Operation of the Infrastructure. The rights of Grantee under the Access Easements shall be limited to authorized employees, contractors or subcontractors of Grantee, or persons under their direct supervision, and shall be subject to all reasonable access conditions and restrictions to the Property imposed by Optionee or the HOA for the Property.

### **3. Fixtures.**

Infrastructure that is not underground or within the walls of a structure on the Property or that is not a building on the Property shall not be deemed to be affixed to or a fixture of the Property.

**4. Grantee's Rights and Obligations.**

**4.1** Grantee shall locate Infrastructure in accordance with and in furtherance of the overall development plan for the Property, and will install its exterior telecommunications cable, cable connection points, junction boxes and vaults underground.

**4.2** Grantor, Optionee, and each owner of any portion of the Property reserves the right to construct and maintain roadways, sidewalks, trails and fences over the Property, including over any easement granted hereby, to the extent not prohibited or restricted by applicable laws and regulations, and to make any use of the Property, including such easements, for any purpose that is not inconsistent with, and will not impair, the rights herein conveyed to Grantee; provided, however, that neither Grantor, Optionee, nor any owner of any portion of the Property shall erect any building or other structure, excepting a roadway, sidewalk, trail and fence, above any Infrastructure located underground without obtaining the prior written approval of Grantee, which approval shall not be unreasonably withheld or delayed.

**4.3** As between Grantor, Optionee, the HOA, and Grantee, Grantee shall be solely responsible for the Operation of all Infrastructure located within the Property.

**4.4** Grantee shall be liable for and shall pay when due all taxes levied against the Infrastructure or any other personal property owned by it and located on or about the Property, and shall not suffer or permit such taxes to become delinquent. Upon demand, Grantee shall furnish to Grantor, Optionee, and each owner of the Property reasonable evidence of Grantee's compliance with this Section. To the extent that any of Grantee's personal property shall be assessed together with real or personal property of Grantor, Optionee, or the HOA, Grantee shall reimburse Grantor, Optionee, or the HOA for any taxes paid by Grantor or the HOA directly related to the Infrastructure or Grantee's personal property and attributable to and solely due to such assessment, upon demand by Grantor, Optionee, or the HOA, which demand shall be accompanied by reasonable documentation of such assessment.

**5. Other Easements; Term of Easements.**

**5.1** Grantor reserves the right to grant other easements on the Property; provided, however, that Grantor will not allow such other easements to cause unreasonable interference with the easements granted to Grantee herein; and provided further, however, that Grantor will not grant to any party other than Grantee any easement to Provide Services and/or to Operate Infrastructure to Provide Services except as may be required by applicable law or regulation.

**5.2** Grantee will have and hold the easements on the Property granted herein in perpetuity, together with every right and appurtenance connected to them, until properly terminated. Grantor, its successors and assigns hereby agree to warrant and forever defend the easements to Grantee against every person who claims any part of them.

**5.3** These easements and other rights granted to Grantee hereunder run with the title to the Property and are binding on Grantor, its successors and assigns, and on all owners and subsequent owners of the Property or portions thereof, as well as on others who may claim an interest in all or a portion of the Property.

5.4 This Easement and the easements granted herein are intended to be private easements for the specific uses by Grantee herein described and are not intended to be and shall not be deemed or construed to be easements dedicated for general utility use or easements dedicated for compatible uses within the meaning of 47 U.S.C. 541.


5.5 The Parties agree that the easements are granted for commercial purposes, and Grantee has the right (a) to transfer and/or assign, without limitation, all or any part of the rights, privileges, easements and obligations granted by this Easement to any third party and (b) to grant, transfer and/or assign to one or more third parties sub-easements or licenses necessary to use such easements in a manner consistent with Grantee's rights hereunder.

**6. Owner's Acknowledgement.**

The owner of the Property hereby states that although Optionee has currently only exercised a portion of its option to purchase the Property, the owner acknowledges and agrees that it will honor this global Master Communications Easement on properties subject to the option agreement between Optionee and Owner but that are not yet optioned. However, this easement shall revert back to Owner for any and all property subject to the option between Optionee and Owner that is not optioned and purchased prior to the termination of that option agreement.

**ACKNOWLEDGEMENT OF OWNER:**

MELLOW VALLEY LLC  
Owner

By:   
Its: \_\_\_\_\_

(PARTIES SIGNATURES APPEAR ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties have caused this Easement to be executed, under seal by their duly authorized representatives.

**Signed, Sealed and Delivered  
In the Presence of:**

**ROLAND NEIL FAMILY LIMITED PARTNERSHIP**

*[Signature]*  
\_\_\_\_\_  
Witness

By: *[Signature]*  
\_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*[Signature]*  
\_\_\_\_\_

Notary Public  
Expiration Date 6/08



(CORPORATE SEAL)

**EXHIBIT A**

**Legal Description**

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy

Unofficial Copy



EXHIBIT "A"

PARCEL 1: H-3-2-6-1402

A portion of Section 6, Township 42 South, Range 13 West, Salt Lake Base and Meridian, and Section 31, Township 41 South, Range 13 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the Southwest Corner of said Section 6, Township 42 South, Range 13 West, Salt Lake Base and Meridian; thence North 00°12'46" East along the Section line 2634.89 feet to the West Quarter (W¼) Corner of said Section 6; thence North 00°15'07" East 2043.21 feet to a point in the Southerly Right-of-Way line of Highway SR-9; thence North 73°41'15" East 341.37 feet to a Highway Right-of-Way Marker; thence North 73°40'11" East 3268.39 feet to a point on the Center Section Line of said Section 31; thence North 01°11'00" East 51.49 feet to a Right-of-Way marker; thence North 73°39'25" East 214.52 feet to a Right-of-Way marker; thence North 16°36'56" West 36.32 feet to a Right-of-Way marker; thence North 73°40'00" East 350.33 feet to a Right-of-Way marker; thence North 84°57'08" East 254.78 feet to a Right-of-Way marker; thence North 75°41'01" East 283.52 feet to a Right-of-Way marker; thence North 51°40'55" East 174.13 feet to a Right-of-Way marker; thence North 87°28'38" East 687.67 feet to a Right-of-Way marker; thence North 89°03'46" East 384.16 feet to a Right-of-Way marker; thence South 89°56'12" East 163.49 feet to a Right-of-Way marker; thence North 84°49'25" East 220.84 feet to a point on the East line of the Southeast Quarter (SE¼) of said Section 31; thence leaving said Highway Right-of-Way line and running South 00°17'34" West along the Section line 756.86 feet to the Southeast Corner of said Section 31; thence South 89°58'42" West 50.03 feet to the Northeast Corner of said Section 6; thence South 89°55'25" West 1298.32 feet to the Northeast Corner of Sectional Lot 2 of said Section 6; thence South 00°06'25" West 1688.51 feet; thence North 79°31'35" West 977.00 feet; thence South 31°22'25" West 1412.00 feet; thence South 07°16'25" West 2240.00 feet; thence South 495.70 feet, more or less, to a point on the South line of said Section 6; thence South 89°57'21" West 662.22 feet to the Southwest Corner of said Section 6; thence South 89°57'21" West 2138.30 feet to the point of beginning.

Less and excepting that parcel shown by Book 235, Page 957, Official Washington County Records, being more particularly described as follows:

Beginning at a point North 15°51'40" West 1982.51 feet, more or less from the South 1/4, corner of section 6, Township 42 south, Range 13 West, Salt Lake Base and Meridian; Thence West 100 feet; Thence North 100 feet; Thence East 100 feet; Thence South 100 feet, to the Point of Beginning, containing 0.23 acres, more or less.

(Containing a remainder of 461.75 Acres, more or less.)

PARCEL 2: H-3-2-7-4402

A portion of Sectional Lots 2, 3, 4, 5, 8 and 9 of Section 7, Township 42 South, Range 13 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the Northwest Corner of said Section 7, Township 42 South, Range 13 West, Salt Lake Base and Meridian, thence North 89°57'21" East along the Section line 2138.30 feet, to the Northeast Corner of Sectional Lot 2 said Section 7; thence South 00°00'11" West along the East line of Lots 2 and 5 of said Section 7, 2642.71 feet to the Southeast Corner of Lot 5 said Section 7; thence South 00°00'59" West 1319.81 feet to the Southeast Corner of Lot 8 said Section 7; thence South 89°51'10" West along the South line of Lots 8 and 9, 2141.37 feet, to the Southwest Corner of said Lot 9; thence North 00°02'11" East along the West line of said Lot 9, 933.37 feet to the Southwest Corner of that parcel shown on Book 432, Page 840 of Official Washington County Records; thence South 89°56'09" East along the South line of said Parcel 1399.60 feet to the Southeast Corner of said Parcel; thence North 00°03'51" East 1617.00 feet; thence North 89°56'09" West 1400.00 feet to a point on the West line of Lot 4 said Section 7; thence North 00°03'51" East along the West line of Lots 3 and 4 of said Section 7, 1396.00 feet to the point of beginning.

(Containing 142.81 Acres, more or less.)

PARCEL 3: H-3-2-18-4100

A portion of the West One-Half (W½) of Section 18, Township 42 South, Range 13 West, Salt Lake Base and Meridian, more particularly described as follows:

Commencing at the Northwest Corner of said Section 18, Township 42 South, Range 13 West, Salt Lake Base and Meridian, thence North 89°48'13" East along the Section line 651.06 feet to the point of beginning; thence North 89°48'10" East 1490.77 feet to the Northeast Corner of Sectional Lot 2 said Section 18; thence South 00°09'57" East along the East line of Sectional Lots 2 and 5, 2647.63 feet to the Southeast Corner of Sectional Lot 5; thence South 00°13'17" East along the East line of Sectional Lots 8 and 11 2643.84 feet to the Southeast Corner of Sectional Lot 11; thence South 89°51'44" West along the Section line 1836.30 feet to the boundary line of Dixie Spring Project as shown on the Official Washington County Records; thence following the boundary of said Dixie Springs project the following (9) nine courses as follows: North 00°08'16" West 350.96 feet; thence North 89°51'44" East 330.00 feet; thence North 00°08'16" West 660.00 feet; thence North 89°51'44" East 330.00 feet; thence North 00°00'06" West 660.00 feet; thence South 89°51'44" East 330.00 feet; thence North 00°00'06" East 2640.00 feet; thence North 89°59'54" West 660.00 feet; thence North 00°00'06" East 978.16 feet to the point of beginning.

(Containing 139.71 Acres, more or less.)

PARCEL 4: H-4-2-1-1103

A portion of Section 1, Township 42 South, Range 14 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the Southwest Corner of said Section 1, Township 42 South, Range 14 West, Salt Lake Base and Meridian, thence North 00°12'57" East 2643.92 feet to the West Quarter (W¼) Corner of said Section 1; thence North 00°25'33" East 317.49 feet along the Section line to a point on the Southerly Right-of-Way line of Highway SR-9, said point being on a 2775.00 foot radius curve to the right, the radius point of which bears (South 36°33'27" East); thence Northeasterly along the arc of said curve 964.11 feet to the point of tangency; thence North 73°20'56" East 493.02 feet to a point on the East line of Sectional Lot 5 of said Section 1; thence leaving said Highway Right-of-Way line and running South 00°20'44" West 898.15 feet to the Southeast Corner of said Sectional Lot 5; thence South 89°34'39" East 1327.03 feet to the Center Section Corner of said Section 1; thence North 00°15'03" East 1249.91 feet to a point on the Southerly Right-of-Way line of said Highway SR-9, said point being a Highway Right-of-Way marker; thence North 73°56'59" East 359.98 feet; thence North 73°43'59" East 844.39 feet to a Highway-Right-of-Way marker; thence North 73°41'15" East 1122.76 feet; thence leaving said Highway-Right-of-Way line and running South 00°15'07" West 200.00 feet; thence North 73°41'15" East 435.60 feet to a point the East line of said Section 1; thence South 00°15'07" West along the Section line 1843.21 feet the East Quarter (E¼) Corner of said Section 1; thence South 00°12'46" West 2634.89 feet to the Southeast Corner of said Section 1; thence North 89°39'47" West 2651.15 feet; thence North 89°41'12" West 2651.73 feet to the point of beginning.

(Containing 439.49 Acres more or less.)

PARCEL 5A: H-4-2-2-2302

A portion of the Southwest Quarter (SW¼) of Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the South Quarter (S¼) Corner of said Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian, thence South 89°37'54" West 1939.60 feet, more or less, to the Easterly edge of the Virgin River; thence following along the meander of said Easterly edge of the Virgin River as follows: North 44°18'44" East 378.40 feet; thence North 13°38'11" West 235.86 feet; thence North 14°26'01" East 181.87; thence North 34°01'58" East 231.63 feet; thence North 33°53'06" East 527.20 feet; thence North 46°59'10" East 1016.05 feet; thence North 38°22'37" East 476.90 feet to a point on the Southerly Boundary of Highway SR-9, said point being a Highway Right-of-Way marker; thence leaving said Easterly edge of said river and running South 52°17'20" East 265.76 feet to a Highway Right-of-Way marker, said point being on a 1532.39 foot radius curve to the left, the radius point of which bears (North 35°22'54" East); thence Southerly along the arc of said curve 38.40 feet to a point on the Center Section line of said Section 2; thence leaving said Southerly Right-of-Way line and running South 00°29'14" West 2176.17 feet to the point of beginning.

(Containing a remainder of 6.93 acres more or less, after removing less and excepting parcels "A" 1&2.)

PARCEL 5B: H-4-2-2-1200

A portion of the Northeast Quarter (NE¼) of Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the East Quarter (E¼) Corner of said Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian, thence South 89°50'15" West along the Center Section Line 366.22 feet to a point on the Southerly Right-of-Way line of Highway SR-9; thence North 47°16'54" East along said Highway Right-of-Way 189.07 feet to the point of curvature of a 2775.00 foot radius curve to the right, said point being a Highway Right-of-Way marker; thence Northeasterly along the arc of said curve 298.39 feet to a point on the East line of the Northeast Quarter (NE¼) of said Section 2; thence South 00°25'33" West 317.49 feet to the point of beginning.

(Containing 1.39 acres, more or less.)

PARCEL 5C: H-4-2-2-2303

A portion of the Southeast Quarter (SE¼) of Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the Southeast Corner of said Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian; thence North 89°59'50" West along the Section line 2657.12 feet to the South Quarter (S¼) Corner of said Section 2; thence North 00°29'14" East along the Center Section line 2176.17 feet, to a point on the Southerly Right-of-Way line of Highway SR-9, said point being on a 1532.39 foot radius curve to the left, the radius point of which bears (North 33°57'46" East); thence along the arc of said curve 1802.23 feet to a Highway Right-of-Way marker; thence South 31°48'33" East 24.90 feet; to a point on a 1532.39 foot radius curve to the left, the radius point of which bears North 33°02'38" West, thence along the arc of said curve a distance of 258.75 feet, to the point of tangency; thence North 47°16'54" East 496.97 feet to a point on the Center Section line of said Section 2; thence North 89°50'15" East 366.22 feet to the East Quarter (E¼) Corner of said Section 2; thence South 00°12'57" West 2643.92 feet to the point of beginning.

(Containing a remainder of 42.69 acres more or less after reming less and excepting parcel 3 of Parcel "A".)

PARCEL 5D: H-4-2-2-3402

A portion of the Southwest Quarter (SW¼) of Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the West Quarter (W¼) Corner of said Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian, thence North 89°50'53" East 2035.32 feet to a point in the Westerly Right-of-Way line of Highway SR-9; thence South 35°15'46" East 49.87 feet to a Highway Right-of-way marker; thence South 40°30'50" East along said Highway Right-of-Way 282.13 feet to the Westerly edge of the Virgin River; thence following along the meander of the West edge of said River as follows: South 41°34'55" West 378.90 feet; thence South 46°59'10"

West 1033.27 feet; thence South 33°53'06" West 544.43 feet; thence South 22°08'03" West 270.60 feet; thence South 14°26'01" West 206.87 feet; thence South 13°38'11" East 205.48 feet; thence South 44°18'44" West 421.92 feet, more or less, to the South Boundary line of said Section 2; thence leaving said Westerly edge of the Virgin River and running South 89°37'54" West along the Section line 557.68 feet to the Southwest Corner of said Section 2; thence North 00°26'48" East 2646.31 feet to the point of beginning.

(Containing 81.48 acres more or less after removing less and excepting parcel "B")

PARCEL 7B: H-4-2-11-2102

A portion of the East One-Half (E½) of Section 11, Township 42 South, Range 14 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the Northeast Corner of said Section 11, Township 42 South, Range 14 West, Salt Lake Base and Meridian, thence South 00°00'50" East along the Section line 2642.14 feet to the East Quarter (E¼) Corner of said Section 11, said point being an existing BLM Brass Cap; thence South 00°05'00" East 2643.23 feet, to the Southeast Corner of said Section 11; thence South 89°48'52" West along the Section line 1327.34 feet, to the Southwest Corner of the Southeast Quarter of the Southeast Quarter (SE¼SE¼), said Section 11; thence North 00°05'16" West 1321.22 feet; thence South 89°47'45" West 1327.78 feet, to the Southwest Corner of the Northwest Quarter of the Southeast Quarter (NW¼SE¼), said Section 11; thence North 00°05'21" West 1320.55 feet to the Center Quarter (¼) Corner of said Section 11; thence North 89°46'09" East 1327.80 feet to the Northeast Corner, said Northwest Quarter of the Southeast Quarter (NW¼SE¼), said point being an existing Ballard and Campbell rebar and cap; thence North 00°02'08" West 856.97 feet; thence North 89°53'11" East 467.32 feet; thence North 00°06'49" West 466.69 feet; thence South 89°53'11" West 128.34 feet; thence North 00°02'08" West 661.27 feet; thence South 89°57'52" West 338.35 feet; thence North 00°02'08" West 661.95 feet to the Northwest Corner of the Northeast Quarter of the Northeast Quarter (NE¼NE¼), said Section 11; thence South 89°59'50" East 1328.56 feet along the Section line to the point of beginning.

(Containing 185.63 acres more or less, after removing less and excepting parcel 3 of parcel "A")

PARCEL 8: H-4-2-12-1102

A portion of Section 12, Township 42 South, Range 14 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the Northwest Corner of said Section 12, Township 42 South, Range 14 West, Salt Lake Base and Meridian, said point being a Washington County Monument; thence South 89°41'13" East 2651.73 feet to the North Quarter (N¼) Corner of said Section 12, said point being an existing BLM Brass Cap; thence South 89°39'47" East 2651.15 feet, to the Northeast Corner of said Section 12, said point being an existing BLM Brass Cap; thence South 00°03'51" West 1322.01 feet to the Northeast Corner of the Southeast Quarter of the Northeast Quarter (SE¼NE¼), said Section 12, said point being the Northeast Corner of that parcel shown on Book 1004, Page 455, Official Washington County Records; thence North 89°39'44" West 1324.79 feet to the Northwest Corner of the Southeast Quarter of the Northeast Quarter (SE¼NE¼), said

Section 12, said point being the Northwest Corner of said Parcel shown on Book 1004, Page 455; thence South  $00^{\circ}01'50''$  West 661.18 feet; thence South  $89^{\circ}39'15''$  East 622.26 feet; thence South  $00^{\circ}02'33''$  West 330.63 feet, to the Southwest Corner of that parcel shown on Book 748, Page 366, Official Washington County Records; thence South  $89^{\circ}38'59''$  East 702.19 feet to a point on the East line of the Northeast Quarter (NE $\frac{1}{4}$ ), said Section 12; thence South  $00^{\circ}03'16''$  West 330.68 feet to the East Quarter (E $\frac{1}{4}$ ) Corner of said Section 12; thence South  $00^{\circ}02'11''$  West 2643.28 feet to the Southeast Corner of said Section 12, said point being an existing BLM Brass Cap; thence North  $89^{\circ}37'51''$  West 1323.10 feet; thence North  $89^{\circ}39'02''$  West 1323.77 feet to the South Quarter (S $\frac{1}{4}$ ) Corner of said Section 12, said point being an existing BLM Brass Cap; thence North  $89^{\circ}39'03''$  West 2647.13 feet; thence North  $00^{\circ}05'00''$  West 2643.23 feet to the West Quarter (W $\frac{1}{4}$ ) Corner of said Section 12; thence North  $00^{\circ}00'50''$  West 2642.14 feet to the point of beginning.

(Containing 617.66 acres, more or less.)

PARCEL 9: H-4-2-13-1409

A portion of the North One-Half (N $\frac{1}{2}$ ) of Section 13, Township 42 South, Range 14 West, Salt Lake Base and Meridian, more particularly described as follows:  
Beginning at the Northwest Corner of said Section 13, Township 42 South, Range 14 West, Salt Lake Base and Meridian, said point being an existing BLM Brass Cap; thence South  $89^{\circ}39'03''$  East 2647.13 feet to the North Quarter (N $\frac{1}{4}$ ) Corner of said Section 13, said point being an existing BLM Brass Cap; thence South  $89^{\circ}39'02''$  East 1323.77 feet to the East  $\frac{1}{16}$  Corner between Sections 12 and 13, said point being an existing BLM Brass Cap; thence South  $89^{\circ}37'51''$  East 1315.65 feet; thence South  $00^{\circ}05'09''$  West 330.63 feet, to a point on the boundary of Dixie Springs project, as shown on Official Washington County Records; thence following along the boundary of said Dixie Springs project the following (9) Nine courses as follows: North  $89^{\circ}38'34''$  West 1315.57 feet; thence South  $00^{\circ}03'50''$  West 661.13 feet; thence North  $89^{\circ}38'24''$  West 1323.02 feet; thence South  $00^{\circ}01'53''$  West 1349.83 feet; thence North  $89^{\circ}37'06''$  West 661.08 feet; thence North  $00^{\circ}00'42''$  East 1349.56 feet; thence North  $89^{\circ}38'30''$  West 661.57 feet; thence North  $00^{\circ}00'04''$  East 330.34 feet; thence North  $89^{\circ}38'47''$  West 1323.45 feet to a point on the West line of the Northwest Quarter (NW $\frac{1}{4}$ ), said Section 13; thence leaving said boundary of Dixie Springs project and running North  $00^{\circ}01'48''$  West along the Section line 661.14 feet to the point of beginning.

LESS AND EXCEPTING THEREFROM the following described property:

Commencing at the North Quarter Corner of Section 13, Township 42 South, Range 14 West, Salt Lake Base and Meridian; thence South  $89^{\circ}39'02''$  East along the Section Line 714.70 feet; thence South  $00^{\circ}02'36''$  West, 33.00 feet to the point of beginning; thence South  $89^{\circ}39'02''$  East a distance of 435.60 feet; thence South  $00^{\circ}02'36''$  West a distance of 200.00 feet; thence North  $89^{\circ}39'02''$  West a distance of 435.60 feet; thence North  $00^{\circ}02'36''$  East a distance of 200.00 feet to the point of beginning.

(Containing a remainder of 108.85 acres more or less.)

PARCEL 10: H-4-2-14-1101

The North 20.2 acres of the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ ), Section 14, Township 42 South, Range 14 West, Salt Lake Base and Meridian, described as follows:

Beginning at the Northeast Corner of said Section 14, Township 42 South, Range 14 West, Salt Lake Base and Meridian, said point being an existing BLM Brass Cap; thence South 00°01'18" East 662.91 feet; thence South 89°48'52" West 1327.40 feet; thence North 00°00'59" West 662.91 feet to the Northwest Corner of the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ ), said Section 14, said point being an existing BLM Brass Cap; thence North 89°48'52" East 1327.34 feet, to the point of beginning.

(Containing 20.2 acres)

PARCEL 11: Part of H-3-2-6-1402 & H-4-2-1-1103

A parcel of land, being part of the existing highway right of way, lying Northerly and adjacent to the Southerly Right-of-Way Line of existing highway State Route 9, situate in Lots 3, 4, and 5 of Section 6, Township 42 South, Range 13 West, Salt Lake Base and Meridian, Lots 1 and 2 of Section 1, Township 42 South, Range 14 West, Salt Lake Base and Meridian, and Lot 12 of Section 31, Township 41 South, Range 13 West, Salt Lake Base and Meridian, the boundaries of said parcel are described as follows:

Beginning at the intersection of said Southerly Right-of-Way Line and the West Line of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 31, Township 41 South, Range 13 West, Salt Lake Base and Meridian at a point 186.26 feet perpendicularly distant Southerly from the Control Line of said State Route 9 at Engineer Station 312+21.12, said point is approximately 258.52 feet North 01°00'50" East along said West Line from the South Quarter Corner of said Section 31; running thence South 74°49'44" West 668.96 feet along said Southerly Right-of-Way Line to a point 186.02 feet perpendicularly distant Southerly from said Control Line at Engineer Station 305+52.16; thence South 74°49'08" West 2600.54 feet along said Southerly Right-of-Way Line to a point 185.54 feet perpendicularly distant Southerly from said Control Line at Engineer Station 279+51.62; thence South 74°49'31" West 1899.75 feet along said Southerly Right-of-Way Line to a point 184.98 feet perpendicularly distant Southerly from said Control Line at Engineer Station 260+51.87; thence South 74°48'57" West 1205.59 feet along said Southerly Right-of-Way Line to the West Line of Lot 2, Section 1, Township 42 South, Range 14 West, Salt Lake Base and Meridian at a point 180.35 feet perpendicularly distant Southerly from said Control Line at Engineer Station 248+56.87; thence North 01°25'47" East 26.51 feet along said West Line to a point 155.00 feet perpendicularly distant Southerly from said Control Line at Engineer Station 248+64.60; thence North 74°28'09" East 679.90 feet to the point of tangency with a 22763.312 foot radius curve to the right; thence 134.73 feet along the arc of said curve; thence North 74°48'30" East 1951.74 feet to a point on the West line of Section 6, Township 42 South, Range 13 West, Salt Lake Base and Meridian, said point being 155.00 feet perpendicularly distant Southerly from said Control Line at Engineer Station 276+20.23; thence North 74°48'30" East 3609.97 feet to a point on the West Line of the Southeast Quarter of Section 31, Township 41 South, Range 13 West, Salt Lake Base and Meridian, said point being 155.00 feet perpendicularly distant from said Control Line at Engineer Station 312+30.21; thence South 01°00'50" West 32.55 feet along said West Line to the point of beginning.

(Containing 4.53 acres more or less)

LESS AND EXCEPTING any of the following Parcels A and B, lying within the ABOVE 11 PARCELS:

PARCEL A: (Consisting of the following parcels 1, 2 & 3).

PARCEL 1:

Beginning at the South Quarter Corner of Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian; thence South 89°37'54" West along the Section Line 1744.05 feet; thence along an existing fence line the following courses, North 37°15'14" East, 326.48 feet; thence North 44°43'26" East, 417.53 feet; thence North 16°24'44" East, 521.10 feet; thence South 61°25'06" West, 51.96 feet; thence North 22°58'59" East, 432.47 feet; thence North 39°54'40" East, 360.35 feet; thence North 50°01'56" East, 131.43 feet; thence North 44°15'15" East, 324.51 feet; thence North 42°42'45" East, 400.05 feet to a point on the South right-of-way line of Highway SR-9; thence leaving said fence line and running along said right-of-way line the following courses; South 52°17'20" East, 176.54 feet to a point on a 1532.39 foot radius curve to the left, the radius point of which bears North 36°22'39" East; thence along the arc of said curve 1500.40 feet, through a central angle of 56°05'59"; thence leaving said highway right-of-way and running along an existing fence line North 89°48'55" East, 321.25 feet to a point on the West edge of the existing asphalt of Turf Sod Road, said point being on a 351.35 foot radius curve concave Southwesterly, the radius point of which bears South 88°55'05" West; thence Southerly to the right along the arc of said curve 57.01 feet, through a central angle of 09°17'50"; thence South 00°57'21" West, 374.68 feet to the point of curvature of a 420.00 foot radius curve to the left, thence along the arc of said curve 265.46 feet, through a central angle of 36°12'50" to the point of tangency; thence South 35°15'29" East, 316.56 feet; thence South 38°43'21" East, 256.21 feet to the point of curvature of a 250.00 foot radius curve to the right, thence along the arc of said curve 324.23 feet, through a central angle of 74°18'26" to the point of tangency; thence South 35°35'05" West, 152.80 feet; thence South 42°40'36" West, 146.42 feet; thence South 48°25'55" West, 250.77 feet to the point of curvature of a 400.00 foot radius curve to the left, thence along the arc of said curve 212.41 feet, through a central angle of 30°25'30", to a point on the South Line of said Section 2, the previous Ten (10) courses along said Westerly edge of Turf Sod Road; thence North 89°59'50" West along said South Line, 1727.32 feet to the point of beginning.

PARCEL 2:

Commencing at the South Quarter Corner of Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian; thence South 89°37'54" West along the Section Line 1744.05 feet, to the point of beginning; thence South 89°37'54" West, 107.67 feet; thence North 40°05'51" East, 54.96 feet; thence North 30°46'44" East, 346.19 feet; thence North 34°24'22" East, 401.56 feet; thence North 28°49'20" East, 295.97 feet; thence North 04°51'16" West, 194.52 feet; thence North 42°29'52" East, 388.04 feet; thence North 64°00'47" East, 46.45 feet to a point on an existing fence line; thence following along said fence line as follows: South 22°58'59" West, 432.47 feet; thence North 61°25'06" East, 51.96 feet; thence south 16°24'44" West, 521.10 feet; thence south 44°43'26" West, 417.53 feet; thence South 37°15'14" West, 326.48 feet to the point of beginning.



**PARCEL 3:**

Commencing at the North Quarter Corner of Section 11, Township 42 South, Range 14 West, Salt Lake Base and Meridian; thence South 89°59'50" East along the Section Line 1328.56 feet to the Northwest Corner of the Northeast Quarter of the Northeast Quarter (NE¼ NE¼) of said Section 11, and the point of beginning; thence South 89°59'50" East along the North Line of said Northeast Quarter of the Northeast Quarter (NE¼ NE¼), 398.76 feet to a point on the West edge of the existing asphalt of Turf Sod Road, said point being on a 400.00 foot radius curve concave Southeasterly, the radius point of which bears South 71°59'34" East, thence Southwesterly to the left along the arc of said curve 87.72 feet through a central angle of 12°33'52" to the point of tangency; thence South 05°26'34" West, 25.00 feet; thence South 01°51'30" West, 551.39 feet (the previous three (3) courses along said roadway); thence leaving said Westerly edge of asphalt of Turf Sod Road and running South 89°57'52" West, 21.95 feet to the Northeast Corner of that parcel shown by Book 169, Page 325, Washington County Records; thence South 89°57'52" West, 338.35 feet to a point on the West Line of said Northeast Quarter of the Northeast Quarter (NE¼ NE¼) of said Section 11, said point being the Northwest Corner of that parcel shown by Book 724, Page 825, Washington County Records; thence North 00°02'08" West, 661.95 feet to the point of beginning.

**PARCEL B:**

Two parcels of land in fee for the reconstruction of a bridge and widening of SR-9 known as Project No. NF-16(2), being parts of entire tracts of property situated in Lot 5 of Section 1, Lots 9, 11, 12 and the North One-Half of the Southeast Quarter (N½SE¼) of Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian, the boundaries of said parcels of land are described as follows:

Beginning at the Northeast Corner of said Lot 12, which point is 380.39 feet North 88°58'57" West from the Northwest corner of the Southeast Quarter (SE¼) of said Section 2; thence North 88°58'57" West 286.82 feet along the Northerly line of said Lot 12, to the existing Southwesterly right-of-way and limited access line of said SR-9, at a point 155.92 feet radially distant Southwesterly from the center line of said project at Engineer Station 182+97.78; thence Southeasterly 240.36 feet along the arc of a 908.51-foot radius curve to the left and said existing Southwesterly right-of-way and limited access line (chord bears South 48°23'07" East 239.66 feet) to the Southeasterly lot line of said Lot 12; thence North 34°55'37" East 187.92 feet along said Southeasterly lot line to the point of beginning as shown on the Official map of said project on file in the Office of the Utah Department of Transportation. The above described parcel of land contains 0.543 acre, of which 0.518 acre is now occupied by the existing highway.

Also: Beginning at the intersection of the existing SR-9 center line and a Westerly lot line of said Lot 11, which point is 198.00 feet North 88°58'57" West along the Quarter Section Line and 213.85 feet South 01°01'03" West from the Northwest corner of the Southeast Quarter (SE¼) of said Section 2; thence Easterly along said existing center line the following Five (5) courses: South 60°12'40" East 425.72 feet to the point of tangency with a 1432.41-foot radius curve to the left; Easterly 1800.02 feet along the arc of said curve; North 47°47'20" East 648.74 feet to a point of tangency with a 2864.90-foot radius curve to the right; Northeasterly 1350.78 feet along the arc of said curve; North 74°48'49" East 323.81 feet to the Northerly lot line of said Lot 5; thence South 88°41'06" East 188.38 feet along said Northerly lot line to the Northeast corner of said Lot 5; thence South 01°28'01" West 103.70 feet along the Easterly lot line of said Lot 5 to a point

125.00 feet perpendicularly distant Southeasterly from the center line of said project at Engineer Station 234+89.39; thence South 74°28'17" West 493.21 feet along a line parallel to said center line, to a point of tangency with a 2775.00-foot radius curve to the left; thence Southwesterly 1258.98 feet along the arc of said curve, concentric with the center line of said project; thence South 48°28'38" West 689.70 feet along a line parallel to said center line of said project, to a point of tangency with a 1557.39-foot radius curve to the right; thence Southwesterly 258.89 feet along the arc of said curve, concentric with the center line of said project; thence Northwesterly 25.02 feet along the arc of a 222.84-foot radius curve to the left (chord bears North 30°35'27" West 25.01 feet) to a point 100.00 feet radially distant Southeasterly from the center line of said project at Engineer Station 207+53.25; thence Westerly 1861.32 feet along the arc of a 1532.39-foot radius curve to the right, concentric with the center line of said project (chord bears North 87°13'27" West 1748.99 feet); thence North 52°25'37" West 239.82 feet along a line parallel to the center line of said project, to a Westerly lot line of said Lot 11; thence North 38°33'58" East 78.77 feet along said Westerly boundary line to the point of beginning as shown on the Official map of said project on file in the Office of the Utah Department of Transportation. The above described parcel of land contains 14.900 acres, of which 5.345 acres are now occupied by the existing highway.

Total acreage = 2253.12

LESS AND EXCEPTION from all parcels listed above, the following property: H-4-2-2-3401

Beginning at the Southwest Corner of Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian, and running thence North 00°27'31" East, 2646.63 feet to the West Quarter of said Section 2; thence North 89°50'58" East, 1972.22 feet along the Center Section line to the Westerly right of way line of State Route 9; thence Southeasterly 240.36 feet along said West right of way line, along an arc of a 908.51 foot radius curve to the left (center bears North 48°01'32" East long chord bears South 49°33'14" East, 239.66 feet with a central angle of 15°09'31"); thence North 33°45'31" East, 5.79 feet along said West right of way line; thence South 40°30'07" East, 137.82 feet to the Westerly meander line of the Virgin River and running the following Seven (7) courses along said West line: thence South 41°35'38" West, 378.90 feet; thence South 46°59'53" West, 1033.27 feet; thence South 33°53'49" West, 544.43 feet; thence South 22°08'46" West, 270.60 feet; thence South 14°26'44" West, 206.87 feet; thence South 13°37'28" East, 205.48 feet; thence South 44°19'27" West, 421.38 feet to the South Section line of said Section 2; thence South 89°34'18" West, 558.07 feet along said South line to the point of beginning.

Please cross-reference:

[List mortgage and other security documents]

**CONSENT AND JOINDER OF LENDER**

\_\_\_\_\_ Bank ("Lender") is the present owner and holder of an indebtedness secured by that certain [LIST MORTGAGE AND OTHER SECURITY DOCUMENTS] Lender does hereby consent to and join in the foregoing Master Communications Easement for Elm Valley ("Master Communications Easement") for the purpose of consenting to said Master Communications Easement, and acknowledges that any and all security interests held by Lender in the Property shall be held subject to the terms of said Master Communications Easement, and said security interests shall be subordinate to the foregoing Master Communications Easement.

Signed, sealed and delivered  
\_\_\_\_\_, 2007, in the presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

(NOTARY SEAL)

**LENDER:**

\_\_\_\_\_ **Bank**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

(BANK SEAL)