

WHEN RECORDED RETURN TO:

Larry G. Moore
Ray, Quinney & Nebeker
P.O. Box 45385
Salt Lake City, Utah 84145-0385

00497501 B#00960 Pg00294-00300
PATSY CUTLER - IRON COUNTY RECORDER
2005 JAN 27 16:15 PM FEE \$22.00 BY DBJ
REQUEST: BRIAN HEAD SKI LTD

**SKI LIFT EASEMENT AND
COVENANT OF EQUITABLE SERVITUDE**

KNOWN ALL MEN BY THESE PRESENTS:

That the undersigned Brian Head Town, a Utah municipality ("Grantor"), its successors and assigns, for Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants, conveys, bargains and sells unto Brian Head Ski, Ltd., a Utah limited partnership, whose address is P.O. Box 190008, Brian Head, Utah 84719-0008 ("Grantee"), its successors and assigns, a perpetual easement, right of way and right on, over, above and across the property located in Section 1, Township 36 South, Range 9 West, SLBM, in Brian Head, Iron County, Utah, more particularly described on Exhibit "A" attached hereto and incorporated herein, for the purposes of the installation, construction, operation, repair, maintenance and replacement of a ski lift with related lift towers, chairs and overhead cables and lines, at the location depicted on the site plan attached hereto as Exhibit "B" and incorporated herein by this reference.

This easement shall also include the following rights: (i) ingress and egress and crossing, on the lift only, by skiers, snow boarders, bikers and others engaging in recreational outdoor activities as customers and other bona fide patrons of Grantee; but excluding the use of the ground surface of the easement by such persons; (ii) the construction of related improvements necessary to the construction and maintenance of the ski lift; (iii) leveling, filling, removing rocks and other irregular terrain factors as reasonably necessary to accommodate the construction, maintenance, and repair of the ski lift; and (iv) the operation, maintenance, upkeep and repair of the property subject to this easement including taking equipment onto the property as needed by Grantee to accomplish the purposes of this easement. The easement shall be for the use and benefit of Grantee, and its employees, agents, representatives, successors and assigns. The easement shall not create rights in the public generally nor anyone else that, in the sole determination of Grantee, is not specifically authorized to use Grantee's ski lift. Grantor shall retain title to, all ownership rights in, and use of the property subject to the easement but shall not use the property in any way which interferes with the easement herein conveyed unless contamination caused by Grantee's use, or the imminent prospect of contamination to the Grantor's water source can be demonstrated by competent engineering requiring Grantor to protect the property and the springs, water sources and facilities of Grantor currently existing or constructed in the future. In entering into this easement agreement, it is the Grantor's intent not to disrupt the Grantee's use of the easement. However, at such time as Grantor has sufficient information to establish either contamination of its property or causation associated with Grantee's use, Grantor shall give written notice of such information and any intent to restrict Grantee's use. Grantee may thereafter submit a remediation plan to Grantor, supported by competent

engineering, which Grantor shall consider as an alternative to any restriction or disruption to Grantee's use. Consideration and implementation of Grantee's remediation plan as an alternative to restriction or disruption of Grantee's use shall not be unreasonably withheld. Any and all costs incurred in the preparation and implementation of Grantee's remediation plan shall be born exclusively by Grantee. In the event Grantor is required to take action restricting or interrupting Grantee's use, any such restriction or interruption shall terminate upon the demonstrated abatement of the contamination prompting the restriction. However, it is recognized that remediation and preventative measures may require that Grantee's use be permanently restricted. In such event, any permanent restriction will be limited to that necessary to remediate or prevent contamination of the Town's water supply and sources. Notwithstanding any of the foregoing, nothing herein shall limit Grantor's police powers to protect its water sources and facilities.

Grantee may release this grant of easement and right of way any time by filing a release of same with the Iron County Recorder.

Grantee acknowledges that a portion of the property underlying this easement, as described as "Lift Easement #2" on Exhibits A and B, is within the Town's source protection and spring protection zones as a portion of the Town's culinary water source lies within this area. The Grantee shall be responsible to assure compliance, by itself and its employees, agents, representatives, patrons, customers and all other persons using the lift or the easement property as part of the activities herein authorized with all applicable laws, ordinances, policies and programs, including, without limitation, those with regard to such source protection and spring protection. Grantee will comply with all applicable Brian Head Town ordinances and state, federal and county laws in the activities allowed under the terms and conditions of this easement. Specifically, Grantee acknowledges that the Drinking Water Source Protection Plan, of May 2002, provides certain restrictions regarding activities conducted in the affected water source protection zone(s). Grantee agrees that it will comply with all provisions set forth under the Drinking Water Source Protection Plan, May 2002, and any subsequent amendments adopted thereto, as may relate to the easement area, as may be required or requested by the State of Utah, as may be required to comply with or maintain compliance with applicable water standards, or as may be required by the Town in the exercise of its police powers to protect the water sources or facilities. In addition, Grantee agrees that it will comply with the applicable Brian Head Town building permit ordinances and procedures in effect at such time as Grantee submits an application for building permit for the subject ski lift. In addition to the above, Grantee agrees that plans for any construction or other activities within the easement area shall be submitted to the Town, in writing and including detailed construction plans no later than six months prior to the desired date of commencement of construction or other activities. It is further a condition of the grant of the easement hereunder that the Town shall have the authority to choose and maintain, at the Grantee's expense, an inspector to be present on sight at all times the Grantee is engaged in construction, reconstruction, major repair or major maintenance activities within the portion of the easement described as the "Lift Easement #2" on Exhibits A and B. Such inspector shall be empowered to oversee and direct the construction, reconstruction, major repair or major maintenance activities of the Grantee as necessary to assure compliance with the process or processes of the Town with regard to construction approvals, inspections, plan checks, monitoring of construction or use related to such activities. Additionally, whenever the Grantee is within the portion of the easement

described as the "Lift Easement #2" on Exhibits A and B and is engaged in any other construction, reconstruction, repair or maintenance activities or is present with mechanical equipment or any substance which may pose a danger to the Town's water sources, the Grantee shall keep a written log of such activities to include the date, time, persons and activities involved and a list by name and amount of any contaminants brought onto or over such portion of the easement. Such log shall be available to the Town upon the Town's request. In the event that there is any accident, contamination or other event within the easement property during or related to any activities carried on by Grantee hereunder and which may pose a threat, danger or detriment to the Town's springs or water supply, Grantee shall, as soon as reasonably possible, notify the Town, verbally and in writing, of the details and circumstances of such event. Grantee shall, within a reasonable time following disturbance, revegetate any disturbed areas resulting from the installation or maintenance of facilities as near as reasonably feasible to their natural appearance.

Grantee agrees to indemnify Grantor, and its successors and assigns, from claims, liabilities, suits, costs, demands, actions and causes of action of any kind or nature resulting from the use of this easement by Grantee and such other persons as specified by this easement. Grantee will assure that use of the easement is restricted to the activities set forth above and that such activities will be restricted to the easement area. Grantee shall be liable to Grantor for any and all damages of any kind caused by contamination to, interference with, or with regard to, the applicable springs or culinary water sources attributable to the Grantee or its employees, agents, representatives, successors, assigns, patrons, customers and all other persons using the lift or the easement property as part of the activities herein authorized.

This easement and the covenants, restrictions, conditions and rights contained herein shall be construed as covenants of equitable servitude which shall run with and bind the land which is the subject of this easement. All rights, obligations and powers of the Grantee herein contained may be delegated, transferred, or assigned in full, however, no partial delegation, transfer or assignment shall be allowed. In the event of any transfer of all of Grantee's rights, obligations and powers, the Grantee shall be relieved, from and after the date of transfer, of all liability and obligations arising after such transfer in relation to this agreement, and the successor or assignee shall have all the rights, obligations and powers of Grantee herein. Nothing in the foregoing shall relieve the Grantee from liability for damages or from compliance with any of the terms of this agreement with regard to any event occurring prior to the date of any assignment, delegation or transfer.

This easement is intended to supersede and replace that certain prior easement granted by Grantor to Grantee and recorded December 31, 2002 as Entry No. 458548 in the official records of the Iron County, Utah Recorder's Office (the "prior easement"). At such time as the Grantee utilizes this easement, Grantee will record a notice of termination of the prior easement. If this easement is not used within five (5) years of the date of its recording, Grantee will record a termination of the prior easement and will rely exclusively on this easement.

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IN WITNESS WHEREOF, Grantor and Grantee have executed this instrument this 25th day of January, 2005.

GRANTOR:

GRANTEE:

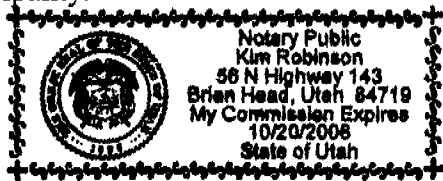
By: H.C. Deutschlander
H.C. Deutschlander
Mayor

By: Burke Wilkerson
Burke Wilkerson
Secretary/Treasurer, Brian Head
Resort, Inc., General Partner

ACKNOWLEDGEMENTS

STATE OF UTAH }
 : ss
COUNTY OF IRON }

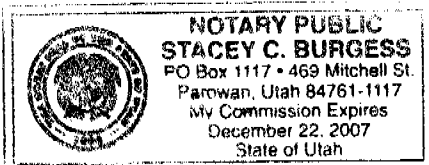
On the 25th day of January 2005, personally appeared before me H.C. Deutschlander, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same, as duly authorized Mayor of Brian Head Town, a Utah Municipality.



Kim Robinson
Notary Public
Residing at: 56 N. Hwy 143, Brian Head, UT 84719

STATE OF UTAH }
 : ss
COUNTY OF IRON }

On the 12 day of January 2005, personally appeared before me Burke Wilkerson, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same, as duly authorized Secretary/Treasurer of Brian Head Resort, Inc., General Partner of Brian Head Ski, Ltd.



Stacey C. Burgess
Notary Public
Residing at: POB 1117, Parowan, Utah, 84761

00497501 Bk00960 Pg00297

Exhibit "A"

EASEMENT DESCRIPTIONS

EASEMENT #2 (0.183 ACRES) - BRIAN HEAD TOWN CORPORATION

BEGINNING S00°13'33"E, 304.02 FEET ALONG THE SECTION LINE AND S54°29'12"W, 1450.88 FEET FROM THE E1/4 CORNER OF SECTION 1, T36S, R9W, SLM; THENCE S54°29'12"W, 159.53 FEET; THENCE N00°05'31"W, 61.36 FEET ALONG THE 1/16TH SECTION LINE; THENCE N54°29'12"E, 159.53 FEET; THENCE S00°13'33"E, 61.36 FEET ALONG THE WEST LINE OF STEAM ENGINE MEADOWS, PHASE 1, AMENDED TO THE POINT OF BEGINNING.

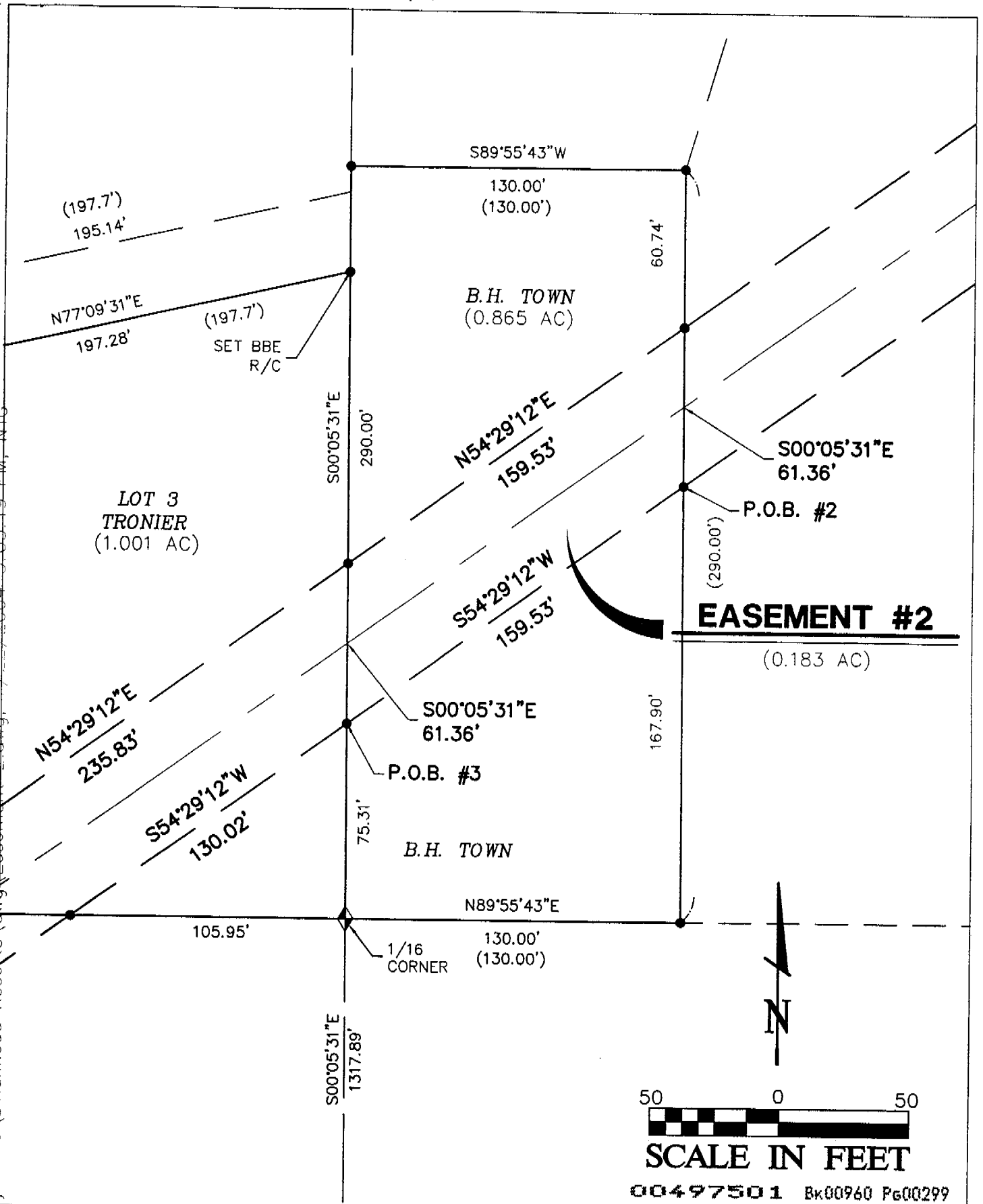
EASEMENT #4 (0.717 ACRES) - BRIAN HEAD TOWN CORPORATION

BEGINNING S00°13'33"E, 304.02 FEET ALONG THE SECTION LINE AND S54°29'12"W, 1740.43 FEET FROM THE E1/4 CORNER OF SECTION 1, T36S, R9W, SLM; THENCE S54°29'12"W, 676.06 FEET; THENCE N00°01'32"W, 61.41 FEET ALONG THE 1/64TH SECTION LINE; THENCE N54°29'12"E, 571.29 FEET; THENCE N89°55'43"E, 86.23 FEET ALONG THE 1/16TH SECTION LINE TO THE POINT OF BEGINNING.

00497501 Bk00960 P600298

Exhibit "B"

C:\Land\Projects\3\Brianhead Resorts\dwg\Easement 2.dwg, 7/22/2004 3:05:19 PM, NTG



50 0 50

SCALE IN FEET

00497501 Bk00960 Pg00299

| | |
|-----------|----------|
| DATE | SCALE |
| 07/22/04 | 1"=50' |
| SHEET NO. | DRAWN BY |
| 2 OF 4 | NTG |

EXHIBIT FOR
EASEMENT 2 / TRANSPORT LIFT
FOR
BRIAN HEAD RESORT
SEC 1, T36S, R9W, S14M, IRON COUNTY, BRIAN HEAD, UTAH

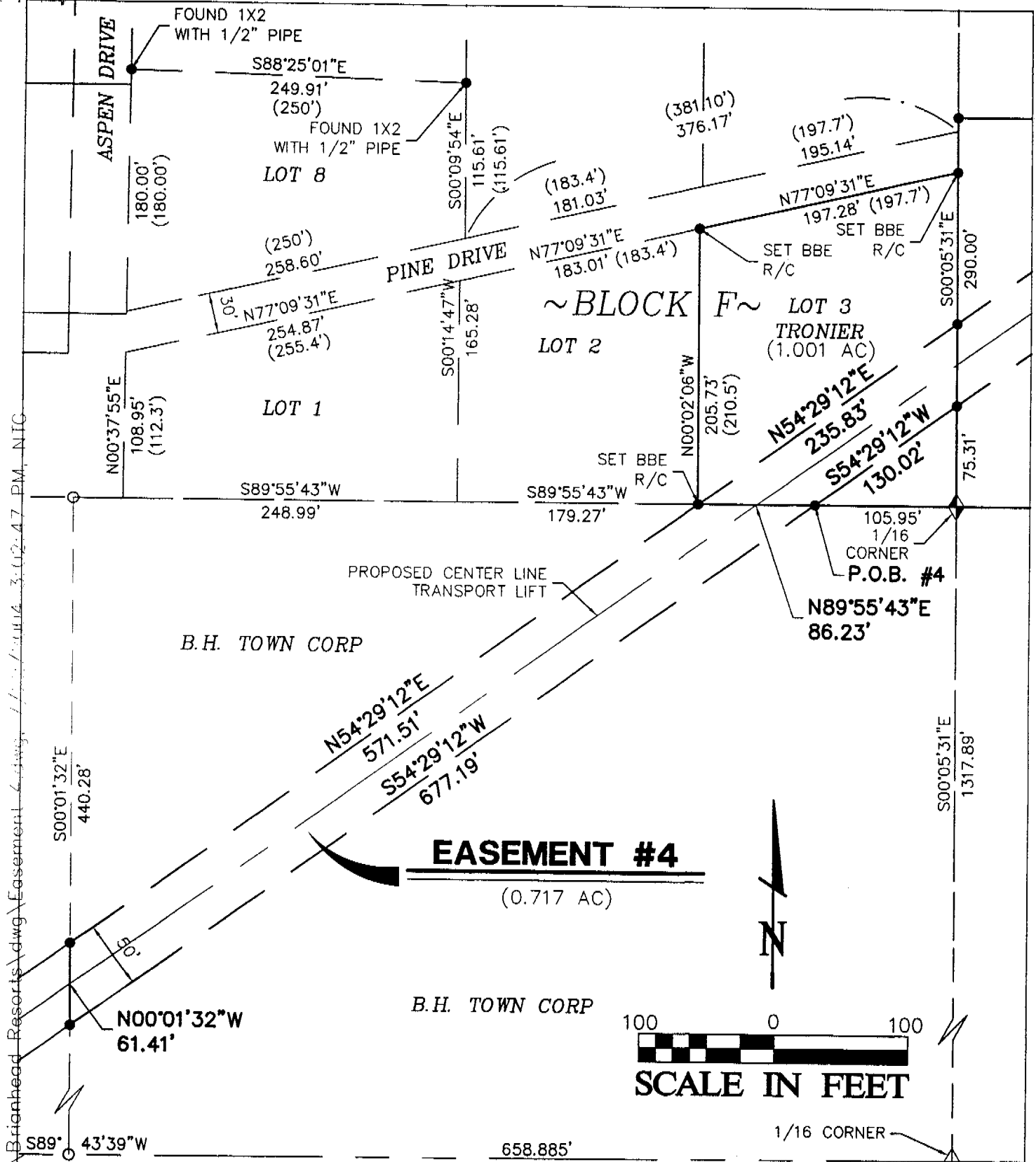


BULLOCH BROTHERS ENGINEERING INC.

- CIVIL ENGINEERS -
- LAND SURVEYORS -
- LAND PLANNERS -
- www.bullochbrothers.com -


| REVISIONS | | | |
|-----------|-------------|------|----|
| NO | DESCRIPTION | DATE | BY |
| | | | |
| | | | |
| | | | |

Exhibit "B"



C:\Users\Projects\3\Brianhead Resorts\dwg\Easement 4.dwg / 3/12/04 3:02:47 PM, NIC

N89°43'39"E 2635.54' (BASIS OF BEARINGS)
 (N89°43'39"E - 2635.20' ROSEN)
 00497501 Bk00960 Pg00300

| | | | | | | | |
|---------------------|------------------|---|---|---|-----------|-------------|------|
| DATE 07/22/04 | SCALE 1"=100' | EXHIBIT FOR EASEMENT 4 / TRANSPORT LIFT FOR BRIAN HEAD RESORT SEC 1, T36S, R9W, S1M, IRON COUNTY, BRIAN HEAD, UTAH |  | BULLOCH BROTHERS ENGINEERING INC. - CIVIL ENGINEERS - - LAND SURVEYORS - - LAND PLANNERS - www.bullochbrothers.com | REVISIONS | | |
| SHEET NO. 4 OF 4 | DRAWN BY NTG | | | | NO | DESCRIPTION | DATE |