

WHEN RECORDED RETURN TO:

State of Utah, School and Institutional Trust Lands Administration  
Attn: Development Group  
675 East 500 South, Suite #500  
Salt Lake City, Utah 84102

00502821 Bk00972 Pg00874-00881  
FATSY CUTLER - IRON COUNTY RECORDER  
2005 MAY 03 16:37 PM FEE \$25.00 BY DBJ  
REQUEST: FIRST AMERICAN TITLE/CEDAR CITY

4477437

EASEMENT AND AGREEMENT

THIS EASEMENT AND AGREEMENT (the "Agreement") is entered into effective this 27<sup>th</sup> day of April, 2005, by and between Providence Quantum Partners L.C. ("P.Q.P."), an entity qualified to do business in Utah, 288 N. Westview Drive, Cedar City, Utah 84720 and the State of Utah, acting by and through the School and Institutional Trust Lands Administration, 675 East 500 South, Suite #500, Salt Lake City, Utah 84102 (the "Trust Lands Administration").

**Recitals**

A. P.Q.P. is the owner of certain lands located in Cedar City, Iron County, Utah (the "P.Q.P. Property") that are near to and provide access to the Trust Lands Administrations' master planned community known as Cross Hollow ("Cross Hollow").

B. The Trust Lands Administration is the owner of certain lands located in Cross Hollow (the "Trust Lands Administration Property").

NOW, THEREFORE, in consideration of the covenants set forth herein, the payment of Fifty dollars (\$50.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, P.Q.P. and the Trust Lands Administration agree as follows:

1. Grant of Easement. P.Q.P. hereby grants and conveys to the Trust Lands Administration, its successors and assigns, a right-of-way (the "Easement") across the P.Q.P. Property, the location of which is described in Exhibit "A" and depicted in Exhibit "B" to this Agreement (the "Easement area"), and incorporated herein by reference, for the benefit of the Trust Lands Administration Property. Said Easement shall serve as and accommodate road access, curb and gutter, sidewalks, park strips and a park strip median for the use of the general public and provide for a public utility easement on each side of the roads. Said Easement shall accommodate the construction, installation and maintenance of utilities, including the construction, placement and installation of utilities (to include lines, apparatus and facilities for electric power, natural gas, culinary water, irrigation water, sanitary sewer, telephone, cable and other electronic transmission) within and along the Easement area and the right to repair, maintain, inspect, alter, enlarge, relocate and replace the same from time to time. This Easement shall also accommodate any grading, filling and excavation work, or any other construction requirements imposed by any government entities

having jurisdiction over the construction of the road. This Easement shall run in perpetuity, except as provided for in paragraph 6 herein.

2. Access Road. It is the understanding of the parties that a roadway suitable for access by the general public shall be constructed over the Easement area (the "Access Road"). It is the parties' intent that the Access Road shall be built in such a manner as to accommodate two lanes of traffic in both directions, along with curb and gutter, park strips, sidewalks, a park strip median wide enough to accommodate a turn lane to provide access as required by P.Q.P. to its' adjoining property, and a public utility easement on both sides of the road. The parties agree that the Easement area may expand over and across the P.Q.P. Property which is immediately adjacent to the Easement area if such an expansion is necessary to fulfill the purposes of this grant. Such expansion is expressly authorized by this Agreement, and shall not require any additional written agreement between the parties.

3. Dedication of Access Road. The parties agree that, at the time a road dedication plat accomplishing the dedication of the Access Road and utility corridors to the city of Cedar City becomes available, P.Q.P. shall sign said road dedication plat. The road dedication plat shall then be filed with the city of Cedar City in accordance with all applicable city requirements. In the event the city of Cedar City does not desire to accept the dedication of the Access Road, P.Q.P. agrees that the Trust Lands Administration has the right to construct the Access Road and other improvements upon the Easement area in order to fulfill the purposes of this grant. The Access Road and all improvements built upon the Easement area will be constructed in accordance with those standards and requirements of the city of Cedar City.

4. Relocation of Easement. Prior to the completion of construction of the Access Road, the Trust Lands Administration shall have the right to relocate or modify the Easement area, in whole or in part, up to twenty five (25) feet from the location described herein, as may be necessary to accommodate obstructions, subsurface conditions, unanticipated geological conditions and variations in terrain, and other design and constructions issues.

5. Covenants Run with Land. The Easement provided for in this Agreement shall (a) create an equitable servitude on the burdened parcel in favor of the benefited parcel, and (b) constitute a covenant running with the land.

6. Alternate Easement. The parties agree that, if at some future time the Trust Lands Administration and P.Q.P. or other related entity partner in the development of the Trust Lands Administration Property, P.Q.P. will issue to the Trust Lands Administration an alternate easement (the "Alternate Easement") over the P.Q.P. Property to benefit the Trust Lands Administration Property, the location of which is described in Exhibit "A" and depicted in Exhibit "C" to this Agreement and incorporated herein by reference. If the Alternate Easement is issued, it is the

parties' intent that an access road be built in a manner consistent with and as described in Paragraph 2 herein. The Alternate Easement would be granted to the Trust Lands Administration in perpetuity and would run with the land. If the Alternate Easement is issued by P.Q.P., the Trust Lands Administration, its successors and assigns, shall relinquish and forever abandon any claims to the Easement provided for in this Agreement. Such relinquishment shall be provided in writing, upon P.Q.P.'s request.

7. Consent to Suit in Utah Courts. P.Q.P. and the Trust Lands Administration consent to suit solely in the courts of the State of Utah in any dispute arising under this Agreement or as a result of operations carried on under the Easement. Service of process in any such action is hereby agreed to be sufficient if sent by registered mail to P.Q.P. or the Trust Lands Administration at the last known address of P.Q.P. or the Trust Lands Administration appearing on the Trust Lands Administration's records.

8. Assignment of Easement Subject to Consent. The acquisition or assumption by another party under an agreement with the Trust Lands Administration of any right or obligation of the Trust Lands Administration hereunder shall be ineffective as to P.Q.P. unless and until P.Q.P. shall have been notified of such agreement and shall have recognized and approved the same in writing, and in no case shall such recognition or approval: (i) operate to relieve the Trust Lands Administration of the responsibilities or liabilities assumed by the Trust Lands Administration hereunder; (ii) be given unless such other party is acceptable to P.Q.P. as a grantee, and assumes in writing all of the obligations of the Trust Lands Administration under the terms of this Agreement as to the balance of the term thereof, or acquires the rights in trust as security and subject to such conditions as may be necessary for the protection of the public interests; or (iii) be unreasonably withheld by P.Q.P..

9. Prevention of Fire. The Trust Lands Administration shall at all times observe reasonable precautions to prevent fire on the Easement premises and shall comply with all applicable laws and regulations of any governmental agency having jurisdiction.

10. No Waste. The Trust Lands Administration, in exercising the privileges granted by this Easement, shall comply with the provisions of all valid Federal, State, County, and Municipal laws, ordinances, and regulations which are applicable to the operations covered by this Easement. The Trust Lands Administration shall neither commit nor permit any waste on the Easement premises. The Trust Lands Administration shall take reasonable precautions to prevent pollution or deterioration of lands or waters which may result from the exercise of the privileges granted pursuant to this Easement.

11. Non-Exclusive Right. It is expressly understood and agreed that the right herein granted is non-exclusive and P.Q.P. hereby reserves the right to issue other non-exclusive easements or leases on or across the Easement premises where such uses are appropriate and compatible or to dispose of the property by sale or exchange.

12. Warranty of Title. P.Q.P. claims title in fee simple to the Easement Premises, and warrants to the Trust Lands Administration the validity of title to these premises.

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13. Governing Law. This Easement and Agreement shall be interpreted and governed by the laws of the State of Utah and the provisions hereof shall inure to and be binding upon the successors and assigns of the Trust Lands Administration.

14. Notice. Any notice contemplated herein to be served upon the Trust Lands Administration shall be in writing and shall be deemed sufficient if deposited in the United States mail, postage prepaid and certified or registered, and addressed as follows:

State of Utah  
School and Institutional  
Trust Lands Administration  
675 East 500 South, Suite 500  
Salt Lake City, Utah 84102

or at any such other address as the Trust Lands Administration may from time to time designate by written notice to P.Q.P...

IN WITNESS WHEREOF, Providence Quantum Partners L.C., has caused these presents to be executed this 27<sup>th</sup> day of April, 2005.

GRANTOR: Providence Quantum Partners L.C.

By: 

Its: Manager

GRANTEE: STATE OF UTAH  
School and Institutional  
Trust Lands Administration  
675 East 500 South, Suite 500  
Salt Lake City, Utah 84102-2818

By: 

KEVIN S. CARTER, DIRECTOR

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APPROVED AS TO FORM  
MARK L. SHURTLEFF  
ATTORNEY GENERAL

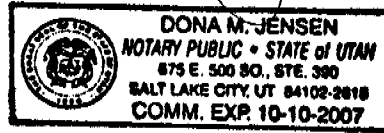
BY: Michelle E. McConkie  
Michelle E. McConkie  
Special Assistant Attorney General

STATE OF \_\_\_\_\_ )  
  ):§  
COUNTY OF \_\_\_\_\_ )

On the 26<sup>th</sup> day of April, 2005, personally appeared before me  
Thomas A. Pugh, who being duly sworn did say that he is the  
MANAGER of Providence Quantum Partners L.C., and authorized to execute this  
instrument.

My commission expires: 10-10-07

Donna M. Jensen  
Notary Public, residing at: Salt Lake County



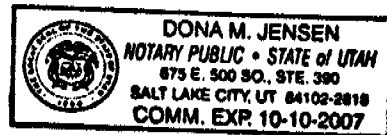
STATE OF UTAH \_\_\_\_\_ )  
  ):§  
COUNTY OF SALT LAKE \_\_\_\_\_ )

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On the 27<sup>th</sup> day of April, 2005, personally appeared before me  
Kevin S. Carter, who being duly sworn did say that he is the Director of the Utah School and  
Institutional Trust Lands Administration, and authorized to execute the above instrument.

My commission expires: 10-10-07

Donna M. Jensen  
Notary Public, residing at: Salt Lake County



## EXHIBIT A – Legal Descriptions

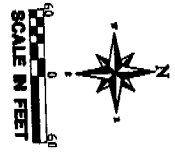
### EASEMENT:

BEGINNING AT A POINT LOCATED N01°09'20"W ALONG THE SECTION LINE 480.12 FEET AND N90°00'00"E, 218.61 FEET FROM THE SOUTHWEST CORNER OF SECTION 22, TOWNSHIP 36 SOUTH, RANGE 11 WEST OF THE SALT LAKE BASE MERIDIAN.; SAID POINT LOCATED ON THE WEST RIGHT-OF-WAY LINE OF PROVIDENCE CENTER DRIVE; THENCE N65°38'23"W, 92.00 FEET TO A CURVE TO THE LEFT, HAVING A RADIUS OF 209.00 FEET AND A CENTRAL ANGLE OF 02°41'52"; THENCE NORTHWESTERLY ALONG SAID CURVE 9.84 FEET; THENCE N68°20'15"W, 385.74 FEET TO A CURVE TO THE LEFT, HAVING A RADIUS OF 319.00 FEET AND A CENTRAL ANGLE OF 54°12'00"; THENCE WESTERLY ALONG SAID CURVE 301.76 FEET; THENCE N02°37'28"W, 140.36 FEET TO A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 381.00 FEET, AND A CENTRAL ANGLE OF 46°01'36". (RADIUS POINT BEARS S24°21'51"E); THENCE EASTERLY ALONG SAID CURVE 306.06 FEET; THENCE S68°20'15"E, 428.01 FEET TO A CURVE TO THE RIGHT, HAVING A RADIUS OF 321.00 FEET AND A CENTRAL ANGLE OF 02°41'52"; THENCE SOUTHEASTERLY ALONG SAID CURVE 15.11 FEET; THENCE S65°38'23"E, 95.41 FEET TO A NON-TANGENT CURVE TO THE LEFT, SAID CURVE BEING THE WEST RIGHT-OF-WAY LINE OF PROVIDENCE CENTER DRIVE, HAVING A RADIUS OF 1,084.93 FEET, AND A CENTRAL ANGLE OF 05°55'13". (RADIUS POINT BEARS S60°56'04"E); THENCE SOUTHWESTERLY ALONG SAID RIGHT-OF-WAY 112.10 FEET TO THE POINT OF BEGINNING. CONTAINING 2.18 ACRES.

### ALTERNATE:

BEGINNING AT A POINT LOCATED N01°09'20"W ALONG THE SECTION LINE 129.94 FEET AND N90°00'00"E 126.91 FEET FROM THE SOUTHWEST CORNER OF SECTION 22, TOWNSHIP 36 SOUTH, RANGE 11 WEST OF THE SALT LAKE BASE MERIDIAN. SAID POINT LOCATED ON THE WEST RIGHT-OF-WAY LINE OF PROVIDENCE CENTER DRIVE; SAID POINT ALSO BEING ON A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 40.00 FEET, AND A CENTRAL ANGLE OF 86°11'11". (RADIUS POINT BEARS N85°57'53"W); THENCE NORTHWESTERLY ALONG SAID CURVE 60.17 FEET; THENCE N82°09'04"W, 34.11 FEET TO A CURVE TO THE RIGHT, HAVING A RADIUS OF 221.00 FEET AND A CENTRAL ANGLE OF 81°18'15"; THENCE NORTHWESTERLY ALONG SAID CURVE 313.61 FEET; THENCE N00°50'48"W, 188.17 FEET TO A CURVE TO THE LEFT, HAVING A RADIUS OF 79.00 FEET AND A CENTRAL ANGLE OF 67°29'26"; THENCE NORTHWESTERLY ALONG SAID CURVE 93.06 FEET; THENCE N68°20'15"W, 55.30 FEET TO A CURVE TO THE LEFT, HAVING A RADIUS OF 329.00 FEET AND A CENTRAL ANGLE OF 53°12'11"; THENCE WESTERLY ALONG SAID CURVE 305.50 FEET; THENCE N02°37'28"W, 118.09 FEET TO A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 371.00 FEET, AND A CENTRAL ANGLE OF 46°38'38". (RADIUS POINT BEARS S24°58'53"E); THENCE EASTERLY ALONG SAID CURVE 302.03 FEET; THENCE S68°20'15"E, 97.57 FEET TO A CURVE TO THE RIGHT, HAVING A RADIUS OF 171.00 FEET AND A CENTRAL ANGLE OF 67°29'26"; THENCE SOUTHEASTERLY ALONG SAID CURVE 201.43 FEET; THENCE S00°50'48"E, 188.17 FEET TO A CURVE TO THE LEFT, HAVING A RADIUS OF 129.00 FEET AND A CENTRAL ANGLE OF 81°18'15"; THENCE SOUTHEASTERLY ALONG SAID CURVE 183.05 FEET; THENCE S82°09'04"E, 35.82 FEET TO A CURVE TO THE LEFT, HAVING A RADIUS OF 40.00 FEET AND A CENTRAL ANGLE OF 85°02'39"; THENCE NORTHEASTERLY ALONG SAID CURVE 59.37 FEET TO A NON-TANGENT CURVE TO THE LEFT, SAID CURVE BEING THE WEST RIGHT-OF-WAY LINE OF PROVIDENCE CENTER DRIVE; HAVING A RADIUS OF 1,084.93 FEET, AND A CENTRAL ANGLE OF 08°46'10". (RADIUS POINT BEARS S77°11'43"E); THENCE SOUTHERLY ALONG SAID CURVE 166.05 FEET TO THE POINT OF BEGINNING. CONTAINING 2.28 ACRES.

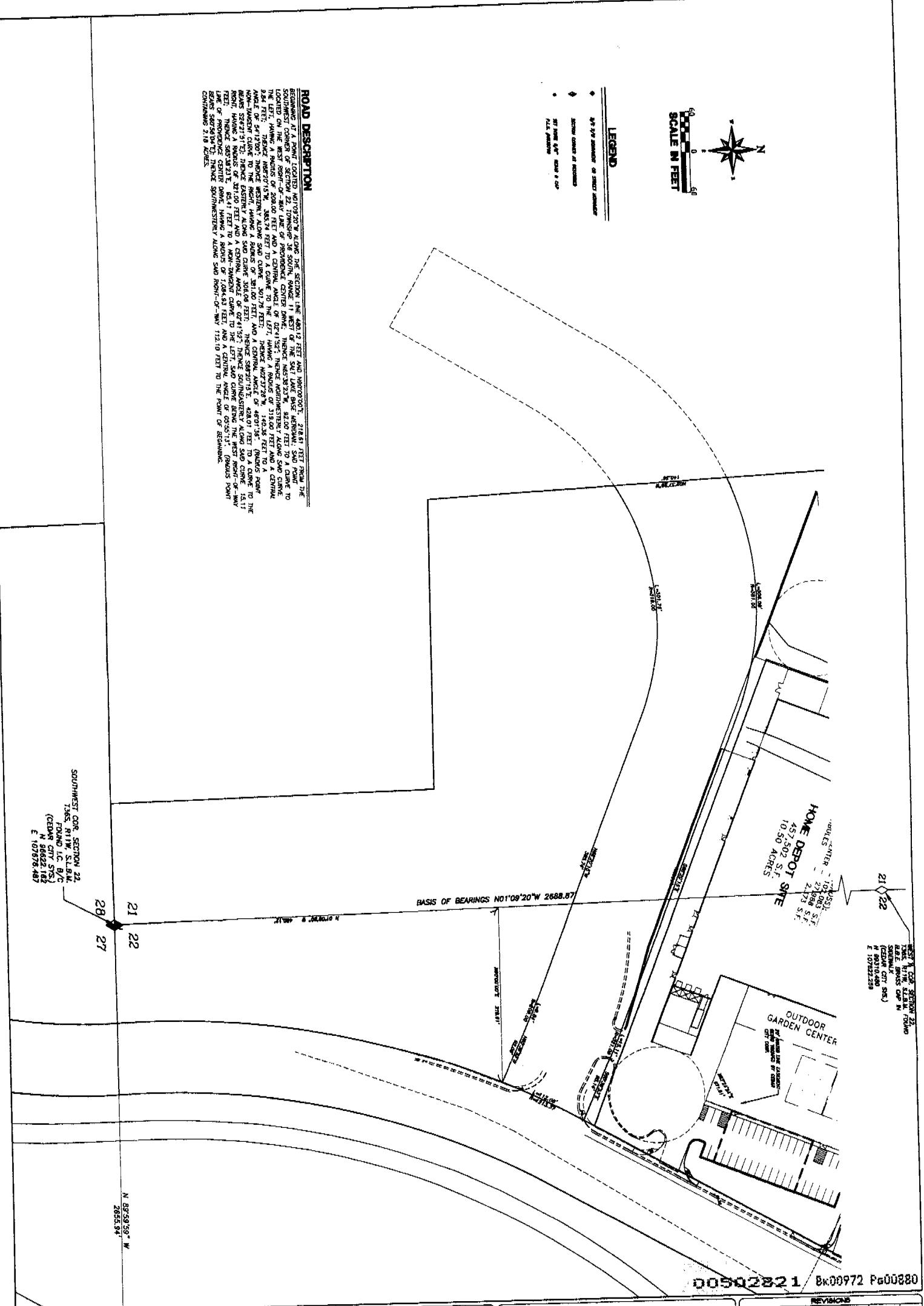
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**LEGEND**

- ◆ 6 1/4" DIA. MANHOLE OF EXISTING SEWER
- ◆ EXISTING CORNER OF RESUBDIVISION
- ◆ 30" DIAM. 4" DEPT. CONCRETE CURB
- ◆ 24" DIAM. 6" DEPT. CONCRETE CURB
- ◆ 18" DIAM. 6" DEPT. CONCRETE CURB

**ROAD DESCRIPTION**  
 BEGINNING AT A POINT LOCATED N01°09'20"W ALONG THE SECTION LINE AND 12 FEET AND 1000.00 FT., 218.61 FEET FROM THE SOUTHWEST CORNER OF SECTION 22, TOWNSHIP 33 N., RANGE 11 WEST OF THE 6TH MAIN MERIDIAN, SAID POINT TO THE POINT OF BEGINNING OF THE LINE OF PROVISIONAL CENTER DRIVE, THENCE N65°30'23"W, 582.00 FEET TO A CORNER OF THE LEFT, HAVING A POINT OF 200.00 FEET AND A CENTRAL ANGLE OF 02°41'52". THENCE N02°29'23"W, 310.00 FEET AND A CENTRAL ANGLE OF 94°47'15"W, 308.74 FEET TO A CORNER ON THE LEFT, THENCE N02°37'28"W, 140.38 FEET TO A CENTRAL ANGLE OF 54°12'07" THENCE WESTWARD ALONG A BOUNDARY OF 310.00 FEET AND A CENTRAL ANGLE OF 48°07'35". (ROUND POINT NORTH) THENCE S82°11'17"E, HENCE EXTENSIVELY ALONG SAID CURVE 308.00 FEET, THENCE S82°07'12"E, 420.00 FEET TO THE POINT OF BEGINNING OF THE LINE OF PROVISIONAL CENTER DRIVE, HENCE EASTWARD ALONG SAID CURVE 15.11 FEET, HAVING A POINT OF 21.00 FEET AND A CENTRAL ANGLE OF 02°41'52". THENCE S02°11'17"E, 420.00 FEET TO THE POINT OF BEGINNING OF THE LINE OF PROVISIONAL CENTER DRIVE, HENCE WESTWARD ALONG SAID CURVE 104.43 FEET, AND A CENTRAL ANGLE OF 03°55'11". (ROUND POINT NORTH) THENCE S02°11'17"E, 420.00 FEET TO THE POINT OF BEGINNING OF THE LINE OF PROVISIONAL CENTER DRIVE, HENCE WESTWARD ALONG SAID CURVE 104.43 FEET, AND A CENTRAL ANGLE OF 03°55'11". (ROUND POINT NORTH) THENCE WESTWARD ALONG SAID CURVE 104.43 FEET, AND A CENTRAL ANGLE OF 03°55'11". (ROUND POINT NORTH) THENCE WESTWARD ALONG SAID CURVE 104.43 FEET, AND A CENTRAL ANGLE OF 03°55'11". (ROUND POINT NORTH) CONTAINING 2.19 ACRES.



SOUTHWEST COR. SECTION 22  
 136S. R11W, S13B.M.  
 (CEDAR CITY SYS.)  
 N 88822.182  
 E 107578.487

WEST 1/4 COR. SECTION 22  
 T33S. R11W, S13B.M.  
 (CEDAR CITY SYS.)  
 N 88822.182  
 E 107578.487

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**EXHIBIT "B"**  
**Easement**

**InSite Engineering, P.C.**  
 Civil Engineers - Land Surveyors - Land Planners  
 1907 W. Royal Hanks Dr., Suite 275  
 Cedar City, Utah 84720  
 Phone: (435) 867-6666  
 Fax: (435) 867-6666

REVISIONS			
NO.	DESCRIPTION	DATE	BY

