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ELIZABETH PALMIER, Recorder  
WASATCH COUNTY CORPORATION  
For: FIRST AMERICAN TITLE HEBER

### FENCE LINE AGREEMENT

This Fence Line Agreement is made and entered into this 29 day of March, 2005, by and between **PROBST PROPERTIES, LLC, a Utah limited liability company** and **INVESTMENT LODGING CORPORATION, a Utah Corporation**

### RECITALS

1. **PROBST PROPERTIES, LLC, a Utah limited liability company**, are the owners, in Fee Simple, of the following described parcel of real property, situated in Wasatch, State of Utah, hereinafter referred to as the **Probst Parcel**, and being more particularly described in **Warranty Deed, Recorded 3/29/05** as **Entry No. 281200** in **Book 743** at **Pages 406-407** of official records as follows:

BEGINNING 42 rods South of the Northeast corner of the Southwest quarter of Section 18, Township 3 South, Range 5 East, Salt Lake Meridian; and running thence West 160 rods to the section line; thence South 13 rods 3.4 feet; thence South 2941' East 245.2 feet; thence East 192 feet; thence South 1°19' East 350.1 feet; thence South 30°19' East 319 feet; thence East 159 rods 4.1 feet; thence North 27 rods' thence North 23°20' West 255.7 feet more or less; thence South 62°15' West 230.5 feet; thence North on a 2° curve to the right along the East line of the State Road right of way 475.5 feet; thence West 38.5 feet to the point of beginning.

ALSO: TOGETHER WITH a two-thirds interest in the Spring which is located approximately 27.5 rods East and 27 rods North of the West boundary line of the Southeast quarter of Section 18, Township 3 South, Range 5 East, Salt Lake Meridian; and an undivided one-half interest in a pressure pump which is located in the pump house upon the above described real property.

#### LESS and EXCEPTING:

BEGINNING at a point on the East line of U.S. Highway 40, at a point 42 rods South and 38.5 feet East and Southerly on a 2° curve to left along the East line of said Highway 40, 475.5 feet, more or less, to the North line of the David Probst and Vivienne Probst property; and continuing along the East line of said Highway 40, 166 feet from the Northeast corner of the Southwest quarter of Section 18, Township 3 South, Range 5 East, Salt Lake Meridian; and running Southerly along the East line of said Highway 40, 167.54 feet; thence North 62°15' East 260 feet; thence Northerly 167.54 feet, more or less, to a point North 62°15' East 260 feet from the point of beginning; thence South 62°15' West 260 feet to the point of beginning. SUBJECT TO and TOGETHER with a 16 foot right of way and easement adjoining said parcel on the North.

SUBJECT to an existing easement for a water line and rights of maintenance and repair thereto, in the Northeasterly corner of said property, previously granted to Harold A and Joan T. Schlueter, SUBJECT TO and RESERVING and existing easement for a water line and right of maintenance and repair thereto in favor of David Probst and Vivianne Probst, and their successors; said line enter the above described parcel on the North line of said parcel between calf shed and saddle shop and proceeds East on the South side of the saddle shop to the spring located just East of the Northeast corner of said property.

BEGINNING at a point on the East line of U.S. Highway 40, at a point 42 rods South and 38.5 feet East and Southerly on a 2° curve to left along the East line of said Highway 40, 475.5 feet, more or less, to the

North line of the David Probst and Vivienne Probst property, and continuing along the East line of said Highway 40, 166 feet and North 62°15' East 260 feet from the Northeast corner of the Southwest quarter of Section 18, Township 3 South, Range 5 East, Salt Lake Meridian, and running thence South 23° East 6.0 feet; thence South 62°15' West 60 feet; thence North 23° West 6 feet; thence North 62°15' East 60 feet to the point of beginning.

LESS and EXCEPTING:

A parcel of land for a highway incident to the construction of an expressway known as Project No. NF-19, being part of an entire tract of property, situate in Lot Three (3) and the Northeast quarter of the Southwest quarter of Section 18, Township 3 South, Range 5 East, Salt Lake Base and Meridian, Wasatch County, Utah, being more particularly described as follows:

BEGINNING in the Southerly right of way line of the existing Midway Road opposite Engineer Station 33+50.00 of the centerline known as "H" line for said project, which point is approximately 1449.0 feet West and 705.0 feet South from the Northeast corner of said Northeast quarter of the Southwest quarter; thence South 89°48'53" East 416.05 feet along said Southerly right of way line; thence South 70°58'53" West 53.39 feet to a 60.0 feet radically distant Southerly from said centerline at Engineer Station 30+00.00; thence Westerly 190.27 feet along the arc of a 1014.93 foot radius curve to the right (Note: Tangent to said curve at its point of beginning bears South 79°44'31" West); thence North 78°47'30" West 179.70 feet 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.

TOGETHER with any and all abutter's rights of underlying fee to the center of existing right of way appurtenant to this conveyance.

Parcel No. JDR-Hy-40-19:51

LESS and EXCEPTING:

Parcel No. JDR-Hy-40-19L51:EP

A Parcel of land in the East half of the Southwest quarter and the Southwest quarter of the Southeast quarter of Section 18, Township 3 South, Range 5 East, Salt Lake Base and Meridian, Wasatch County, Utah, more particularly described as follows:

A strip of land 30.0 feet wide, adjoining Westerly the following described portion of the Westerly limited-access line of said project:

BEGINNING at the intersection of the Southwesterly boundary fence line of said entire tract and said Westerly limited-access line, which point is approximately 862.0 feet North and 121.0 feet East from the South quarter corner of said Section 18 as per the recorded deeds on record; said point of beginning is also approximately 122.96 feet East from the new Brass Cap established by the Wasatch County Survey in 1976, identified as the South quarter corner of said Section 18, thence North 23°10'45" West 456.18 feet; thence North 24°22'00" West 687.13 feet to the Southerly right of way line of the existing Midway road.

Parcel No. JDR-Hy-40-19:51:EP

LESS and EXCEPTING:

PARCEL No. JDR-Hy-40-19:51:ET

A Parcel of land in the East half of the Southwest quarter and the Southwest quarter of the Southeast quarter of Section 18, Township 3 South, Range 5 East, Salt Lake Base and Meridian, Wasatch County Utah, more particularly described as follows:

A Strip of land 20.0 feet wide and adjoining Westerly the Westerly sideline of the above described part of an entire tract of property.

Parcel No. JDR-Hy-40-19:51 ET

LESS and EXCEPTING :

PARCEL No. JDR-Hy-40-19:512ET

A parcel of land in Lot 3 and the Northeast quarter of the Southwest quarter of Section 18, Township 3 South, Range 5 East, Salt Lake Base and Meridian, Wasatch County, Utah, more particularly described as follows :

A strip of land 20.0 feet wide, adjoining Southerly the following-described portion of the Southerly right of way of a highway known as "H" line for said project:

BEGINNING in the Southerly right of way line of the existing Midway Road opposite Engineer Station 33+50.00 of said "H" Line, which point is approximately 1449.0 feet West and 705.0 feet South from the Northeast corner of said Northeast quarter of the Southwest quarter; thence South  $78^{\circ}47'30''$  East 179.70 feet to a point 60.0 feet radically distant Southerly from said "H" line at Engineer Station 31+79.02; thence Easterly 190.27 feet along the arc of a 1014.93 foot radius curve to the left (Note: Tangent to said curve at its point of beginning bears South  $89^{\circ}31'00''$  East); thence North  $70^{\circ}58'53''$  East 53.39 feet.

Parcel No. JDR-Hy-40-19;512ET

(Note : All highway bearings in the above description are based on the Utah State Plane Coordinate System).

LESS

A Parcel of land containing 7.0 acres within that property described as 63.97 acres in Book 47, Pages 387-388 of Official Records of Wasatch County, Utah said Parcel lying Westerly, parallel and adjacent to U.S. Highway 40.

MORE PARTICULARLY DESCRIBED AS:

COMMENCING South a distance of 676.05 feet and West a distance of 435.41 feet from the Monument at the center of Section 18, Township 3 South, Range 5 East, Salt Lake Base and Meridian; thence South  $24^{\circ}22'19''$  East a distance of 684.03 feet along the Westerly right of way fence of U.S. Highway 40 thence South  $23^{\circ}10'03''$  East a distance of 456.76 feet along said right of way fence; thence South  $89^{\circ}14'29''$  West a distance of 286.77 feet along a fence line; thence North  $23^{\circ}53'23''$  West a distance of 1146.81 feet; thence South  $89^{\circ}39'01''$  East a distance of 289.22 feet along a fence line to the point of beginning.

Tax Id No. OWC-0512-2

2. **INVESTMENT LODGING CORPORATION, a Utah Corporation** is the owner, in fee simple, of the following described parcel of real property, situated in Wasatch, State of Utah, hereinafter referred to as the **Investment Lodging Parcel**, and being more particularly described in **Warranty Deed recorded April 1, 1999 as Entry No. 212635 in Book 419 at Pages 37-39 of official records** as follows:

A Tract of land located in the Southeast quarter and the Southwest quarter of the Northeast quarter of Section 18, Township 3 South, Range 5 East, Salt Lake Base and Meridian, Wasatch County, Utah, said tract being more particularly described as follows:

COMMENCING at the Southwest corner of said Southeast quarter, running thence North 00°31'27" West 883.70 feet along the West line thereof; thence North 89°28'33" East 326.52 feet to the point of beginning, said point lying on the Easterly right of way line of U.S. Highway No. 40; thence North 19°59'47" West 26.59 feet along said right of way line to a fence on the boundary of the David Probst Property; thence the following 5 courses along said fence: North 99°56'32" East, 215.63 feet; thence North 00°44'07" West 273.07 feet; thence North 05°40'26" West 127.97 feet; thence North 11°45'35" West 80.84 feet; thence North 34°42'53" West, 80.26 feet; thence, leaving said fence North 24°18'30" West 547.60 feet to the South line of that tract of land recorded in Book 212, Page 482 of the Wasatch County records; thence the following 3 courses along said tract: North 89°51'56" East, 33.00 feet; thence North 23°58'34" West 235.91 feet; thence North 41°37'08" West 232.41 feet; thence leaving said tract, North 23°00'00" West, 66.54 feet to the West line of said Southeast quarter; thence North 00°31'27" West, 266.87 feet along said West line to the Northwest corner of said Southeast quarter (center one-quarter corner); thence continuing North 00°31'27" West, 1322.27 feet along the West line of said Southwest quarter Northeast quarter to the Northwest corner thereof; thence South 89°42'19" East, 553.73 feet along the North line of said Southwest quarter Northeast quarter; thence South 11°10'07" East, 194.68 feet; thence South 46°40'07" East, 166.19 feet; thence South 18°49'53" West, 761.62 feet; thence South 10°40'07" East, 178.53 feet; thence South 42°10'05" East, 160.49 feet to the North line of the Southeast quarter of said Section 18; thence South 40°54'29" East, 334.76 feet; thence South 12°20'30" West, 206.91 feet; thence South 10°24'30" East, 343.54 feet; thence South 26°24'30" East, 447.97 feet; thence South 40°54'30" East, 500.67 feet; thence South 89°54'30" East, 66.86 feet; thence South 4°01'58" West, 81.60 feet to a 5/8" steel bar with a yellow plastic cap inscribed "LS 4612"; thence continuing South 04°01'58" West, 245.83 feet along a fence to a 5/8" steel bar with a yellow plastic cap inscribed "LS 4612"; thence North 83°34'44" West, 618.76 feet along a fence to a point on the East bank of the Wasatch Canal, said point lying on a non-tangent curve concave to the West, the radius point of which bears North 68°58'50" West, 65.00 feet; thence Northerly 34.69 feet along the arc of said curve and said East bank, through a central angle of 30°34'37", the long chord of which bears North 05°43'52" East, 34.28 feet, to a point of compound curvature of a curve concave to the West and having a radius of 544.16 feet; thence Northerly 10.30 feet along the arc of said curve and said East bank, through a central angle of 01°05'04", the long chord of which bears North 10°06'00" West, 10.30 feet; thence South 89°56'32" West, 447.02 feet to the point of beginning.

EXCEPTING that tract of land deeded to Wasatch County for a right of way for Highway as described below:

A Tract of land located in the Southwest quarter Northeast quarter of Section 18, Township 3 South, Range 5 East, Salt Lake Base and Meridian, Wasatch County, Utah, said tract being more particularly described as follows:

BEGINNING at a point on the West line of said Southwest quarter of the Northeast quarter from which the Southwest corner thereof (Center one-quarter corner of said Section 18) bears South 00°31'27" East, 139.30 feet; running thence North 00°31'27" West, 1182.97 feet along said West line to the Northwest corner of said Southwest quarter Northeast quarter; thence South 89°42'19" East, 172.92 feet along the North line thereof to the East line of said right of way; thence along said East line, South 15°23'38" West, 542.53 feet to a highway right of way marker; thence South 01°34'17" West 659.22 feet to the point of beginning.

TAX ID NO. OWC-0522

- 3. The **Probst** Parcel lies immediately adjacent to the fence, of the **Investment Lodging** Parcel.
- 4. The exact location of the boundary between the **Probst** Parcel and the **Investment Lodging** Parcel is in question. In order to eliminate any confusion and to forever determine the issue of the common boundary line between the **Probst** Parcel and the **Investment Lodging** Parcel, the undersigned parties desire to establish said boundary line.

NOW, THEREFORE, in consideration of the above premises, and for other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, and for the purpose of permanently establishing the common legal and physical boundary line between the parcels described herein, it is hereby agreed as follows:

5. **PROBST PROPERTIES, LLC**, a Utah limited liability company, hereby releases, remises, and quit claims to **INVESTMENT LODGING CORPORATION**, a Utah Corporation of its right, title and interest in and to any real property lying immediately to the **East** of the common fence, and **INVESTMENT LODGING CORPORATION**, a Utah Corporation hereby releases, remises, and quit claim to **PROBST PROPERTIES, LLC**, a Utah limited liability company all of its right, title and interest in and to any real property lying immediately to the **West** of the common fence line described above.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the date hereinabove first mentioned.

**PROBST PROPERTIES, LLC,**  
a Utah limited liability company

By: *Neil Pete Probst*  
Neil Pete Probst

By: *Peggy Ann Probst*  
Peggy Probst  
Ann

**INVESTMENT LODGING CORPORATION**

By: *Investment Lodging*

By: *Gary J. Willey*

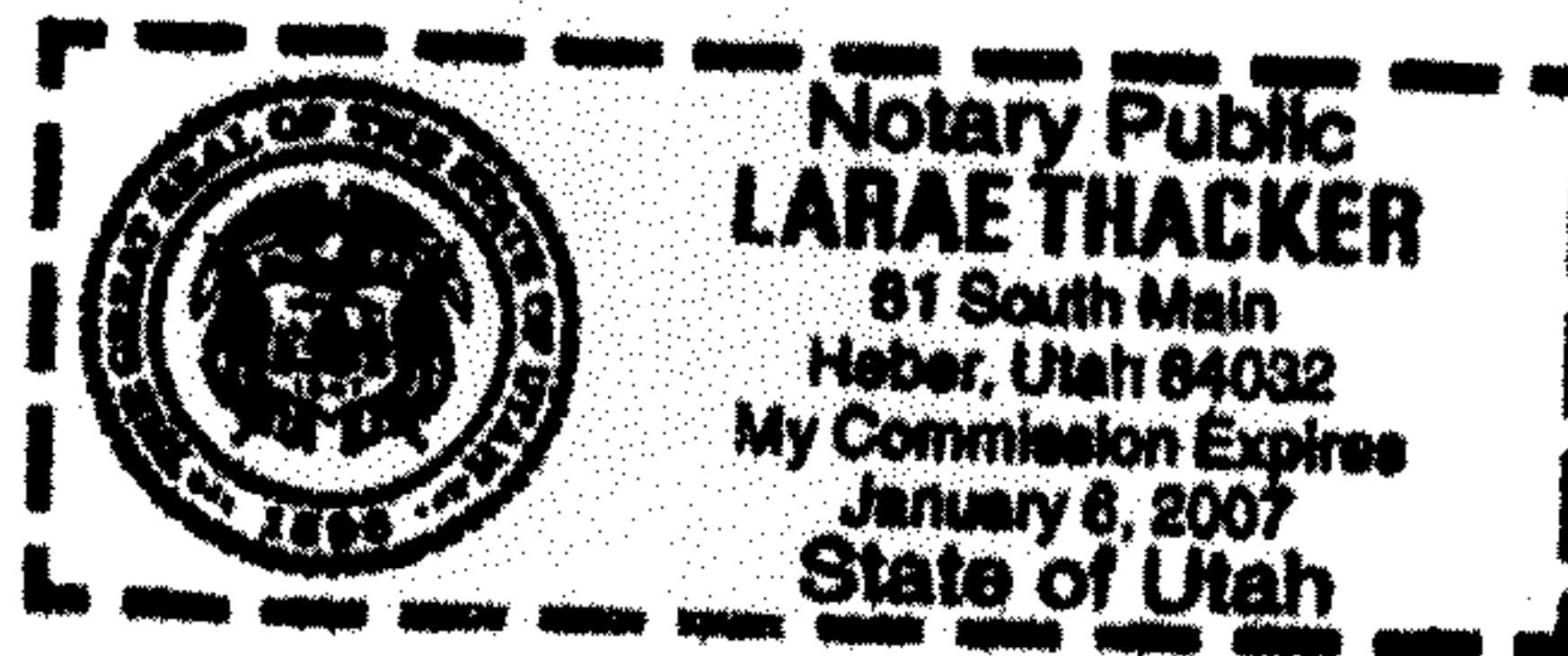
STATE OF UTAH )  
 ) SS.  
COUNTY OF Wasatch )

On this day personally appeared before me Neil Pete Probst and Peggy Probst to me known to be the individual, or individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned. Given under my hand and official seal this 29 day of March, 2005.

*Larae Thacker*  
NOTARY PUBLIC


Commission Expires:

Residing at:



STATE OF UTAH )  
 )  
 ) SS.  
 )  
COUNTY OF Wasatch )

On the 11<sup>th</sup> day of April, 2005, Personally appeared before me Gary G Willey, known to be the President of Investment Lodging Corporation, a Utah Corporation, authorized agent for the corporation that executed the within and foregoing instrument and acknowledged the instrument to be the free and voluntary act and deed of the corporation, by authority of its bylaws or by resolution of its Board of Directors, for the uses and purposes therein mentioned and on oath states that he was authorized to executed the instrument and that the seal affixed is the corporate seal of the corporation.

  
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NOTARY PUBLIC

Commission Expires: 7-22-07  
Residing at: Heber

