

E 2551593 B 5104 P 491-496  
RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
09/08/2010 12:26 PM  
FEE \$10.00 Pgs: 6  
DEP RT REC'D FOR FARMINGTON CITY C  
ORP

**WHEN RECORDED, MAIL TO:**

First Utah Bank  
Attn: Dean Hardy  
1127 South State St.  
Sandy, Utah 84070

**RETURNED**  
**SEP 08 2010**

08-060-0030

**DEFERRAL AGREEMENT**  
**(The Installation of Public Improvements)**

**THIS AGREEMENT**, is made by and between **FIRST UTAH BANK**, whose main address is 3826 South 2300 East, Salt Lake City, Utah 84109 (referred to as the "Owner"), and **FARMINGTON CITY**, a Utah municipal corporation, whose address is 130 North Main, Farmington City, Utah, 84025, hereinafter referred to as "City".

**RECITALS**

**WHEREAS**, Farmington City, in the public interest and in pursuit of its public purpose, desires to acquire land from Owner for the construction of a public street and related facilities; and

**WHEREAS**, Owner is willing to convey the property to the City, subject to the City's agreement to install certain street improvements along the frontage of the property; and

**WHEREAS**, the improvements do not currently need to be installed and the parties agree that certain of the improvements at a later date will benefit both parties; and

**WHEREAS**, the parties now desire to set forth their understandings and agreement regarding the installation of the improvements to writing:

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Installation of Improvements.** The City hereby agrees to install seventy-two (72) lineal feet of curb and gutter (the "Improvements") along the frontage of the certain real property more particularly described in Exhibit A, attached hereto and incorporated herein by reference, the Improvements to be installed as shown graphically on Exhibit B, attached hereto and incorporated herein by reference. Such installation shall be completed at the time curb and gutter installed along the street frontage adjacent to Owner's property on either the north or the south. Installation shall be completed to City standards and specifications and at the City's expense, with no expense to the Owner.

2. **Failure to Install.** If, for any reason, the City fails to install or cause to be installed the Improvements within ninety (90) days after having been requested in writing by the Owner or Owner's successor in interest to do so, the Owner is hereby authorized to install such Improvements at the sole expense of the City and to charge the City with the cost of such Improvements. The costs incurred by the Owner to complete the Improvements upon failure of the City to do so, together with interest thereon at the rate of twelve percent (12%) per annum, and all costs and reasonable attorney's fees incurred by the Owner shall be a charge on the Property and shall be a continuing lien upon the Property until paid. The Owner may commence an action against the City to collect the foregoing charges and to foreclose the lien upon the Property. Upon foreclosure of the lien provided herein by the Owner, should any deficiency remain, the City shall remain liable for payment of the deficiency.

3. **Covenants.** The foregoing covenants in each and every particular are and shall be construed as real covenants and shall run with the property described herein, and the same are hereby made binding upon the heirs, representatives, devisees, assigns and successors in interest of the parties hereto.

4. **Default.** The parties herein each agree that should they default in any of the covenants or agreements contained herein, the defaulting party shall pay all costs and expenses, including reasonable attorneys' fees, which may arise or accrue from enforcing this Agreement or in pursuing any remedy provided hereunder or by the statutes or other laws of the State of Utah, whether such remedy is pursued by filing suit or otherwise, and whether such costs and expenses are incurred with or without suit or before or after judgment.

5. **Amendments.** Any amendment, modification, termination, or rescission (other than by operation of law) which affects this Agreement shall be made in writing, signed by the parties, and attached hereto.

6. **Successors.** This Agreement shall be binding upon and inure to the benefit of the legal representatives, subsequent owners, successors and assigns of the parties hereto.

7. **Notices.** Any notice required or desired to be given hereunder shall be deemed sufficient if sent by certified mail, postage prepaid, addressed to the respective parties at the addresses shown in the preamble.

8. **Severability.** Should any portion of this Agreement for any reason be declared invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions and the same shall be deemed in full force and effect as if this Agreement had been executed with the invalid portions eliminated.

9. **Governing Law.** This Agreement and the performance hereunder shall be governed by the laws of the State of Utah.

10. **Waiver.** No waiver of any of the provisions of this Agreement shall operate as a waiver of any other provision, regardless of any similarity that may exist between such

provisions, nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding unless executed in writing by the waiving party.

11. **Captions.** The captions preceding the paragraphs of this Agreement are for convenience only, and shall not affect the interpretation of any provision herein.

12. **Integration.** This Agreement, together with its exhibits, contains the entire and integrated agreement of the parties regarding the deferral and installation of the Improvements as of its date, and no prior or contemporaneous promises, representations, warranties, inducements, or understandings between the parties pertaining to the subject matter hereof which are not contained herein shall be of any force or effect.

13. **Exhibits.** Any exhibit(s) to this Agreement are incorporated herein by this reference, and failure to attach any such exhibit shall not affect the validity of this Agreement or of such exhibit. An unattached exhibit is available from the records of the parties.

14. **Recording.** This Agreement shall be recorded with the Davis County Recorder's office for all parcels or lots within the Property and Adjacent Parcel as notice of the required Improvements.

**OWNER:**

**FIRST UTAH BANK**

By: Mark Zupa

Its: Executive Vice President

**CITY:**

**FARMINGTON CITY**

**ATTEST:**

Margy Lomax  
Margy Lomax, City Recorder

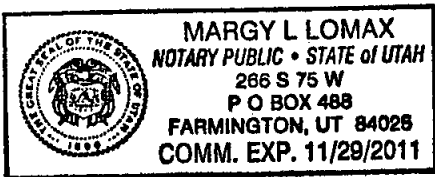
By: Scott Spillett  
Its: Mayor



CITY ACKNOWLEDGMENT

STATE OF UTAH )  
 : ss.  
COUNTY OF DAVIS )

On the 31<sup>st</sup> day of August, 2010, personally appeared before me Scott Harbertson, who being duly sworn, did say that he is the Mayor of **FARMINGTON CITY**, a municipal corporation of the State of Utah, and that the foregoing instrument was signed in behalf of the City by authority of its governing body and said Scott Harbertson acknowledged to me that the City executed the same.



Margy L Lomax  
Notary Public

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

On the 26 day of August, 2010, personally appeared before me Mark Zupon, who being duly sworn, did say that he is the Executive Vice President of **FIRST UTAH BANK**, and that the foregoing instrument was signed in behalf of said corporation by authority of its bylaws or by a resolution of its Board of Directors; and acknowledged to me that said corporation executed the same.

Kimberly Pringle  
Notary Public

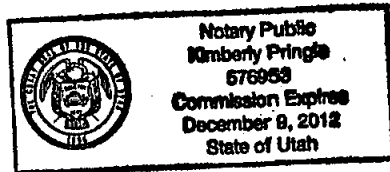


EXHIBIT A

BEGINNING AT A POINT ON THE SOUTH LINE OF BURKE LANE AT A POINT SOUTH 89°41'35" EAST 213.32 FEET FROM THE NORTHWEST CORNER OF LOT 12, BLOCK 27, BIG CREEK PLAT, FARMINGTON TOWNSITE SURVEY; WHICH POINT IS SOUTH 89°45'48" WEST 1369.01 FEET ALONG THE SECTION LINE & NORTH 0°20'03" WEST 1444.78 FEET TO THE SOUTH LINE OF BURKE LANE & SOUTH 89°41'35" EAST 213.32 FEET FROM THE SOUTHEAST CORNER OF SECTION 14, TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, AND RUNNING THENCE SOUTH 0°20'03" EAST 990.00 FEET; THENCE SOUTH 89°41'35" EAST 213.33 FEET; THENCE NORTH 0°20'03" WEST 990.00 FEET; THENCE NORTH 89°41'35" WEST 213.33 FEET TO THE POINT OF BEGINNING.

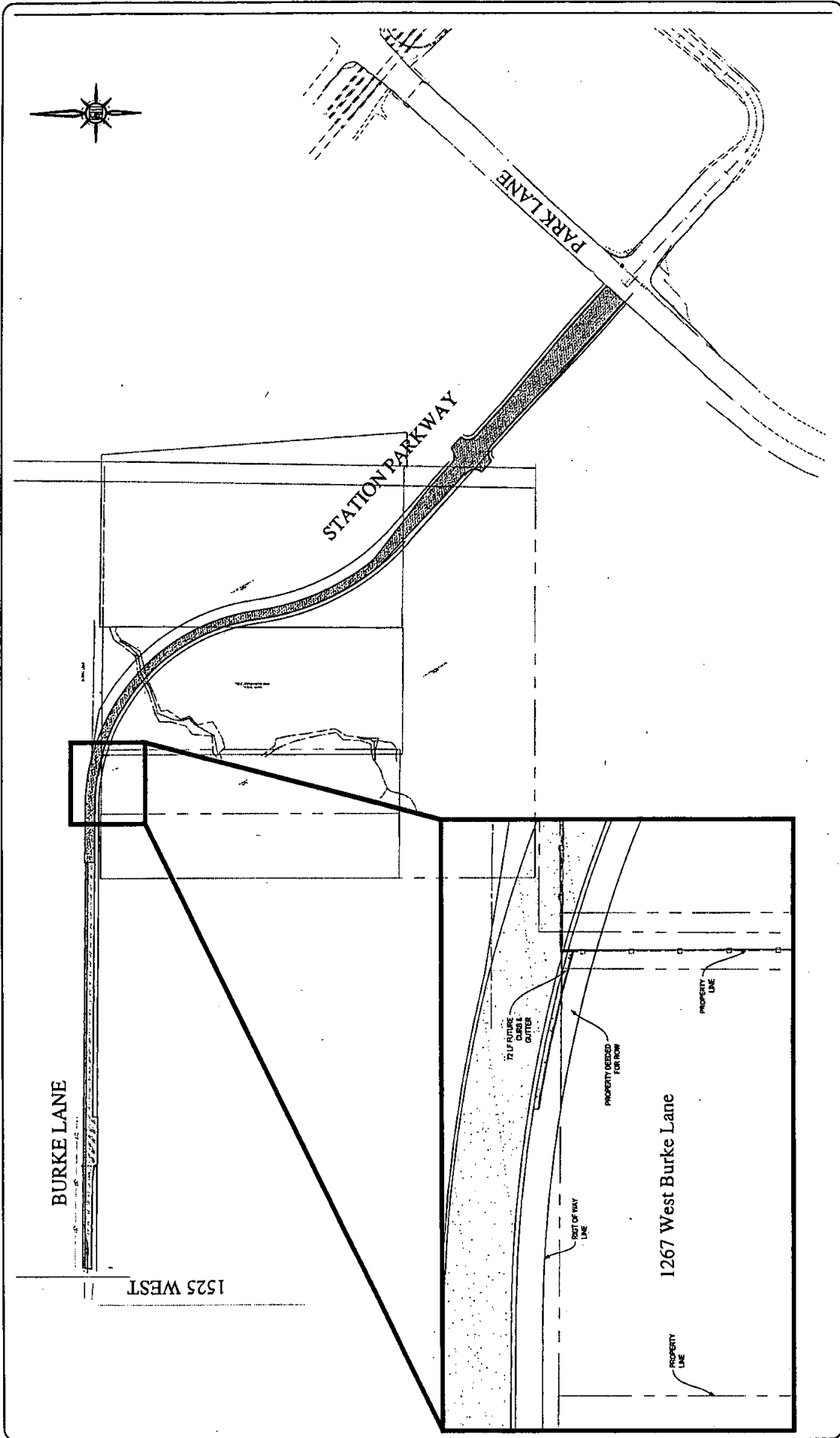
CONTAINING 211,183 SQUARE FEET OR 4.848 ACRES.

LESS AND EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TRACT OF LAND:

BEGINNING AT A POINT LOCATED SOUTH 00°20'32" WEST, ALONG THE SECTION LINE, A DISTANCE OF 1,209.464 FEET, AND WEST 950.769 FEET FROM THE EAST QUARTER CORNER OF SECTION 14, TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, SAID POINT BEING THE POINT OF BEGINNING; SAID POINT ALSO BEING THE BEGINNING OF A CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES SOUTH 16°12'32" WEST, A RADIAL DISTANCE OF 610.00 FEET; THENCE WESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 06°45'15", A DISTANCE OF 71.91 FEET; THENCE SOUTH 89°21'00" EAST 70.08 FEET; THENCE SOUTH 00°00'32" WEST 15.17 FEET TO THE POINT OF BEGINNING.

CONTAINING 481 SQUARE FEET OR 0.011 ACRES.

TAX I.D. NO. 08-060-0030



<p>DATE: 11/11/11          DRAWN BY: J. B. BROWN          CHECKED BY: J. B. BROWN          SCALE: AS SHOWN          SHEET NO.: 1          TOTAL SHEETS: 1</p>	<p>CS  <b>CALDWELL          RICHARDS          SORENSEN</b>          ANSWERS TO INFRASTRUCTURE</p>	<p>SALT LAKE CITY OFFICE          300 EAST 200 SOUTH          SALT LAKE CITY, UTAH 84143          TEL: 801.487.4277          WWW.CALDWELLRS.COM</p>	<p>FARMINGTON CITY  <b>EXHIBIT B</b>          BANK PARCEL</p>	<p>CS035          1          1</p>
<p>REV. BY DATE DESCRIPTION</p>				