

When recorded, return to:  
CMC Rock, LLC  
71 East Wadsworth Park Drive  
Draper, UT 84020  
(801) 676-5350

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12/9/2010 3:16:00 PM \$40.00  
Book - 9887 Pg - 6985-6993  
Gary W. Ott  
Recorder, Salt Lake County, UT  
FIRST AMERICAN NCS  
BY: eCASH, DEPUTY - EF 9 P.

Tax Parcel I.D. Nos. 33-16-300-009, 33-16-300-010,  
33-17-300-002, 33-17-400-003,  
33-17-400-004, 33-21-100-016,  
33-20-200-004, 33-20-200-005,  
33-21-100-009, 33-21-100-012,  
33-21-100-017, 33-21-100-006,  
33-20-200-006, 33-16-300-011,  
33-20-100-001

**MEMORANDUM OF FIRST AMENDMENT TO  
SAND AND GRAVEL LEASE AGREEMENT**

THIS MEMORANDUM OF FIRST AMENDMENT TO SAND AND GRAVEL LEASE AGREEMENT (the "**Memorandum**"), dated effective as of December \_\_\_, 2010, is by and between Bank of Utah, as Class I Trustee of The Irrevocable Jack W. Kunkler Trust A, Share B, dated June 20, 1983, with an address of ATTN: Craig A. Standing, 200 East South Temple, Suite 210, Salt Lake City, Utah 84111, hereinafter referred to as "Lessor," and CMC ROCK, LLC, a Utah limited liability company, with an address of 71 East Wadsworth Park Dr., Draper, Utah 84020, hereinafter referred to as "Lessee."

**Recitals**

A. Lessor and Lessee are parties to a Sand and Gravel Lease Agreement, dated effective as of January 1, 2009 (the "**Lease Agreement**"), a memorandum of which was recorded on February 4, 2010, as Entry No. 10892355, Book No. 9801, Page No. 9103, in the office of the Salt Lake County Recorder.

B. Lessor subsequently acquired and relinquished certain lands adjacent to, or part of the property leased under the Lease Agreement through an exchange and Lessor and Lessee entered into the First Amendment to Sand and Gravel Lease Agreement dated effective as of December \_\_\_, 2010 (the "**First Amendment**"), to make certain revisions to the Lease Agreement and to amend the lands covered by the Lease Agreement to those lands described on the attached Exhibit "A" (the "**Property**").

C. Lessor and Lessee are entering into this Memorandum to provide record notice of Lessee's rights with respect to such First Amendment.

### **Memorandum**

In exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Ratification and Grant of Lease.** Lessor hereby confirms and ratifies that it granted, and hereby grants, to Lessee, a lease of the Property to December 31, 2014, with the right to request additional extensions for up to six (6) years as set forth in the Lease Agreement for the purposes of excavating, developing, mining, producing, processing, recycling, storing and selling, sand, gravel, rock and other materials as defined and set forth in the Lease Agreement, and to December 31, 2013, for the purpose of constructing and contracting for the operation and manufacture of precast concrete panels on a portion of the Property as set forth in the First Amendment. Such lease shall be subject to all of the terms and conditions of the Lease Agreement and the First Amendment.

2. **Inconsistencies Between Documents.** To the extent of any inconsistency between this Memorandum and the Lease Agreement, the Lease Agreement as amended by the First Amendment shall govern.

3. **Counterparts.** This Memorandum may be executed in counterparts, and it shall not be necessary that the signatures of both parties be contained on any counterpart. Each counterpart shall be deemed an original, but all counterparts together shall constitute and be one and the same document.

IN WITNESS WHEREOF, the parties have executed this Memorandum on the date set forth below, to be effective for all purposes as of the date first set forth in the heading hereof.

*[Signatures and Acknowledgements to Follow on Next Page]*

**THE IRREVOCABLE JACK W. KUNKLER  
TRUST A, SHARE B, dated June 20, 1983**

By: Bank of Utah, Class I Trustee

By:

Name: Craig A. Standing CTFA, AEP  
Title: Vice President and Trust Officer

**CMC ROCK, LLC,**  
a Utah limited liability company

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

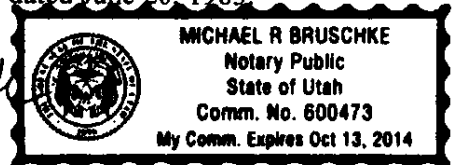
Name: \_\_\_\_\_

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

STATE OF UTAH                    )  
  ss.  
COUNTY OF Salt Lake )

The foregoing instrument was acknowledged before me this 9 day of  
Dec., 2010 by Craig A. Standing, Vice President and Trust Officer of Bank of Utah,  
Class I Trustee of The Irrevocable Jack W. Kunkler Trust A, Share B, dated June 20, 1983.

Michael R. Bruschke  
Notary Public



STATE OF UTAH                    )  
  ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2010 by \_\_\_\_\_, \_\_\_\_\_ of CMC Rock,  
LLC.

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

By: Bank of Utah, Class I Trustee

**CMC ROCK, LLC,**  
a Utah limited liability company

By: Todd Curick  
Name: Todd Curick  
Title: President

STATE OF UTAH )  
 )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )


The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2010 by Craig A. Standing, Vice President and Trust Officer of Bank of Utah, Class I Trustee of The Irrevocable Jack W. Kunkler Trust A, Share B, dated June 20, 1983.

Notary Public

STATE OF UTAH )  
 )  
 ) ss.  
COUNTY OF Salt Lake )

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of December, 2010 by Todd Cusick, president of CMC Rock, LLC.



  
Notary Public

**EXHIBIT A**

**(TO FIRST AMENDMENT TO SAND AND GRAVEL LEASE AGREEMENT)**

**Property Description**

The following described real property located in Salt Lake County, State of Utah:

A PARCEL OF LAND LOCATED IN SECTIONS 16, 20 AND 17, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SECTION CORNER COMMON TO SECTIONS 16, 17, 20 AND 21 AND RUNNING THENCE SOUTH 88° 02'32" WEST, ALONG THE SECTION LINE, A DISTANCE OF 2620.36 FEET, TO THE QUARTER CORNER COMMON TO SECTIONS 17 AND 20; THENCE SOUTH 89° 28' 20" WEST, ALONG THE SECTION LINE, A DISTANCE OF 140.22 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 200.00 FEET, THE CENTER OF WHICH BEARS SOUTH 19° 21' 20" EAST, THROUGH A CENTRAL ANGLE OF 09° 35' 15", A DISTANCE OF 33.47 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF A 500.00 FOOT RADIUS CURVE TO THE LEFT, THE CENTER OF WHICH BEARS NORTH 9° 44' 51" WEST, THROUGH A CENTRAL ANGLE OF 44° 07' 09", A DISTANCE OF 385.01 FEET; THENCE NORTH 36° 07' 53" EAST, A DISTANCE OF 286.80 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 300.00 FEET, THE CENTER OF WHICH BEARS NORTH 36° 07' 53" EAST, THROUGH A CENTRAL ANGLE OF 31° 30' 18", A DISTANCE OF 164.96 FEET; THENCE SOUTH 85° 22' 21" EAST, A DISTANCE OF 409.26 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF A 500.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 37° 47' 00", A DISTANCE OF 329.72 FEET; THENCE SOUTH 47° 46' 30" EAST, A DISTANCE OF 92.37 FEET; THENCE NORTH 61° 43' 40" EAST, A DISTANCE OF 1907.23 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 400.00 FEET, THE CENTER OF WHICH BEARS NORTH 57° 21' 58" EAST, THROUGH A CENTRAL ANGLE OF 52° 25' 22", A DISTANCE OF 365.98 FEET, TO THE NORTH-SOUTH 10 ACRE LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 16; THENCE SOUTH 0° 35' 35" WEST, ALONG SAID NORTH-SOUTH 10 ACRE LINE, A DISTANCE OF 796.68 FEET, TO THE NORTH LINE OF GOVERNMENT LOT 4; THENCE SOUTH 89° 08' 29" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 329.98 FEET, TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH 00°36'08" WEST, ALONG THE NORTH-SOUTH LINE COMMON TO GOVERNMENT LOTS 3 AND 4, A DISTANCE OF 435.09 FEET; THENCE NORTH 89° 23' 44" WEST, A DISTANCE OF 991.41 FEET, TO THE SECTION LINE; THENCE NORTH 00° 36'16" EAST, ALONG SAID SECTION LINE, A DISTANCE OF 439.48 FEET, TO THE POINT OF BEGINNING. CONSISTING OF 45 ACRES, MORE OR LESS.

**BEING PART OF**

Parcel Identification No. 33-16-300-009

Parcel Identification No. 33-16-300-010

Parcel Identification No. 33-17-300-002  
Parcel Identification No. 33-17-400-003  
Parcel Identification No. 33-17-400-004  
Parcel Identification No. 33-21-100-016

A PARCEL OF LAND LOCATED IN SECTIONS 20 AND 21, TOWNSHIP 4 SOUTH,  
RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, SAID PARCEL BEING MORE  
PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 21 AND  
RUNNING THENCE SOUTH 0° 36' 59" EAST, ALONG THE LINE COMMON TO  
GOVERNMENT LOTS 2 AND 3 OF SAID SECTION 21, A DISTANCE OF 1344.12 FEET,  
TO THE SOUTHERLY CORNER THEREOF; THENCE NORTH 89° 33' 30" WEST, ALONG  
THE SOUTHERLY LINE OF SAID GOVERNMENT LOT 3, A DISTANCE OF 1334.92  
FEET, TO THE SOUTHERLY CORNER COMMON TO GOVERNMENT LOTS 3 AND 4 OF  
SAID SECTION 21 AND THE POINT OF BEGINNING FOR THIS DESCRIPTION AND  
RUNNING THENCE NORTH 89° 33' 30" WEST, ALONG THE SOUTH LINE OF SAID  
GOVERNMENT LOT 4, A DISTANCE OF 541.12 FEET; THENCE NORTH 0° 06' 53" EAST,  
A DISTANCE OF 339.36 FEET; THENCE NORTH 89° 27' 18" WEST, A DISTANCE OF  
792.00 FEET, TO THE SECTION LINE; THENCE SOUTH 0° 25' 12" WEST, ALONG THE  
SECTION LINE, A DISTANCE OF 340.78 FEET, TO THE EAST-WEST 40 ACRE LINE OF  
THE NORTHEAST QUARTER OF SAID SECTION 21; THENCE SOUTH 89° 13' 13" WEST,  
ALONG SAID 40 ACRE LINE, A DISTANCE OF 2593.54 FEET, MORE OR LESS TO THE  
NORTH SIXTEENTH CORNER OF SAID SECTION 20; THENCE NORTH 0° 40' 49" WEST,  
ALONG THE NORTH-SOUTH CENTER QUARTER LINE, A DISTANCE OF 1308.95  
FEET, TO THE NORTH QUARTER CORNER OF SAID SECTION 20; THENCE NORTH  
88° 02' 32" EAST, ALONG THE SECTION LINE, A DISTANCE OF 2620.36 FEET, TO THE  
SECTION CORNER COMMON TO SECTIONS 16, 21, 20 AND 17; THENCE SOUTH 0°  
36' 16" WEST, ALONG THE SECTION LINE, A DISTANCE OF 439.48 FEET; THENCE  
SOUTH 89° 23' 44" EAST, A DISTANCE OF 991.41 FEET; THENCE NORTH 00° 36' 08"  
EAST, A DISTANCE OF 435.09 FEET, TO THE SECTION LINE; THENCE SOUTH 89° 08'  
29" EAST, ALONG SAID SECTION LINE, A DISTANCE OF 331.42 FEET, TO THE  
NORTHERLY CORNER COMMON TO GOVERNMENT LOTS 3 AND 4; THENCE SOUTH  
0° 05' 40" EAST, A DISTANCE OF 1353.56 FEET, TO THE POINT OF BEGINNING.  
CONSISTING OF 105 ACRES, MORE OR LESS.

**BEING PART OF**

Parcel Identification No. 33-20-200-004  
Parcel Identification No. 33-20-200-005  
Parcel Identification No. 33-21-100-009  
Parcel Identification No. 33-21-100-012  
Parcel Identification No. 33-21-100-017

A PARCEL OF LAND LOCATED IN SECTION 21, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF NORTHWEST QUARTER NORTHWEST QUARTER (NW $\frac{1}{4}$ NW $\frac{1}{4}$ ), SECTION 21, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE NORTH 330 FEET; THENCE EAST 792 FEET; THENCE SOUTH 330 FEET; THENCE WEST 792 FEET TO THE POINT OF BEGINNING.

Salt Lake County Parcel # 33-21-100-006

LESS AND EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 21 AND THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN:

BEGINNING AT A POINT ON THE WESTERLY LINE GRANTOR'S PROPERTY SAID POINT BEING LOCATED NORTH 0°44'11" WEST 890.47 FEET MORE OR LESS FROM THE MONUMENT (STAMPED N 1/16 SECTION 20); AND RUNNING THENCE SOUTH 75°45'26" EAST 894.20 FEET TO A POINT OF CURVATURE OF A 430.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE CONTINUING 158.81 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 21°09'38"; THENCE SOUTH 54°35'49" EAST 452.83 FEET TO A POINT OF CURVATURE OF A 770.00 FOOT RADIUS CURVE TO THE LEFT; THENCE CONTINUING 524.19 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 39°00'18"; THENCE NORTH 86°23'53" EAST 778.80 FEET TO THE POINT OF CURVATURE OF A 780.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE CONTINUING 151.37 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11°07'09"; THENCE SOUTH 82°28'58" EAST 433.46 FEET TO A POINT OF CURVATURE OF A 370 FOOT RADIUS CURVE TO THE LEFT; THENCE CONTINUING 63.24 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 9°47'37"; THENCE NORTH 87°43'25" EAST 644.90 FEET MORE OR LESS TO THE EASTERLY LINE OF GRANTOR'S PROPERTY; THENCE SOUTH 0°09'44" EAST 185.44 FEET TO THE SOUTHEAST CORNER OF GRANTOR'S LAND, THENCE ALONG THE SOUTH LINE OF GRANTOR'S PROPERTY THE FOLLOWING 2 COURSES; NORTH 89°33'21" WEST 1334.96 FEET MORE OR LESS; THENCE SOUTH 89°12'46" WEST 2593.53 FEET MORE OR LESS TO THE SOUTHWEST CORNER OF GRANTOR'S PROPERTY; THENCE NORTH 0°44'11" WEST 890.47 FEET ALONG THE GRANTOR'S WESTERLY LINE TO THE POINT OF BEGINNING.

Portions of Salt Lake County Parcels # 33-20-200-006 and 33-21-100-006

LESS AND EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN:

BEGINNING AT A POINT ON THE EAST LINE OF THE GRANTOR'S PROPERTY, SAID POINT BEING LOCATED WEST 1322.44 FEET AND SOUTH 809.47 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 21; THENCE SOUTH 0°09'44" EAST

337.32 FEET TO A POINT ON THE NORTH LINE OF PROPOSED ROADWAY; THENCE THE FOLLOWING 3 COURSES ALONG THE NORTH LINE OF SAID ROADWAY, SOUTH 87°43'25" WEST 644.90 FEET TO A POINT OF CURVATURE OF A 370 FOOT RADIUS CURVE TO THE RIGHT; THENCE CONTINUING 63.24 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 09°47'37"; THENCE NORTH 82°28'58" WEST 14.53 FEET; THENCE NORTH 0°09'44" WEST 363.74 FEET PARALLEL WITH THE EAST LINE OF GRANTOR'S PROPERTY; THENCE SOUTH 89°33'21" EAST 722.00 FEET PARALLEL WITH THE SOUTH LINE OF GRANTOR'S PROPERTY MORE OR LESS TO THE EAST LINE OF GRANTOR'S PROPERTY AND POINT OF BEGINNING.

A Portion of Salt Lake County Parcel # 33-20-200-006

A PARCEL OF LAND LOCATED IN SECTION 16, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF LOTS 3 & 6 AS DESCRIBED AS: BEGINNING AT A POINT SOUTH 89°23'58" EAST 660.94 FEET FROM THE SOUTHWEST CORNER OF SECTION 16, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN AND RUNNING THENCE NORTH 0°24'47" EAST 1310.84 FEET; THENCE SOUTH 89°23'58" EAST 330.47 FEET; THENCE SOUTH 0°24'4" WEST 1310.84 FEET; THENCE NORTH 89°23'58" WEST 330.47 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPTING THEREFROM THAT PORTION OF LAND CONVEYED TO THE UTAH DEPARTMENT OF TRANSPORTATION AS DISCLOSED BY WARRANTY DEED RECORDED JULY 15, 2010 AS ENTRY NO. 10991089 IN BOOK 9841 AT PAGE 243 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND IN FEE FOR A HIGHWAY KNOWN AS PROJECT NO. MP-0182(6), BEING PART OF AN ENTIRE TRACT OF PROPERTY, SITUATE IN THE SOUTHWEST QUARTER OF SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN. THE BOUNDARIES OF SAID PARCEL OF LAND ARE DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID ENTIRE TRACT, WHICH POINT IS 991.40 FEET (991.41 FEET RECORD) SOUTH 89°23'58" EAST ALONG THE SECTION LINE AND 1,315.45 FEET NORTH 0°24'49" EAST (1,310.84 FEET NORTH 0°24'4" EAST RECORD) FROM THE SOUTHWEST CORNER OF SAID SECTION 16; AND RUNNING THENCE SOUTH 0°24'49" WEST (SOUTH 0°24'4" WEST RECORD) 17.18 FEET ALONG THE EASTERLY BOUNDARY LINE TO A POINT 231.13 FEET PERPENDICULARLY DISTANT SOUTHWESTERLY FROM THE MOUNTAIN VIEW CORRIDOR RIGHT OF WAY CONTROL LINE, OF SAID PROJECT, OPPOSITE APPROXIMATE ENGINEER STATION 880+41.79; THENCE NORTH 41°53'59" WEST 23.21 FEET TO A POINT IN THE NORTHERLY BOUNDARY OF SAID ENTIRE TRACT AT A POINT 225.10 FEET PERPENDICULARLY DISTANT SOUTHWESTERLY FROM SAID CONTROL LINE OPPOSITE APPROXIMATE ENGINEER STATION 880+64.21; THENCE SOUTH 89°38'59" EAST (SOUTH 89°23'58" EAST RECORD) 15.63 FEET ALONG SAID NORTHERLY



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.

(NOTE: ROTATE ALL BEARINGS IN THE ABOVE DESCRIPTION 0°15'29" CLOCKWISE TO MATCH THE ABOVE SAID RIGHT OF WAY CONTROL LINE.)

(NOTE: ENGINEER STATIONS USED IN THE ABOVE DOCUMENT ARE BASED ON THE MOUNTAIN VIEW CORRIDOR RIGHT OF WAY CONTROL LINE FOR HIGHWAY PROJECT NO. MP-0182(6))

Parcel Id. No. 33-16-300-011

A PARCEL OF LAND LOCATED IN SECTION 20, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LOCATED IN THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, BEGINNING AT THE NORTHEAST CORNER OF GRANTOR'S PROPERTY SAID POINT ALSO BEING LOCATED AT THE MONUMENT (STAMPED AS THE NORTH QUARTER OF SECTION 20); AND RUNNING THENCE SOUTH 89°28'36" WEST 555.61 FEET ALONG THE NORTH LINE OF GRANTOR'S PROPERTY; THENCE SOUTH 0°40'36" EAST 392 FEET PARALLEL TO THE EAST LINE OF GRANTOR'S PROPERTY; THENCE NORTH 89°28'36" EAST 555.61 FEET BEING PARALLEL TO THE NORTH LINE OF GRANTOR'S MORE OR LESS TO THE EAST LINE OF GRANTOR'S PROPERTY; THENCE NORTH 0°40'36" WEST 392 FEET ALONG THE GRANTOR'S EASTERLY LINE TO THE POINT OF BEGINNING.

CONTAINING 5 ACRES, MORE OR LESS.

Being Part of Parcel Id. No. 33-20-100-001