

RECORDING REQUESTED BY:

Ent 1115355 Bk 1826 Pg 1808
Date 03-Nov-2014 09:51AM Fee \$45.00
Michael Gleed, Rec. - Filed By SA
Cache County, UT
For CACHE TITLE- LOGAN
Electronically Submitted by Simplifile

AND WHEN RECORDED MAIL TO:

CHARLOTTE WIGHTMAN, ESQ.
SMITH'S FOOD & DRUG CENTERS, INC.
1550 SOUTH REDWOOD ROAD
SALT LAKE CITY, UTAH 84104

SPACE ABOVE FOR RECORDERS USE

**FIRST AMENDMENT TO RECIPROCAL EASEMENT,
DEVELOPMENT AND MAINTENANCE AGREEMENT WITH
COVENANTS AND RESTRICTIONS AFFECTING LAND**

**THIS FIRST AMENDMENT TO RECIPROCAL EASEMENT AND
MAINTENANCE AGREEMENT WITH COVENANTS AND RESTRICITONS
AFFECTING LAND ("First Amendment")** dated JANUARY 13, 2012, is made
by and between **SMITH'S FOOD & DRUG CENTERS, INC.**, an Ohio corporation,
formerly a Delaware corporation, ("**Smith's**"), **BLAKE SKINNER HOLDINGS, LLC**,
a Utah limited liability company ("**King's**"), **INKLEY'S PORTRAITS PLUS
PROPERTY OWNER, JOSEPH ANDERSON ("Inkley's")**, and **CACHE VALLEY
TRANSIT DISTRICT**, successor in interest to the City of Logan .

RECITALS

A. This First Amendment is made with respect to that certain Reciprocal Easement and Maintenance Agreement with Covenants and Restrictions Affecting Land which was recorded on March 27, 2001 as Entry No. 757445 in Book 996, at Page 875, Records of Cache County, Utah (the "REA").

B. Smith's owns certain real property located in Cache County, State of Utah which is identified as Smith's on the site plan attached to the REA as Exhibit "A" and more particularly described in Exhibit "B" attached hereto and made a part hereof (hereinafter "**Smith's Parcel**").

C. CVTD owns or will acquire fee title to certain real property located in Cache County, State of Utah which is identified as City's on Exhibit "A" to the REA and CVTD's on Exhibit "A-1" attached hereto and more particularly described in Exhibit "C" attached hereto and made a part hereof (hereinafter "**CVTD's Parcels**").

Exhibit "D"

D. King's owns certain real property located in Cache County, State of Utah which is identified as King's on Exhibit "A" attached to the REA and more particularly described in Exhibit "D" attached hereto and made a part hereof (hereinafter "**King's Parcel**").

E. Inkley's owns certain real property located in Cache County, State of Utah which is identified as Inkley's on Exhibit "A" to the REA and more particularly described in Exhibit "E" attached hereto and made a part hereof (hereinafter "**Inkley's Parcel**").

F. The parties to this First Amendment desire to add additional real property to the REA, terminate certain easements created in the REA and grant additional easements for the benefit of each parcel, to provide for the improvement and maintenance of these easements, and to provide for the orderly development of the CVTD Parcels in conjunction with their real property being annexed by this First Amendment.

NOW, THEREFORE, in consideration of the covenants contained in this First Amendment and other good and valuable consideration, receipt of which is acknowledged, the following grants, agreements and covenants are made:

1. **Defined Terms.** Unless otherwise defined herein, all capitalized terms shall be as defined in the REA.

2. **Annexation of Additional Parcels.** The REA is hereby amended to include the real property described in Exhibit "C" which is owned or will be owned by CVTD.

3. **Grant of Easements.**

a. CVTD hereby grants to each other party hereto for the use and benefit of all parties hereto, their lessees, employees, and business invitees, and guests, a perpetual, non-exclusive easement for vehicular and pedestrian ingress and egress over and across the driveway located on 200 East, as shown on Exhibit "A-1" attached hereto ("CVTD 200 East Access Easement").

b. CVTD hereby grants to Smith's an easement for a monument sign, as depicted on Exhibit "F," including rights of access for maintenance and applicable utility services in the area shown on Exhibit "A-1" attached hereto ("Sign Easement").

c. Smith's hereby grants to CVTD, its employees, business invitees, and guests, a perpetual, non-exclusive easement for vehicular and pedestrian ingress and egress over and across the driveway and drive isle with associated curb cuts located on 200 East and 100 East, as shown on Exhibit "A-2" attached hereto ("Smith's 200 East Access Easement"). CVTD covenants and agrees its vehicular use of this easement shall be one way, east to west only as shown with directional signs on Exhibit "A-2." Exhibits "F" and Exhibit "A-2" are conceptual and may be subject to modification based upon required changes by applicable governing authorities.

d. A dominant parcel owner shall indemnify, defend and hold harmless the other owners and their lessees, employees, licensees, business invitees, and guests, from all claims, liens, damages and expenses, including without limitation reasonable attorneys' fees, arising out of its use of any of the easements established in this Section 3.

e. CVTD covenants and agrees its use of the easements granted herein shall not hinder freight access or adversely affect customer shopping or convenience as determined by Smith's. In furtherance thereof, CVTD agrees not to implement bus schedules which are not in harmony with this covenant and to take action to modify an existing bus schedule if such is found to not be in harmony with this covenant. The parties agree to meet together in good faith to resolve conflicts and maintain public services while complying with the obligations herein.

4. **Recording and Termination of Easements.** This First Amendment shall be recorded, at CVTD's cost, upon notification by CVTD and confirmation by Smith's, that construction of the Driveway Improvements and the Monument Signage have been completed to Smith's reasonable satisfaction. The Joint Easement Area and King's Easement Area, as shown on Exhibit "A" attached to the REA shall terminate as of the date this First Amendment is recorded.

5. **Development of CVTD's Parcels.**

a. CVTD, at its sole costs and expense, shall enlarge the presently existing driveway located on 200 East as shown on Exhibit "A-1" (the "Driveway Improvements"). CVTD, at its sole cost and expense shall construct a new monument sign substantially similar to that shown on Exhibit "F" in the area shown on Exhibit "A-1," the exact location to be agreed upon by CVTD and Smith's (the "Monument Signage"). The exact configuration and location of buildings, landscaping, drive isles and trash receptacle placement on CVTD's Parcels, as shown on Exhibit "A-2" is conceptual only and subject to change based upon CVTD's best business judgment, but the initial development shall be subject to Smith's prior written approval. The signage depicted in Exhibit "F" to be developed, powered and constructed by CVTD at CVTD's cost for the benefit of Smith's is subject to modification based upon required changes by applicable governing authorities.

b. CVTD shall be responsible for the development and construction of all the improvements to be located on CVTD's Parcels, the 200 East Access Easement, and the Sign Easement, including but not limited to, access drives, the Driveway Improvements and the Monument Signage. By separate agreement Smith's has granted CVTD a construction easement in furtherance of CVTD's development and construction obligations.


6. **Maintenance.** Smith's shall maintain the CVTD 200 East Easement area and the Smith's 200 East Easement area. CVTD shall maintain the Sign Easement area

with the exception that Smith's shall maintain the monument sign including all utilities servicing the sign. Maintenance standards shall be as required by the REA. CVTD shall pay Smith's Five Hundred and No/100 Dollars (\$500.00) (CVTD's Maintenance Contribution") per year in order to cover a fraction of the maintenance costs for the CVTD 200 East Easement and Smith's 200 Easement. CVTD's Maintenance Contribution shall be paid upon execution of this First Amendment and on the anniversary date every year thereafter. Beginning on the sixth (6th) year of this First Amendment, and every five (5) years thereafter, CVTD's Maintenance Contribution shall be increased by an amount equal to ten percent (10%) of the then current amount of CVTD's Maintenance Contribution.


7. **Full Force and Effect.** Except as specifically modified herein all terms and conditions contained within the Agreement shall remain in full force and effect

IN WITNESS WHEREOF, the Owners have executed this First Amendment as of the day and year first above written.

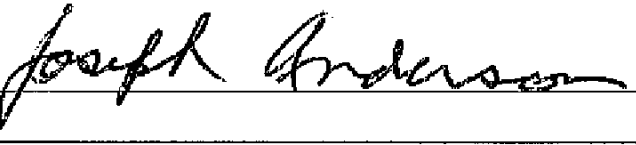
SMITH'S FOOD & DRUG CENTERS, INC.,
an Ohio corporation

By: 
Its: VICE PRESIDENT

BLAKE SKINNER HOLDINGS, LLC
a Utah limited liability company

By: 
Its: _____

INKLEY'S PORTRAITS PLUS / owner of Property
Joseph Anderson

By: 
Its: _____

CACHE VALLEY TRANSIT DISTRICT

By: 
Its: _____

A-1: CVTD 200 East Access Easement; Sign Easement
A-2: Smith's 200 East Access Easement
B: Smith's Property Legal Description
C: CVTD Property Legal Description
D: King's Property Legal Description
E: Inkley's Property Legal Description
F: Signage Graphic

STATE OF UTAH)

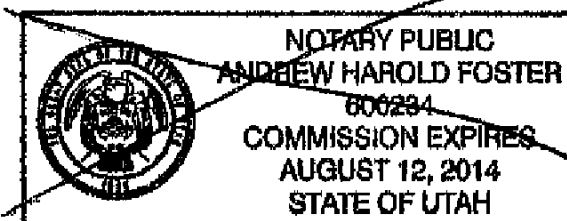
: ss.

COUNTY OF SALT LAKE)

Before me, the undersigned authority, on this day personally appeared STEVEN M. SORENSEN, VICE PRESIDENT of SMITH'S FOOD & DRUG CENTERS, INC., a Delaware corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

Given under my hand and seal of office on this 13th day of JANUARY, 2011¹².

Notary Public:



Notary's name printed:



Susan T. Thomson

My commission expires: 8-8-14

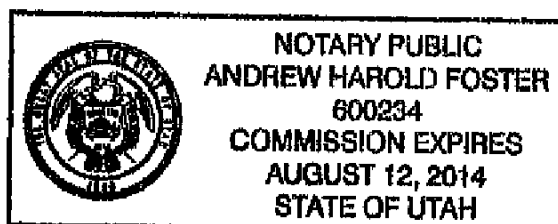
STATE OF UTAH)

: ss.

COUNTY OF CACHE)

Before me, the undersigned authority, on this day personally appeared Blake Skinner, _____ of BLAKE SKINNER HOLDING, LLC of LOGAN, a owner, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

Given under my hand and seal of office on this 22nd day of Nov., 2011.



Notary Public:

Notary's name printed:

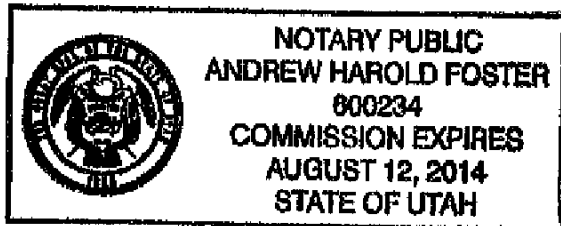
Andrew H Foster

My commission expires: 08/12/14

STATE OF UTAH)
COUNTY OF Cache : ss.
~~SALT LAKE~~)

Before me, the undersigned authority, on this day personally appeared Joseph Anderson of INKLEY'S PORTRIATS PLUS, a owner of the Property, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

Given under my hand and seal of office on this 6th day of Jan, 2014.



Notary Public:

Notary's name printed:

Andrew H Foster

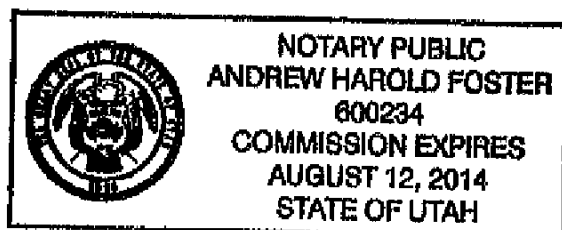
My commission expires:

8/12/14

STATE OF UTAH)
COUNTY OF CACHE : ss.
))

Before me, the undersigned authority, on this day personally appeared Todd Bentler, of CACHE VALLEY TRANSIT DISTRICT, a Officer, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

Given under my hand and seal of office on this 22nd day of December, 2011.



Notary Public:

Notary's name printed:

Andrew H Foster

My commission Expires:

08/12/14

CONCEPT SMITH'S ACCESS AND CVTD SITE
12-01-2011



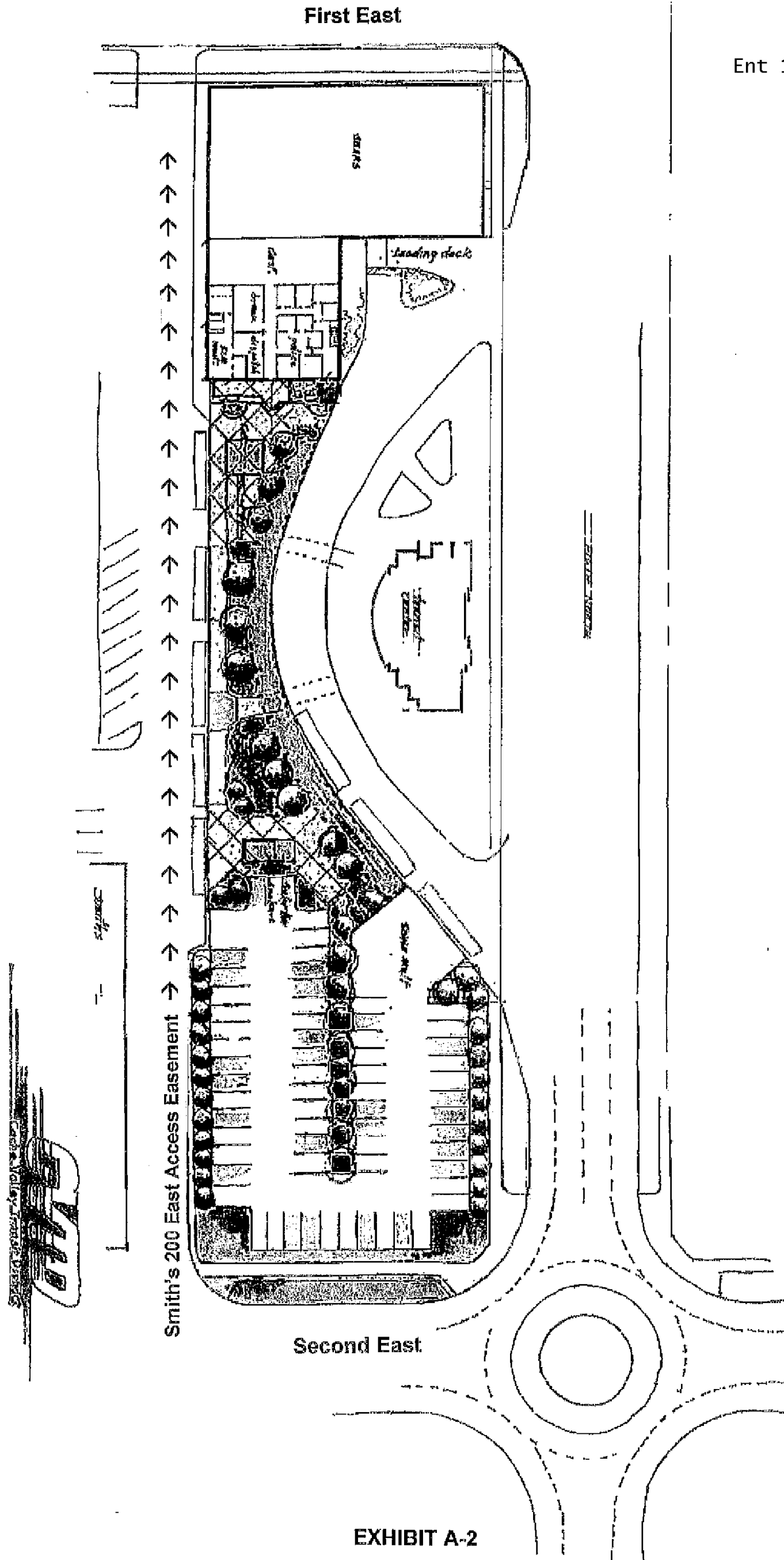


Exhibit "B"

Smith's Parcel

Store Parcel:

Parcel ID #06-041-0002

A part of Block 48, Plat "A", Logan City Survey in Cache County, Utah:

Beginning at the Southeast Corner of Lot 1 of said Block 48, and running thence North 88°27'16" West 432.48 feet along the South Line of said Block 48 to a point 169.00 feet South 88°27'16" East of the Southwest Corner of Lot 2 of said Block 48; thence North 1°48'14" East 109.00 feet; thence North 88°27'16" West 169.00 feet to the West line of said Block 48; thence North 1°48'14" East 340.40 feet along said West Line to a point 0.5 feet South of the Northwest Corner of Lot 4 of said Block; thence South 88°15'57" East 150.29 feet parallel to the North Line of said Lot 4; thence South 87°48'51" East 249.96 feet to a point 2.47 feet South of the North Line of Lot 7 of said Block; thence South 88°15'57" East 200.12 feet parallel to the North Line of said Block 48 to the East Line of said Block 48; thence South 1°39'39" West 445.45 feet along the East Line of said Block 48 to the point of beginning.

Less and excepting therefrom that portion conveyed to Joseph D. Anderson and Edesa Z. Anderson in that certain Warranty Deed recorded June 27, 1989 as Entry No. 524031 in Book 452 at Page 451 described as follows:

Beginning at a point which is North 1°39'39" East 82.67 feet along the East Line of Block 48, Plat "A", Logan City Survey, and North 88°20'21" West 91.33 feet from the Southeast Corner of Lot 1 of said Block 48; running thence South 1°39'39" West 40.00 feet; thence North 88°20'21" West 129.60 feet; thence North 1°39'39" East 40.00 feet; thence South 88°20'21" East 129.60 feet to the point of beginning.

Contains 245,212 sq. ft.
or 5.629 Acres

Fuel Center Parcel:

Parcel ID #06-041-0003

A part of Block 48, Plat "A", Logan City Survey in Cache County, Utah:

Beginning at the Southwest Corner of Lot 2, of said Block 48, and running thence North 1°48'14" East 109.00 feet along said West line; thence South 88°27'16" East 169.00 feet; thence South 1°48'14" West 109.00 feet to the South line of said Block 48; thence North 88°27'16" West 169.00 feet along said South line to the point of beginning.

Contains 18,421 sq. ft.
or 0.423 Acres

Exhibit "C"
(NEEDS TO INCLUDE ADDITIONAL PARCELS)

CVTD's Parcel

A part of the Northwest quarter of Section 34, Township 12 North, Range 1 East of the Salt Lake Base and Meridian, described as follows: Beginning at a point located South 88°12'36" East 83.33 feet (East 82.50 feet by record) from the Northwest Corner of Block 48, Plat "A" LOGAN CITY SURVEY; and running thence South 01°38'00" West 74.94 feet (South 74.25 feet by record); thence South 88°14'04" East 66.69 feet (East 66 feet by record); thence North 01°46'06" East 74.91 feet (North 74.25 feet by record) to the North line of said block; thence North 88°12'36" West (West by record) along said North line 66.87 feet (66 feet by record) to the point of beginning. (06-041-0006)

A part of the Northwest Quarter of Section 34, Township 12 North, Range 1 East of the Salt Lake Base and Meridian, described as follows: Beginning at a point located North 88°12'36" West 199.99 feet (West 198 feet by record) from the Northeast Corner of Block 48, Plat "A" LOGAN CITY SURVEY; and running thence South 01°42'31" West 151.87 feet (South 148.5 feet by record); thence North 87°48'47" West 249.75 feet; thence North 01°46'06" East 150.13 feet (North 148.5 feet by record) to the North line of said block; thence South 88°12'36" East (East by record) along said North line 249.58 feet to the point of beginning. (06-041-0002)

A part of the Northwest Quarter of Section 34, Township 12 North, Range 1 East of the Salt Lake Base and Meridian described as follows: Beginning at a point located North 88°12'36" West 148.50 feet (West by record) from the Northeast Corner of Block 48, Plat "A" LOGAN CITY SURVEY; and running thence South 01°38'27" West 151.82 feet (South 148.5 feet by record); thence North 88°15'57" West 51.67 feet (West 49.5 feet by record); thence North 01°42'31" East 151.87 feet (North 148.5 feet by record) to the North line of said block; thence South 88°12'36" East (East by record) along said North line 51.49 feet (49.5 feet by record) to the point of beginning. (06-041-0012)

TOGETHER WITH a right of way consisting of an undivided ¼ interest in and to: Beginning at a point 8 rods 4 ½ feet West of the Northeast Corner of the above described land; thence West 12 feet; thence South 9 rods; thence East 12 feet; thence North 9 rods to the beginning.

Exhibit "D"
King's Parcel

Beginning at the Northwest Corner of Lot 5, Block 48, Plat "A", Logan City Survey, and running thence East (South $88^{\circ}12'10''$ East) 82.5 feet (83.33 feet); thence South (South $1^{\circ}47'03''$ West) 74.25 feet (74.94 feet); thence East (South $88^{\circ}14'04''$ East) 66.0 feet (66.69 feet); thence South (South $1^{\circ}46'06''$ West) 74.25 feet (74.90 feet) to the South line of said Lot 5; thence West (North $88^{\circ}15'57''$ West) 148.5 feet (150.09 feet) along said South line to the Southwest Corner of said Lot 5; thence North (North $1^{\circ}48'14''$ East) 148.5 feet (149.97 feet) to the point of beginning. Note: Bearings & Dimensions in Parenthesis represent actual measurements.

Contains 0.402 Acre

Also together with a right-of-way described as follows:

Beginning at a point which is East (South $88^{\circ}15'57''$ East) 148.5 feet (150.09 feet) from the Southwest corner of Lot 5, Block 48, Plat "A", Logan City Survey, and running thence North (North $1^{\circ}46'06''$ East) 74.25 feet (74.90 feet); thence East (South $88^{\circ}15'57''$ East) 20.00 feet; thence South (South $1^{\circ}46'06''$ West) 74.25 feet (74.90 feet); thence West (North $88^{\circ}15'57''$ West) 20.00 feet to the point of beginning.

Exhibit "E"
Inkley's Parcel

Beginning at a point which is North 1°39'39" East 82.67 feet along the East line of Block 48, Plat "A", Logan City Survey, and North 88°20'21" West 91.33 feet from the Southeast corner of Lot 1 of said Block 48; and running thence South 1°39'39" West 40.00 feet; thence North 88°20'21" West 129.60 feet; thence North 1°39'39" East 40.00 feet; thence South 88°20'21" East 129.60 feet to the point of beginning.

Contains 5,184 Square Feet or 0.119 Acre

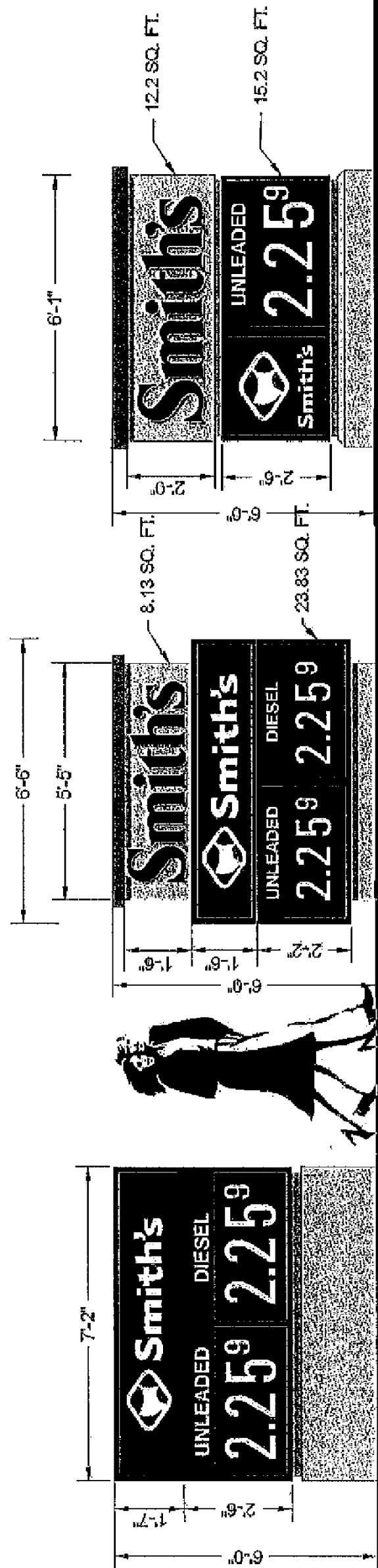



EXHIBIT F

 golden west ELECTRICAL SIGN COMPANY We create lasting impressions with our signs and graphics. www.goldenwestsigns.com	project name & location Smith's #87 175 E 42N / LOGAN, UTAH	This artwork is produced under Federal copyright laws and cannot be reproduced in whole or in part without written permission of Golden West Advertising Inc. PHOTOS SHOWN ARE TO APPROXIMATE SCALE ONLY.		sales rep bob mroore	design number #87
	file name manuf file name	design 2011memlba87/sign/ pt	signature date approved	complete date 01/13/2012	revision date