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**RETURNED**  
AUG 05 2014

**DEVELOPMENT AGREEMENT**  
**FOR THE**  
**AVENUES AT THE STATION SUBDIVISION**

08-072-0025

**THIS DEVELOPMENT AGREEMENT** (the "Agreement") is made and entered into as of the 17 day of June, 2014, by and between **FARMINGTON CITY**, a Utah municipal corporation, hereinafter referred to as the "City," and **OAKWOOD HOMES OF UTAH LLC**, a Delaware limited liability company, hereinafter referred to as the "Developer."

**RECITALS:**

A. Developer owns approximately 12.14 acres of land located within the City, which property is more particularly described in **Exhibit "A"** attached hereto and by this reference made a part hereof (the "Property").

B. Developer desires to develop a project on the Property to be known as the Avenues at the Station Subdivision (the "Project"). Developer has submitted an application to the City seeking approval of the Project as a subdivision in accordance with the City's Laws.

C. On November 14, 2013, Developer received approval of a preliminary plat for the Project from the Farmington Planning Commission (the "Preliminary Plat") which consists of 128 Lots. Developer has applied to the City for final plat approval for the first phase of the Project which provides for the development of 44 residential lots on approximately 4.68 acres.

D. The Property is presently zoned under the City's zoning ordinance as RMU. The Property is subject to all City ordinances and regulations including the provisions of the City's General Plan, the City's zoning ordinances, the City's engineering development standards and specifications and any permits issued by the City pursuant to the foregoing ordinances and regulations (collectively, the "City's Laws").

E. Persons and entities hereafter developing the Property or any portions of the Project thereon shall accomplish such development in accordance with the City's Laws, and the provisions set forth in this Agreement. This Agreement contains certain requirements and conditions for design and/or development of the Property and the Project in addition to those contained in the City's Laws.

**AGREEMENT**

**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 City and Developer hereby agree as follows:

1. **Incorporation of Recitals.** The above Recitals are hereby incorporated into this Agreement.

2. **Preliminary Plat.** The approved Preliminary Plat for the entire Project is attached hereto as **Exhibit "B."** As each phase of the Project receives Final Plat approval, each phase of the Property shall be developed by the Developer and/or any subsequent developers in accordance with the approved Preliminary Plat and the approved Final Plat for the applicable phase.

3 **Development of the Project.** All portions of the Project must be developed in strict accordance with the approved Preliminary Plat and Final Plat for each phase of the Project and any conditions of approval related thereto. No amendments or modifications to the approved Preliminary Plat for any portion of the Project shall be made by the Developer or any subsequent developers without the written consent of the City. The Project shall be developed by Developer and/or Developer's successors and assigns in accordance with all of the requirements contained herein.

a. **Compliance with City Laws and Development Standards.** The Project and all portions thereof shall be developed in accordance with the City's Laws, the Preliminary Plat and any subsequent final plat (and any conditions of approval related thereto), and this Agreement.

b. **Streets and Related Improvements.** Developer will construct and/or improve, and will dedicate to the City the streets shown on the Preliminary Plat and each final plat for the Project. Construction and/or improvement of the streets shall include all curb, gutter, paving, sidewalks, park strips and related utilities as shown on the approved improvement drawings. All construction and improvement shall be in accordance with City-approved design and construction standards and requirements.

c. **Building Permits.** The City shall not issue any building permit on any lot or for any unit within the Project until water, fully-operational fire hydrants, sewer and any utility located under the street surface, including necessary grading, storm drains and/or subsurface drainage facilities pursuant to a subdivision grading and drainage plan required and approved by the City for the Project, are installed by the Developer and accepted by the City and/or appropriate agencies. The City will issue building permits for new homes to be constructed on the lots in each approved phase when (i) the Developer provides as-built drawings acceptable to the City which have been prepared and certified by an engineer licensed by the State of Utah for all required public improvements related to the Project, and (ii) in accordance with Section 12-2-045 of the City Code, Developer provides continuous access to units or sites throughout the Project by a street or streets acceptable to the City with an all-weather asphalt or concrete surface sufficient to provide access for emergency vehicles. Developer hereby agrees to perform all work necessary to ensure that the streets will remain fully accessible at all times. The Developer agrees at the earliest time weather

permits, to install, at Developer's sole expense, permanent hard surface material on all streets in the subdivision in accordance with the City's specifications.

d. Utilities and Infrastructure.

i. Developer shall install or cause to be installed natural gas, underground electrical service, sanitary sewer, culinary and pressure irrigation water supply systems, and storm drainage facilities as required by the City for the Project up to the boundary lines of the Project and any off-site improvements required to serve the Project. Such installations shall be done according to the reasonable and customary design and construction standards of the utility providers and the City Engineer.

ii. Developer shall make arrangements with and shall comply with the requirements of the Central Davis Sewer District to provide public sanitary sewer service to the Project and all phases thereof.

iii. All off-site improvements will be constructed and installed in a timely manner in order to coincide with development of the various phases of the Project.

iv. Developer shall make arrangements with and shall comply with all of the requirements of the Weber Basin Water Conservancy District ("Weber Basin") to provide secondary water service to each lot within the Project. Where appropriate, Developer shall construct secondary water lines and facilities for the Project in a manner acceptable to Weber Basin in order to ensure delivery of secondary water to properties located within the Project.

v. All public improvements for the Project shall be constructed and installed at the Developer's sole expense in accordance with the City's construction standards and the City's Laws.

e. Grading and Drainage, Storm-water Run-off, Erosion Control, and Revegetation Plans. Developer shall provide grading and drainage, erosion control and revegetation plans for the Project for review and approval by the City. These plans for the Project shall be prepared by a licensed engineer, and a landscape architect or other appropriate nursery professional mutually agreed upon by the parties. These plans shall identify the type and show the location of existing vegetation, the vegetation to be removed and method of disposal, or stabilization measures to be installed while new vegetation is being established. All areas of the Project cleared of natural vegetation in the course of construction shall be replanted with vegetation possessing erosion control characteristics at least equal to the natural vegetation which was removed. Developer shall prepare an erosion control plan and implement best management practices (BMP's) altogether acceptable to the City designed to minimize erosion and displacement of soils from the site consistent with the City's Storm Water Management Plan.

Developer shall post a bond acceptable to the City to ensure implementation of the grading and drainage, erosion control, and revegetation plans for the Project. The warranty period for this bond shall not be less than two growing seasons from the time the planting of the revegetation is complete.

The Farmington City Storm Drain Master Plan calls for a regional detention basin to be located in the vicinity of the Property. It is contemplated that said regional detention basin will be located on City-owned property off-site west of the Project. Developer agrees that a portion of said basin will provide only for the storm water detention needs of the Project and Developer agrees to construct, or caused to be constructed, that portion of the detention basin that will serve the Project. Under no circumstances will Developer be required to advance payment for the costs to construct the entire regional detention basin; rather, Developer will be required only to pay for its portion of the regional detention basin that will serve the Project. Until such time as the regional detention basin, or the Project portion thereof, has been constructed, the Developer shall design and provide its own on-site temporary detention basin acceptable to the City and designed appropriately to contain the storm water run-off from the Project. In the event the regional detention basin, or the Project portion thereof, is not completed due to the presence of wetlands or other reasons, the temporary detention basin within the Project shall become a permanent detention basin; provided that Developer shall have the right to relocate it to a permanent location elsewhere in the Project with the City's approval, which approval shall not be unreasonably withheld. In the event the regional detention basin, or Project portion thereof, is completed, the Developer may abandon the temporary basin. Developer shall retain the right to provide its own on-site detention basin for the Project without being required to use, connect to, or pay for the proposed off-site regional detention basin.

f. Easements. Subject to the provisions of Paragraph 6 below, all required easements, including temporary construction easements, for infrastructure improvements will be granted to the City and its contractors by the Developer and its successors and assigns for the construction of any public improvements reasonably required by the City. These easements shall be subject to the approval of the City Engineer and the City Attorney. Developer hereby agrees to grant and convey at no cost to the City a satisfactory easement for drainage pipes across the Property to be shown on and dedicated as part of final plats for each phase of the Project in locations mutually satisfactory to the City and the Developer. The drainage easements shall provide for the flow of water and drainage over and through the Property at the locations specified in said easements. The City shall have the right to determine the amount of flows to be passed through the easement; provided, however, that the City shall be responsible for all costs associated with improvements for any increase in the flow of water or drainage (in excess of historical flows/drainage) from City-owned property or City rights of way onto private property.

g. Dedication and Donation. Prior to, or concurrent with, the recording of the final plat for the Project in the office of the Davis County Recorder, the

Developer agrees to dedicate, transfer and voluntarily donate to the City all required easements for the purposes of constructing, installing, operating, maintaining, repairing and replacing public utilities and improvements located within the Project by the Developer. Developer will take such actions as are necessary to obtain release of any monetary encumbrances on any property to be dedicated to the City at the time of final plat approval for the Project and to cause the owner of the Property to dedicate and donate the same without cost to the City.

h. Required Changes. If any revisions or corrections of plats or plans already approved by the City shall be required by any other governmental entity having jurisdiction or lending institutions involved in financing, the Developer and the City shall cooperate where appropriate to obtain or develop reasonable, mutually acceptable alternative plans or plats. Developer shall have the sole duty and responsibility to obtain approval from any other governmental entities having jurisdiction with respect to the Project as needed.

i. Construction Standards and Requirements. All construction shall be conducted and completed in accordance with the development standards of the City, the City's Laws and the terms of this Agreement. All required public improvements for the Project shall be constructed in accordance with the City's construction standards and shall be dedicated to the City. Prior to commencing any construction or development of any building, structures or other work or improvements within the Project, the Developer shall secure any and all permits which may be required by the City or any other governmental entity having jurisdiction over the work. Except for the City's obligations set forth in the parties' Sales Agreement, the Developer shall construct, or cause to be constructed, all improvements for the Project in conformity with all applicable federal, state and/or local laws, rules and regulations.

i. Security. Developer shall provide the City with security in a form satisfactory to the City to guarantee the installation and completion of all public improvements to be constructed by Developer within the Project and/or the Property or any portion thereof, as required in accordance with the City's Laws. Alternatively, Developer may, in its sole discretion, elect to construct the subdivision improvements before recording the final plat for the subject phase without being required to post a completion bond or other form of security, as allowed by State law.

Security provided by the Developer shall also include funds to ensure revegetation acceptable to the City consistent with a revegetation plan prepared by Developer and approved by the City for all cuts and fills or any and all graded and disturbed areas related to the Project.

ii. Inspection by the City. The City may, at its option, perform periodic inspections of the improvements being installed and constructed by the Developer and its assigns or their contractors. No work involving

excavation shall be covered until the same has been inspected by the City's representatives and/or the representatives of other governmental entities having jurisdiction over the particular improvements involved. Developer, or its assigns as the case may be, shall warrant the materials and workmanship of all public improvements installed by Developer and its contractors within the Project and to be dedicated to the City for a period of twelve (12) months from and after the date of final inspection and approval by the City of the improvements in that phase. All buildings shall be inspected in accordance with the provisions of the International Building Code.

iii. Maintenance During Construction. During construction, the Developer and the City and their contractors shall keep the Project and all affected public streets therein, free and clear from any unreasonable accumulation of debris, waste materials, mud, and any nuisances created by their actions, and shall contain their construction debris and provide dust and mud control so as to prevent the scattering via wind and/or water.

4. Payment of Fees. The Developer shall pay to the City all required fees in a timely manner. Fees shall be paid in those amounts which are applicable at the time of payment of all such fees, pursuant to and consistent with standard City procedures and requirements, adopted by City.

5. City Obligations. Subject to Developer complying with all of the City's Laws and the provisions of this Agreement, the City agrees to maintain the public improvements dedicated to the City following satisfactory completion thereof and acceptance of the same by the City and to provide standard municipal services to the Project including, but not limited to, police and fire protection subject to the payment of all fees and charges charged or levied therefor by the City. In addition, the City shall provide all public services to Project (including, without limitation, water, sewer service, storm drain, road maintenance, snow removal, garbage removal etc.) and maintain the public improvements, including roads, intended to be public upon dedication to the City and acceptance in writing by the City; provided, however, that the City shall not be required to maintain the private areas or private improvements that are specifically required to be maintained by a homeowners association in this Project.

6. Public Improvements; Proportionality Assessments. For the purpose of avoiding unlawful exactions, all improvements that are constructed by Developer and are intended to be dedicated to, and accepted by, the City shall be governed by the following standards regarding payment and reimbursement:

- a. All on-site storm drain and sewer improvements that are not "system improvements" will be paid for by Developer without any rights of reimbursement. The parties acknowledge and agree that the City shall be responsible, at its sole cost, for construction of any facilities necessary for any increases in storm-water discharge from 1100 West (i.e., in excess of historical flows of storm-water from 1100 West). Notwithstanding the

foregoing language, Developer shall pay for and construct the curb and gutter on the half-width portion of 1100 West abutting the Project.

- b. All internal roadways within the project shall be paid for by Developer without any rights of reimbursement; provided, however, that if the City requires Developer to construct, expand or enhance any offsite roadways or related improvement, or to expand the service capacity of offsite roadways, the City shall be responsible to reimburse Developer for all costs associated with the same. The reimbursement shall be accomplished by way of a cash reimbursement or a corresponding (dollar for dollar) credit against road/street impact fees.
- c. To the extent the City requires Developer to construct any oversized improvements (such as culinary waterlines or sewer lines with capacity in excess of what is required to provide service to Developer's Property or a regional storm drainage pond), a proportionality assessment shall be performed by the City's engineer, with approval from the Developer's engineer (which approval shall not be unreasonably withheld), using applicable engineering standards, to determine the proportion of construction costs to be paid by Developer and the proportion of costs to be paid by the City. The City shall be responsible to pay the incremental costs of the oversized improvements (e.g., all amounts in excess of what the Developer would pay to construct improvements with capacity sufficient only for Developer's Property).
- d. Without limiting the scope of the preceding subparagraph (c), the parties acknowledge that the City may request Developer to construct a storm-drainage pond designed to provide capacity in excess of what is required for Developer's Property. If Developer is required to construct such a facility, all incremental costs of the oversized storm-drain pond and related improvements shall be reimbursed by the City to Developer by way of a credit against storm-drain impact fees; provided, however, that Developer shall not be required to pay more for the incremental costs of the oversized improvements than Developer will be able to recover through the impact fee credits. The amount that Developer shall be required to pay to the City, if any, for the City-owned land so used shall be determined and set forth in a Reimbursement Agreement for the applicable phase of this Project.
- e. To the extent the Developer is required to construct any system improvements (including, without limitation, system improvements that are identified in an impact fee facilities plan), Developer shall only be required to construct the minimum portion(s) of such system improvements, if any, that are necessary to provide service for Developer's Property (with the City being responsible to construct or pay for the construction of the remainder of such system improvements).

Developer shall be fully reimbursed by the City for the costs incurred by Developer to construct the City's portion of the system improvements (using the proportionality methodology described in subsection (c) above). To the extent that any of the existing public improvements and facilities are adequate to provide service to Developer's Property at full build-out, Developer shall not be required to upsize, enhance, expand or otherwise improve such improvements/facilities unless the City pays for all costs and expenses associated with such work and improvements as and when the costs and expenses are incurred.

- f. The parties acknowledge and agree that the 1100 West roadway as currently constructed has adequate capacity to serve the development of Developer's Property; however the City may require Developer to construct certain additional improvements or features to 1100 West that do not current exist. Accordingly, using the standards set forth in this Section 6, the parties shall determine the extent of appropriate reimbursements to be made to Developer for any new improvements, expansions or features that Developer is required to construct or install on 1100 West. Developer, however, will not be reimbursed for the costs associated with constructing and installing the curb and gutter on the half-width portion of 1100 West abutting the Project.
- g. The provisions of this Section 6 shall be interpreted and administered in compliance with the standards for lawful exactions as set forth in Utah Code Ann. §10-9a-508 and applicable Utah case law, with Developer paying for its own project improvements, and the City paying for (or reimbursing payment of) the costs of system improvements. The determinations of the size and design of improvements to be constructed, cost-sharing or reimbursement for the same, and applicable of the standards described in this Section 6 shall be made on a phase-by-phase basis at the time of final plat approval for each phase. Nothing in this Agreement shall prohibit the parties from entering into separate reimbursement agreements for each phase, and such reimbursement agreements shall comply with the standards set forth in this Section 6 and applicable Utah law.

7. **Indemnification and Insurance.** Developer hereby agrees to indemnify and hold the City and its officers, employees, representatives, agents and assigns harmless from any and all liability, loss, damage, costs or expenses, including attorneys fees and court costs, arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused to any person or to property of any person which shall occur within the Property or any portion of the Project or occur in connection with any off-site work done for or in connection with the Project or any phase thereof which shall be caused by any acts or omissions of the Developer or its assigns or of any of their agents, contractors, servants, or employees at any time. Developer shall furnish, or cause to be furnished, to the City a satisfactory certificate of insurance from a





- b. The right to withhold all further approvals, licenses, permits or other rights associated with the Project or any development described in this Agreement until such default has been cured.
- c. The right to draw upon any security posted or provided in connection with the Project.
- d. The right to terminate this Agreement.
- e. The rights and remedies set forth herein shall be cumulative.

12. **Attorneys Fees.** In the event of any lawsuit between the parties hereto arising out of or related to this Agreement, or any of the documents provided for herein, the prevailing party or parties shall be entitled, in addition to the remedies and damages, if any, awarded in such proceeding, to recover their costs and a reasonable attorneys fee.

13. **Entire Agreement.** This Agreement together with the Exhibits attached thereto and the documents referenced herein, and all regulatory approvals given by the City for the Property and/or the Project, contain the entire agreement of the parties and supersede any prior promises, representations, warranties or understandings between the parties with respect to the subject matter hereof which are not contained in this Agreement and the regulatory approvals for the Project, including any related conditions.

14. **Headings.** The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

15. **Non-Liability of City Officials, Employees and Others.** No officer, representative, agent, or employee of the City shall be personally liable to the Developer, or any successor-in-interest or assignee of the Developer in the event of any default or breach by the City or for any amount which may become due Developer, or its successors or assigns, for any obligation arising under the terms of this Agreement unless it is established that the officer, representative, agent or employee acted or failed to act due to fraud or malice.

16. **Binding Effect.** This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, representatives, officers, agents, employees, members, successors and assigns.

17. **No Third-Party Rights.** The obligations of Developer set forth herein shall not create any rights in and/or obligations to any persons or parties other than the City. The parties hereto alone shall be entitled to enforce or waive any provisions of this Agreement.

18. **Recordation.** This Agreement shall be recorded by the City against the Property in the office of the Davis County Recorder, State of Utah.

19. **Relationship.** Nothing in this Agreement shall be construed to create any partnership, joint venture or fiduciary relationship between the parties hereto.

20. **Termination.** Notwithstanding anything in this Agreement to the contrary, it is agreed by the parties hereto that in the event the Project is not completed within five (5) years from the date of this Agreement or in the event the Developer does not comply with the City's Laws and the provisions of this Agreement, the City shall have the right, but not the obligation at the sole discretion of the City, which discretion shall not be unreasonably applied, to terminate this Agreement and/or to not approve any additional phases for the Project. Such termination may be effected by the City by giving written notice of intent to terminate to the Developer set forth herein. Whereupon, the Developer shall have sixty (60) days during which the Developer shall be given an opportunity to correct any alleged deficiencies and to take appropriate steps to complete the Project. In the event Developer fails to satisfy the concerns of the City with regard to such matters, the City shall be released from any further obligations under this Agreement and the same shall be terminated. In the event of any termination of this Agreement, the provisions regarding Developer's rights of reimbursement shall remain in place and survive the termination until such time as Developer has received the full amount of reimbursement to which it was entitled for improvements constructed prior to the date of termination.

21. **Severability.** If any portion of this Agreement is held to be unenforceable or invalid for any reason by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

22. **Amendment.** This Agreement may be amended only in writing signed by the parties hereto.

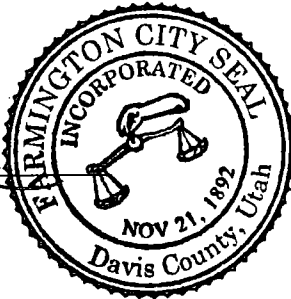
**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first hereinabove written.

“CITY”

FARMINGTON CITY

ATTEST:


*Holly Gadd*  
City Recorder



By: *[Signature]*  
Mayor

**"DEVELOPER"**

**OAKWOOD HOMES OF UTAH  
LLC**

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

its: VP LAND \_\_\_\_\_

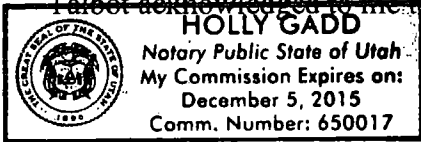
**CITY ACKNOWLEDGMENT**

STATE OF UTAH )

:SS.

COUNTY OF DAVIS )

On the 4 day of August, 2014, personally appeared before me H. James Talbot, 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 H. James Talbot acknowledged to me that the City executed the same.



Holly Gadd  
Notary Public  
Residing at:

My Commission Expires:

12/05/2015

Davis County

**DEVELOPER ACKNOWLEDGMENT**

STATE OF UTAH )

: SS.

COUNTY OF DAVIS )

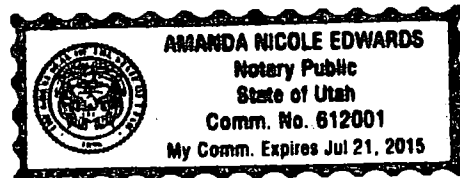
On this 31 day of July, 2014, personally appeared before me, James Doolin, who being by me duly sworn, did say that he/she is the VP Land of **OAKWOOD HOMES OF UTAH LLC**, a Delaware limited liability company authorized to do business in Utah, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and he/she acknowledgment to me that said corporation executed the same.

Amanda Edwards  
Notary Public  
Residing at:

My Commission Expires:

Jul 21, 2015

500 N. Marketplace Dr #201  
Centerville, UT 84004



**EXHIBIT "A"**  
**PROPERTY DESCRIPTION**

**AVENUES AT THE STATION  
OVERALL LEGAL DESCRIPTION  
JUNE 13, 2014**

Beginning at a point on the Westerly Right-of-Way Line of 1100 West Street, said point being also S00°07'49"E, along the Section Line, 304.93 feet and West 66.00 feet from the East Quarter Corner of Section 23, Township 3 North, Range 1 West, Salt Lake Base and Meridian; and running thence West 188.65 feet to the Easterly Right-of-Way Line of the old Denver and Rio Grande Western Railroad; thence, along said Easterly Right-of-Way Line, N34°42'21"W 1210.88 feet to the Southerly Right-of-Way Line of Clark Lane; thence along said Southerly Right-of-Way Line, the following four (4) courses: (1) S89°47'40"E 506.35 feet, (2) S88°37'51"E 89.23 feet, (3) Easterly 116.98 feet along the arc of a 5760.06 foot radius curve to the left, chord bears S89°12'45"E 116.98 feet, (4) S89°47'40"E 54.57 feet; thence S00°12'20"W 7.11 feet; thence S89°46'41"E 11.14 feet; thence Southeasterly 55.67 feet along the arc of a 59.50 foot radius curve to the right, chord bears S63°00'48"E 53.66 feet; thence Southeasterly 31.31 feet along the arc of a 110.50 foot curve to the left, chord bears S44°19'43"E 31.21 feet; thence Southeasterly 49.55 feet along the arc of a 79.50 foot radius curve to the right, chord bears S34°35'27"E 48.75 feet to said Westerly Right-of-Way Line of 1100 West Street; thence, along said Westerly Right-of-Way Line, the following two (2) courses: (1) S00°11'00"E 591.01 feet, (2) S00°07'49"E 304.72 feet to the Point of Beginning.

Contains: 523,728 Square Feet or 12.02 Acres.

Basis of bearing is between two found Brass Cap Monuments marking the East Quarter Corner and the Northeast Corner of Section 23, Township 3 North, Range 1 West, Salt Lake Base and Meridian. The bearing between the said Monuments is N00°11'00"W, as measured in the field.

**EXHIBIT "B"**  
**PRELIMINARY PLAT**



