

3562195
BK 8448 PG 605

E 3562195 B 8448 P 605-616
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
02/28/2024 02:18:32 PM
FEE: \$40.00 Pgs: 12
DEP eCASH REC'D FOR: LINCOLN TITLE
INSURANCE AGENCY

14-603-0001 and 14-603-0003
Send Tax Notice To:

Gooch Enterprises, LLC
1176 North 4500 West
West Point, Utah 84015

041227

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (this "Easement Agreement") is entered into as of February 28, 2024, by and between Gooch Enterprises, LLC a Utah limited liability company ("Grantor"), and Gooch Enterprises, LLC, a Utah limited liability company ("Grantee").

RECITALS

A. Grantor is the owner of that certain real property commonly known as 4180 West 1800, West Point, Utah and 4182 West 1800 North, West Point, Utah, Davis County (the "County"), State of Utah (the "Grantor Property").

C. Grantee has requested that Grantor grant an easement (the "Easement") in a portion of the Grantor Property, which easement area is more fully described in Exhibit A and depicted on Exhibit B (the "Easement Area"), for the purposes specified in this Easement Agreement.

D. Grantor is willing to grant the Easement in the Easement Area to Grantee, in accordance with and subject to the terms of this Easement Agreement.

AGREEMENT

NOW, THEREFORE, pursuant to the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. Grant of Easement. Grantor hereby grants to Grantee a non-exclusive easement over, under, on, and/or across the Easement Area for so long as the Easement Area is used for the purpose(s) of a road and access to and from Grantee's property. Grantee shall not use the Easement Area for any purpose that is not specifically allowed in this Easement Agreement, including any change or expansion of Grantee's use of the Easement Area. This Easement shall run with the land and benefit the successors and assigns of the parties.

2. Consideration for Grant of Easement. As consideration for the grant of Easement provided for herein, Grantee agrees to pay Grantor \$10.00 and other valuable consideration.

3. Condition, Use, and Maintenance of Easement Area.

(a) As-Is Condition. Grantee has inspected the Easement Area and accepts it in its "As-Is" condition. Grantor makes no representations or warranties whatsoever under this Easement Agreement or otherwise with respect to the physical condition of the Easement Area or the suitability of the Easement Area for the uses permitted under this Easement Agreement. This

Easement Agreement is subject to all existing contracts, leases, easements, encumbrances, and claims which may affect the Easement Area (whether or not of record) and nothing in this Easement Agreement shall be construed as a covenant against the existence of any such matters.

(b) Repair and Maintenance. Grantee and Grantor shall repair and maintain the Easement Area together with any improvements constructed or installed thereon by both parties and their use of the Easement Area, and shall keep the Easement Area and such improvements in a safe and well-maintained condition. Should any other party use the Easement Area, they will likewise pay their pro rata share of repairs and maintenance to the Easement Area. The operation, repair and maintenance of the Easement Area and such improvements shall be at Grantor's and Grantee's sole cost and expense, which for the time being will be 50% each.

(c) Construction of Improvements and Other Work; Required Permits. Grantor and Grantee acknowledge that construction or alteration of any improvements and any other work to be performed within the Easement Area, including routine maintenance and emergency repairs, is subject to the prior written approval of Grantor and Grantee and their affiliates. Prior to commencing any work in the Easement Area, other than emergency repairs, Grantee and Grantor shall provide the other party with no less than thirty (30) days' prior written notice along with written evidence the party has obtained all permits and other approvals required in connection with such work. In performing any work hereunder, Grantor or Grantee shall commence and diligently pursue the same to completion and shall maintain the portion of the Easement Area where such work is being performed in a safe, debris-free condition. In the event of emergency repairs, Grantor and Grantee shall provide verbal and written notice to the other party as timely as is reasonably possible. Grantor and Grantee shall conduct all activities in the Easement Area in a safe, prudent, professional, and workmanlike manner.

(d) Compliance with Laws. Grantor and Grantee shall comply with all applicable laws, statutes, ordinances, codes, rules, regulations, orders, and applicable judicial decisions or decrees, as presently existing and hereafter amended, including but not limited to all applicable regulatory, environmental and safety requirements, of any federal, state, county, city, local, or other governmental or quasi-governmental authority, entity or body (or any department, agency or other instrumentality thereof), exercising jurisdiction over the Easement Area, and to property and persons on the Easement Area.

(e) No Interference with Either Party's Use. Grantor and Grantee shall not *materially* interfere with the use by, and operation and activities of, the other party on or about the Easement Area.

(f) No Hazardous Substances. Neither Grantor nor Grantee shall use, deposit, release, or permit the use, deposit, or release of any Hazardous Substances in the Easement Area or otherwise on the other party's property. For purposes of this Easement Agreement, "Hazardous Substances" means any material or substance (i) petroleum; (ii) asbestos; (iii) polychlorinated biphenyls; (iv) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. § 1251 et seq. (33 U.S.C. § 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. § 6903); (v) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq. (42 U.S.C. § 9602); (vi) defined as a "hazardous waste" pursuant to the Resource

Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (42 U.S.C. § 6901); or (vii) designated as a "hazardous substance" pursuant to the Toxic Substance Control Act (15 U.S.C. § 2601 et seq.).

(g) Damage to and Repair of Grantor or Grantee Property. Grantor and Grantee shall bear all costs to repair any damage to any improvements on the other party's property now existing or hereafter installed by it, its successor owners, or any other parties having rights over the other party's property, to the extent such damage is caused by or attributable to (i) any construction, maintenance, repair or replacement and any other work in connection with this Easement Agreement, (ii) any other acts or omissions of Grantor or Grantee or any of its contractors, agents, consultants, representatives, officers, employees, invitees, guests, or licensees (collectively, the "Hired Parties") or (iii) any exercise of the rights granted herein. Grantor and Grantee shall promptly repair and restore, at its sole cost and expense, to its previously existing or better condition, any of the other party's property, including, but not limited to, roads, utilities, and fences, that may be altered, damaged or destroyed in connection with the other parties' exercise of the Easement or use of the Easement Area.

4. No Liens, Stop Payment Notices, or Other Encumbrances. Neither party shall directly or indirectly create, or permit to be created or remain, and will discharge promptly (not to exceed 30 days from demand by the other party), any lien (including, without limitation, mechanic's liens), encumbrance, stop notice, or charge upon the other party's property, arising out of or in connection with Grantor's or Grantee's or any Hired Parties' activities relating to the Easement, including any activities performed by a contractor or service provider authorized by Grantor or Grantee to perform work pursuant to the rights under the Easement.

5. Indemnity. Each party shall indemnify, defend and hold the other party and each of their respective trustees, auxiliaries, affiliates, officers, directors, employees, lessees, agents, invitees, and volunteers (collectively, the "Indemnified Parties") harmless from and against any and all losses, liabilities, damages, claims, demands, obligations, causes of action, proceedings, awards, fines, judgments, penalties, or costs and expenses (including attorneys' fees and costs, court costs, and other costs and fees of litigation as allowed by law) incurred or suffered by the Indemnified Parties (collectively, "Indemnified Claims") caused or claimed to be by, on account of, or arising directly or indirectly from or out of (a) the exercise of the Easement or use or occupancy of the Easement Area by the other party, however occurring, (b) any breach by a party of any of the terms, conditions or provisions in this Easement Agreement, (c) any acts, errors, omissions, negligence, and/or willful misconduct of a party with respect to the Easement, (d) the injury or death of any person, or injury to property, of any kind wherever located and by whomever owned (including without limitation the G property owned by an Indemnified Party), which injury or death arises out of or is attributable to the exercise of the Easement or use or occupancy of the Easement Area by a party, and/or (e) any release, deposit, discharge, emission, leaking, leaching, spilling, seeping, migrating, injecting, pumping, pouring, emptying, escaping, dumping, disposing or other movement of Hazardous Substances on, in, over, or under the Easement Area a party in connection with the use of the Easement. The foregoing indemnification shall not apply to the extent that any such Indemnified Claims are solely and directly caused by the gross negligence or willful misconduct of any Indemnified Party.

(a) Indemnification Procedures. Either party shall be entitled to defend any Indemnified Claim through counsel of its choice, which counsel shall be subject to the other parties prior written approval in its reasonable discretion. Notwithstanding the foregoing, (i) if the party required to indemnify shall fail to promptly take all reasonable and appropriate action to defend any Indemnified Claim, then the other party shall, within a reasonable time following notice from alleging such failure, have the right promptly to retain counsel of their choice to carry out such defense, at the failing party's cost and expense, (ii) in all cases the indemnified party shall be entitled to participate in the defense of any Indemnified Claim, and (iii) the indemnifying party shall at all times during such defense consult with the Indemnified Parties and keep Indemnified Parties fully informed of all material matters, and allow Indemnified Parties to provide input on any strategic litigation decisions and/or positions. Indemnified Party shall have the sole and exclusive right to determine whether to appeal any judgment of any Indemnified Claim (an "Appellate Action"), and may, at any time with notice to indemnifying party, assume control of any Appellate Action with litigation counsel of Indemnified Party's choice, in its sole discretion. Indemnified Party shall determine, in its sole discretion, whether to settle or compromise any Indemnified Claim. Under no circumstances shall Grantor or Grantee be required hereunder to disclose to one another in connection with an Indemnified Claim any information or materials in connection with an Indemnified Claim to the extent that the applicable party is precluded from disclosing the same due to confidentiality restrictions binding upon it or such information or materials are protected by such party's attorney-client privilege.

6. Reserved.

7. Insurance. During the term of this Easement Agreement, Grantor and Grantee shall, at their sole cost and expense, ensure its activities in connection with this Easement Agreement and obtain, keep in force and maintain insurance as follows:

(a) Commercial Form General Liability Insurance (contractual liability included) with minimum limits as follows:

Each Occurrence	\$ _____
Products/Completed Operations Aggregate	\$ _____
Personal and Advertising Injury	\$ _____
General Aggregate	\$ _____

If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination of this Easement Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the date of this Easement Agreement.

(b) Property, Fire and Extended Coverage Insurance in an amount sufficient to reimburse Grantee for all of its equipment, trade fixtures, inventory, fixtures and other personal property located on the Easement Area including improvements hereinafter constructed or installed.

(c) Workers' Compensation as required by Utah law.

The coverages referred to under (a) and (b) of this section shall name both parties as insured on a primary, non-contributing basis. Insurers shall be licensed by the State of Utah to transact insurance and shall hold a current A.M. Best's rating of A-VII or better, or shall be a carrier otherwise reasonably acceptable to both parties.

8. Temporary Limitation on Access Rights. Upon providing reasonable prior written notice to the other party, Grantee and Grantor shall each have the right to temporarily close or restrict access to the Easement Area as may be reasonably necessary in connection with the performance of any construction, maintenance, repair and replacement of improvements within the Easement Area or that may affect access to the Easement Area.

9. Reserved.

10. Reserved.

11. Taxes. Grantor and Grantee equally shall pay all taxes, charges or use fee(s) levied by any governmental agency against the Easement Area.

12. Default; Grantor's Right to Self Help. If Grantee fails to comply with this Easement Agreement or perform any of its obligations herein, Grantor shall give Grantee written notice setting forth such failure in reasonable detail, and Grantee must, within fifteen (15) business days after receiving such notice, comply with this Easement Agreement perform the obligation or duty required. Grantee's failure to comply with this Easement Agreement or fulfill its obligation or duty within such fifteen (15) business day period shall constitute a default by Grantee under this Easement Agreement; provided, however, if the failure is of a nature that it cannot reasonably be cured within such fifteen (15) business day period and Grantee commences to cure within such period and diligently prosecutes such cure to completion within forty-five (45) days, then such default shall be deemed cured. If a Grantee default occurs, Grantor shall have all rights available both at law and in equity, and through its authorized agent or agents, shall also have the right to self-perform such obligation or duty, and Grantee shall be liable for the costs of such work and shall promptly reimburse Grantor for such cost. Any reimbursement not made within thirty (30) days after notice thereof from the Grantor is received by Grantee, shall bear, and Grantee shall be obligated to pay, interest at the annual interest rate of ten percent (10%) per annum on the amount of the reimbursement from the due date thereof, together with all actual, documented costs and expenses of collection, including reasonable attorney's fees and court costs.

13. Modification, Amendment and Termination. Except as provided herein, this Easement Agreement may be amended, modified, terminated or cancelled, in whole or in part, only by agreement of Grantee and Grantor. No such amendment, modification, termination or cancellation shall be effective unless a written instrument setting forth its terms has been executed, acknowledged and recorded by the parties in the official records of the County.

14. Notices. Any notice, request, demand, instruction or other communication to be given by either party under this Easement Agreement must be in writing and sent by e-mail and by registered or certified mail or nationally recognized overnight courier as follows:

Grantor Gooch Enterprises, LLC
 1176 North 4500 West

West Point Utah 84015

Grantee: Gooch Enterprises, LLC
1176 North 4500 West
West Point, Utah 84015

Notice is deemed to be given upon receipt or refusal of delivery by the applicable addressee. The addresses and addressees for the purposes of this Section may be changed by giving written notice of such change in a manner provided herein for giving notice. However, until such written notice is actually received, the last address and addressee for such addressee continues in effect for all purposes hereunder.

15. Not a Public Dedication. Nothing herein shall be deemed a dedication of the Easement Area to or for the benefit of the general public whatsoever, it being the intention of the parties hereto that the Easement shall be strictly limited to and for the purposes herein expressed.

16. Public Utility Easement. Grantor grants a public utility easement over the Easement Area for the purposes of installing and maintaining utilities such as power, water, sewer and gas.

17. Miscellaneous.

(a) This Easement Agreement shall be construed in accordance with the laws of the State of Utah.

(b) This Easement Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(c) This Easement Agreement shall bind and inure to the benefit of the parties and their respective successors and permitted assigns, except as restricted by this Easement Agreement.

(d) This Easement Agreement contains the entire understanding of the parties and supersedes any and all other written or oral understanding with respect to the subject matter hereof.

(e) The headings and captions of the paragraphs of this Easement Agreement are for convenience and reference only and in no way define, describe or limit the scope or intent of this Easement Agreement or any of the provisions hereof.

(f) If any provision of this Easement Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or any remaining provision of this Easement Agreement.

(g) The failure of either party hereto to exercise any right, power or remedy provided under this Easement Agreement or otherwise available in respect hereof at law or in

equity, or to insist upon compliance by the other party hereto with its obligations hereunder, and any custom or practice of the parties at variance with the terms hereof, shall not constitute a waiver by such party of its right to exercise any such or other right, power or remedy or to demand such compliance.

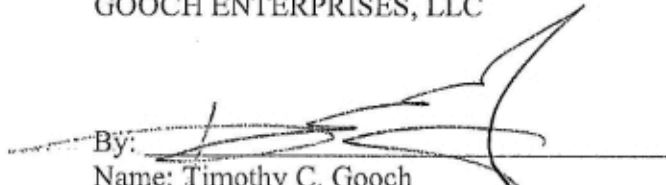
(h) The parties hereto agree that the rule of contract construction that ambiguities are to be construed against the drafter shall not apply to this Easement Agreement and that this Easement Agreement shall be interpreted as though prepared by both parties.

(i) There are no third-party beneficiaries to this Easement Agreement.

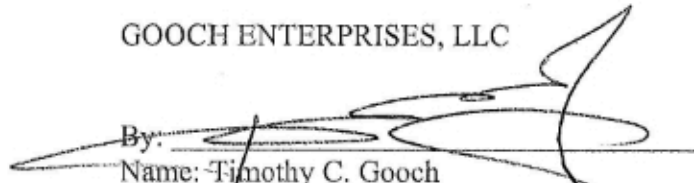
[Signatures on Following Page]

IN WITNESS WHEREOF, the parties hereto have caused this Easement Agreement to be duly executed as of the date first written above.

GRANTOR: GOOCH ENTERPRISES, LLC

By: 
Name: Timothy C. Gooch
Title: Manager

GRANTEE: GOOCH ENTERPRISES, LLC

By: 
Name: Timothy C. Gooch
Title: Manager

State of Utah)
County of ~~Cache~~ Weber)
City

On 2/28/2024, before me, Carrie L Brough, a Notary Public, personally appeared Timothy C. Gooch, who proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature(s) on the instrument the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Utah that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

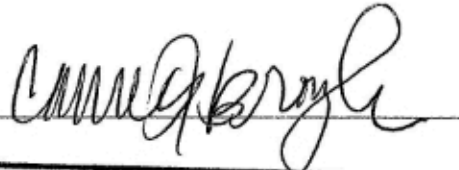
Signature 



EXHIBIT A

LEGAL DESCRIPTION OF EASEMENT AREA

A PART OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 5 NORTH, RANGE 2 WEST OF THE SALT LAKE BASE AND MERIDIAN.
BEGINNING AT A POINT ON THE NORTH RIGHT-OF-WAY LINE OF 1800 NORTH STREET BEING NORTH 89°59'08" WEST 929.99 FEET ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER (BASIS OF BEARING UTAH NORTH, N.A.D. 83 STATE PLANE) AND NORTH 00°00'00" EAST 50.00 FEET FROM THE EAST QUARTER CORNER OF SAID SECTION 30; RUNNING THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE NORTH 89°59'08" WEST 40.00 FEET; THENCE NORTH 00°00'51" EAST 925.00 FEET; THENCE SOUTH 89°59'08" EAST 50.00 FEET TO THE WEST BOUNDARY LINE OF LOT 1 LEGACY STORAGE SUBDIVISION; THENCE ALONG THE WEST LINE OF SAID LOT 1 SOUTH 00°00'52" WEST 33.04 FEET; THENCE NORTH 89°59'08" WEST 10.00 FEET; THENCE SOUTH 00°00'52" WEST 377.02 FEET; THENCE SOUTH 89°59'08" EAST 10.00 FEET TO THE WEST BOUNDARY LINE OF SAID LOT 1; THENCE ALONG SAID WEST LINE SOUTH 00°00'52" WEST 38.00 FEET; THENCE NORTH 89°59'08" WEST 10.00 FEET; THENCE SOUTH 00°00'51" WEST 476.94 FEET TO SAID NORTH RIGHT-OF-WAY LINE AND THE POINT OF BEGINNING.

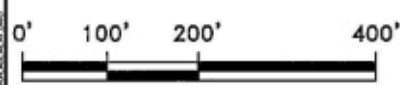
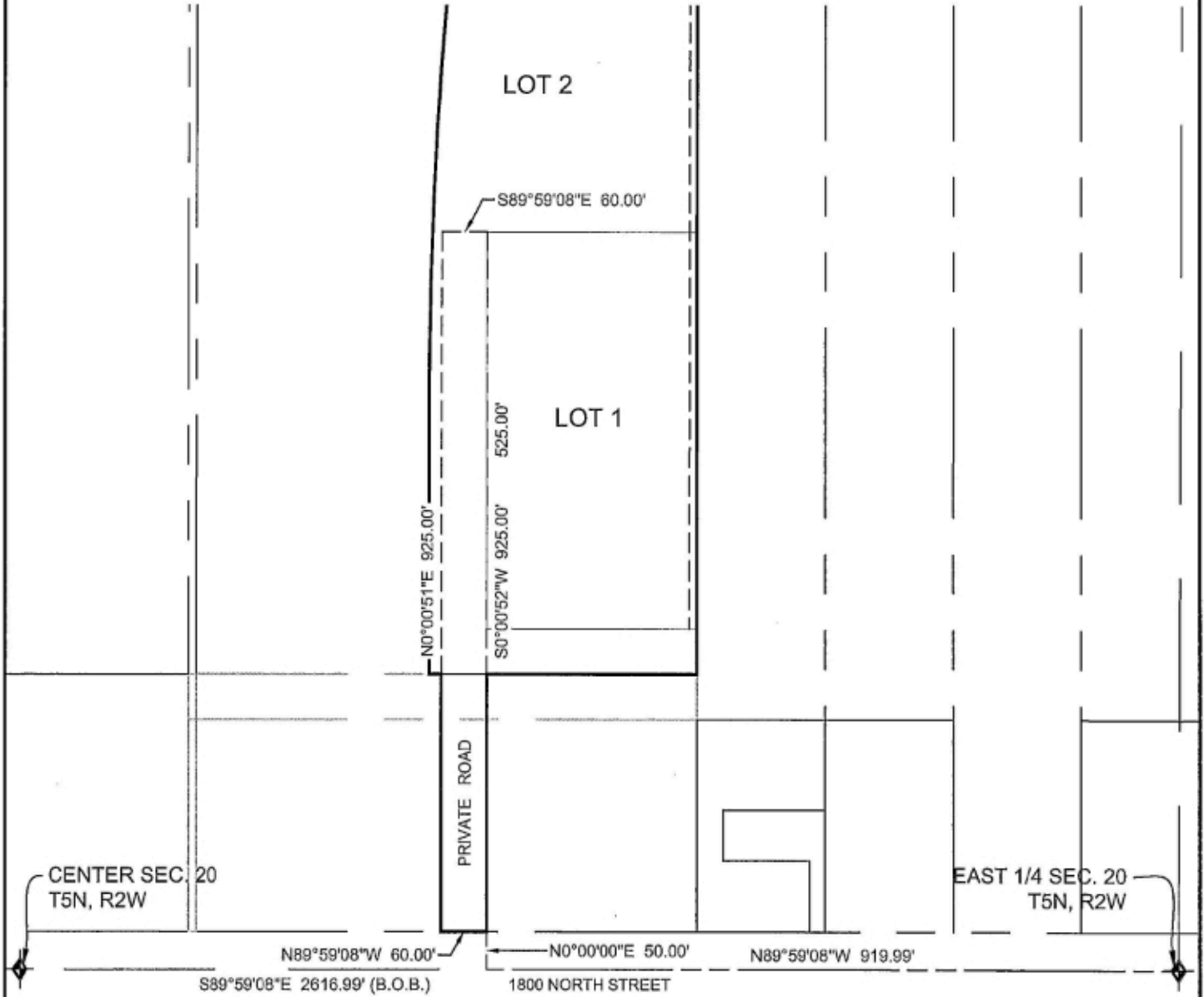
EXHIBIT B
DEPICTION OF EASEMENT AREA

[see attached]

EXHIBIT A

ACCESS EASEMENT

LOCATED IN THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 5
NORTH, RANGE 2 EAST
OF THE SALT LAKE BASE AND MERIDIAN



Scale in Feet
1" = 200'

GARDNER ENGINEERING
CIVIL • LAND PLANNING
MUNICIPAL • LAND SURVEYING
5150 SOUTH 375 EAST OGDEN, UT
OFFICE: 801.476.0202 FAX: 801.476.0060



LEGEND

- DAVIS COUNTY MONUMENT AS NOTED
- SET 24" REBAR AND CAP
- MARKED GARDNER ENGINEERING
- SUBJECT PROPERTY BOUNDARY
- LOT LINE
- ADJACENT PARCEL
- SECTION LINE
- EASEMENT
- EXISTING FENCE LINE