

WHEN RECORDED, RETURN TO:
BRYAN B. TODD, ESQ.
PARSONS BEHLE & LATIMER
PO BOX 45898
SLC, UT 84145-0898

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04/03/2001 11:22 AM 34.00
Book - 8441 Pg - 9032-9043
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
EQUITY TITLE
BY: ARG, DEPUTY - WI 12 P.

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RECIPROCAL EASEMENT AGREEMENT

THIS RECIPROCAL EASEMENT AGREEMENT (this "Agreement") is made to be effective as of January 26, 2001 by CREEK ROAD ASSOCIATES, LC, a Utah limited liability company ("CRA") and FORT UNION PROPERTIES, LC, a Utah limited liability company ("FUP").

WHEREAS, CRA is the owner of that certain parcel of land designated as the "CRA Property" on the site plan attached as Exhibit A attached hereto (the "Site Plan") and legally described on Exhibit B attached hereto.

WHEREAS, FUP is the owner of that certain parcel of land designated as the "FUP Property" on the Site Plan and legally described on Exhibit C attached hereto.

WHEREAS, CRA and FCU desire to enter into the agreements contained herein related to the CRA Property and the FCU Property (collectively, the "Properties");

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, CRA and FCU (the "Parties") hereby agree as follows:

1. **Easement.** Each Party hereby grants to the other Party, for the reciprocal benefit of the Properties and running therewith, an easement (the "Easement") for vehicular access, ingress and egress on, over and across all Driveways located upon the Properties, and pedestrian access, ingress and egress on, over and across all Sidewalks located upon the Properties, so as to permit the free flow of pedestrian and vehicular traffic to, from and between the Properties and entrances and exits thereto. As used herein, "Driveways" means all driveways, roadways, entryways, drive isles and drive lanes and other vehicular accessways located upon the Properties, and all entrances and exits thereto, thereon and therefrom, and "Sidewalks" means all sidewalks, walkways and other pedestrian accessways located upon the Properties, and all entrances and exits thereto, thereon and therefrom; as the same may be replaced, relocated or otherwise modified from time to time. The Driveways and Sidewalks are collectively referred to herein as the "Accessways."

ACCOMMODATION RECORDING ONLY. EQUITY TITLE INSURANCE AGENCY, INC. MAKES NO REPRESENTATION AS TO CONDITION OF TITLE, NOR DOES IT ASSUME ANY RESPONSIBILITY FOR VALIDITY, SUFFICIENCY OR EFFECTS OF DOCUMENT.

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2. **Nature of Easement.** The easement herein created (the "Easement") shall be non-exclusive, perpetual in duration, shall burden, benefit and run with the Properties, and shall bind and benefit all current and subsequent owners of the Properties. Nothing contained herein shall be construed as restricting or prohibiting either Party from granting or dedicating any additional easement rights over the Easement areas on its Property or using the ground below and/or the air space above the same for any purpose, provided that the same does not materially interfere with the use of the Easement as described herein.

3. **Modifications to Accessways.** Except as provided below, the owners of the Properties shall have the right at any time and from time to time to make changes, modifications and alterations to the Accessways on their respective Properties, without obtaining the consent or approval of the Party, provided that in so doing the overall usefulness and function of the Easement shall not be unreasonably impaired. At no time shall the free flow of traffic over the Accessways be obstructed or interfered with, except to the extent reasonably necessary for repairs, maintenance and to keep the general public from acquiring any rights therein in the reasonable opinion of the owner thereof; provided that in conjunction with any such obstruction, the Party causing the same shall make all reasonable efforts to minimize unreasonable interference with the access rights created hereunder. Notwithstanding any other provision hereof to the contrary, none of the Connecting Improvements defined below shall be changed, modified or altered without the prior written approval of all Parties.

4. **Construction of Connecting Improvements.**

(a) CRA shall construct, as provided herein, the "Connecting Improvements," which are defined for purposes hereof as the site improvements shown on the site plan attached hereto as **Exhibit A** (the "Site Plan") within the "Common Access Area" shown on the Site Plan, shown in greater detail on **Exhibit D** attached hereto, and legally described on **Exhibit E** attached hereto. FUP grants to CRA a temporary construction easement to enter upon such portion of the FUP Property as may be reasonably necessary for the purpose of constructing the Connecting Improvements (the "Construction"). The temporary construction easement granted to CRA hereunder shall automatically terminate upon the completion of the Construction. CRA shall not store or keep, or permit to be stored or kept, any construction equipment, vehicles or materials on the FUP Property.

(b) Prior to commencement of the Construction, CRA shall submit to FUP, for FUP's review and approval, plans and specifications for the Construction (the "Plans"). FUP shall respond to the Plans (including any revisions thereto submitted to FUP) within 10 days after receipt thereof, and the parties shall use all reasonable efforts to promptly resolve any disputes with respect to the Plans. In the event FUP shall fail to respond to any Plans submitted to FUP within said time period, those Plans shall conclusively be deemed approved by FUP. CRA shall, at its sole cost and expense, at the same time as it constructs its other site improvements on its Property, construct the Connecting Improvements in a good and workmanlike and first-class manner, in accordance with the approved Plans and in accordance with all applicable laws, ordinances, rules, regulations, orders, codes and statutes (collectively, "Laws").

(c) CRA shall not permit or cause any construction, mechanic's, laborer's, materialmen's, or other similar liens to attach to The FUP Property in connection with the

Construction. If CRA does so, CRA shall, at its sole cost and expense, cause such lien or liens to be discharged or bonded over to the satisfaction of FUP within 15 business days following request therefor. If CRA fails to so discharge or bond over all such liens, FUP shall have the right to discharge such liens (without any inquiry as to the validity or merits thereof) and all reasonable amounts paid by FUP in connection with such action, including costs and expenses shall be paid by CRA to FUP within 15 days after written demand therefor.

(d) CRA will indemnify, hold harmless and defend FUP and its Related Parties from and against, and pay, all claims, suits, actions, losses, damages, liabilities, costs and/or expenses including, but not limited to, attorneys' fees, court costs and disbursements, which may result or arise from, or relate or are connected in any way to, the construction of the Connecting Improvements.

(e) CRA shall at all times take any and all safety measures required under good construction practices to protect FUP and all persons on the FUP Property from injury or damage caused by or resulting from the performance of the Construction. Upon completion of the Construction, CRA shall, at its cost and expense, repair any and all damage to the FUP Property, and remove any loose dirt, trash or debris, resulting from or attributable to the Construction.

(f) Once commenced, the Construction shall be diligently and expeditiously prosecuted to completion, subject only to delays caused by matters beyond CRA's reasonable ability to control. However, unless and until commenced, nothing contained herein shall obligate CRA to construct the Connecting Improvements, and the granting of the Easement shall not be construed to create any such obligation on the part of CRA.

5. Maintenance of Connecting Improvements.

(a) After completion thereof, each Party shall, at its sole cost and expense, maintain the portion of the Connecting Improvements located on its Property in a good, clean state of repair, including:

(i) keeping the same at all times in a clean, uncluttered, orderly and sanitary condition, by, among other things, removing all papers, debris, filth and refuse, and washing or thoroughly sweeping the same on a regular and frequent basis;

(ii) clearing promptly all surface water, ice and snow; and

(iii) repaving or resurfacing and generally maintaining the same in a smooth and evenly covered condition.

If either Party does not so maintain the portion of the Connecting Improvements on its Property, the other Party shall have the right, but not the obligation, to perform such maintenance work if such non-performing Party does not commence to do so within 10 days following written notice from the other Party; provided that if such failure to maintain the Connecting Improvements causes (or threatens to cause) an emergency, no notice shall be necessary. For purposes hereof, an "emergency" shall be deemed to include, but not be limited to, any occurrence which causes or threatens to cause any damage to persons or property or any monetary loss to any Party. All expenses so incurred by a Party performing work for which the other Party is obligated

hereunder shall be paid to the Party incurring the same by the other Party within five (5) days after written demand therefor accompanied by copies of all applicable invoices and appropriate lien waivers.

6. **Benefit of Agreement.** The provisions of this Agreement are for the exclusive benefit of the Parties, their successors, assigns, heirs, representatives, agents, licensees, invitees, tenants and customers. Except as otherwise provided herein, this Agreement shall not be deemed to have conferred any rights, express or implied, upon any third person. Nothing contained herein shall be deemed to be a gift or dedication of any portion of the Properties to the general public, for the general public or for any public use or purpose whatsoever, it being the intention of the Parties that this Agreement be strictly limited to and for the purposes expressed herein for the development, maintenance and operation of private development on private property solely for the benefit of the persons specified herein.

7. **Captions.** The captions of this Agreement are inserted only as a matter of convenience and for reference. They do not define, limit or described the scope or intent of this Agreement, and they shall not affect the interpretation of this Agreement.

8. **Covenants Run with the Land.** The covenants, easements, agreements, promises and duties set forth herein shall be construed as covenants and not as conditions and, to the fullest extent legally possible, all such covenants shall run with and be enforceable against both the Parties and the Properties and constitute mutual, equitable servitudes as between the Properties, each as both a servient tenement and a dominant tenement. Except as otherwise provided herein, each covenant to do or refrain from doing some act on a Property under this Agreement (a) is a burden upon such Property (or the portion thereof which is affected) and is for the benefit of the other Property, (b) runs with such Property and (c) shall be binding upon and shall benefit each Party and Property. If and to the extent that any of the covenants or other provisions herein would otherwise be unlawful or void for violation of (a) the rule against perpetuities, (b) any rule restricting restraints on alienation, or (c) any other applicable Law analogous thereto or otherwise imposing limitations upon the time for which such covenants may be valid, then the provisions concerned shall continue and endure only until the expiration of a period of twenty-one (21) years after the death of the last to survive of the class of persons consisting of all of the lawful descendants of Michael Leavitt (current Governor of the State of Utah), living at the date of this Agreement.

9. **Governing Laws.** This Agreement shall be governed by, and enforced in accordance with the Laws of the State of Utah.

10. **Litigation Expenses.** If any Party shall bring an action or proceeding (including, without limitation, any cross-complaint, counterclaim or third party claim) against another Party by reason of the breach or alleged violation of any covenant, term or obligation of this Agreement, or otherwise arising out of this Agreement, the Prevailing Person (as defined below) in such action or proceedings shall be entitled to its costs and expenses of suit including, without limitation, reasonable attorneys' fees and disbursements, which shall be payable by the other Party whether or not such action is prosecuted to judgment. "**Prevailing Person**" within the meaning of this Section shall include, without limitation, a person who, in an adversarial proceeding, is awarded damages or other relief substantially equal to the relief sought by such

person, or who successfully defends such proceeding, or who dismisses an action for recovery under this Agreement in exchange for payment of the sums allegedly due, performance of covenants allegedly breached or consideration substantially equal to the relief sought in the action. If any Party is required to initiate or defend any action or proceeding with a third party (including, without limitation, any cross-complaint, counterclaim or third party claim) because of another Party's breach of this Agreement, or otherwise arising out of this Agreement, and such Party is the Prevailing Person in such action or proceeding, then such Prevailing Person shall be entitled to reasonable attorneys' fees and disbursements from such other Party. Attorneys' fees under this Agreement shall include, without limitation, attorneys' fees on any appeal. In addition, the Prevailing Person shall be entitled to all other reasonable costs and expenses incurred in connection with such action.

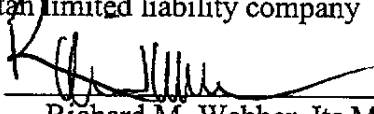
11. **Severability.** Invalidation of any of the provisions contained herein, or of the application thereof to any person, by judgment or court order, shall in no way affect any of the other provisions of this Agreement or the application thereof to any other person or circumstances and the remainder of this Agreement shall remain in effect, provided that if such invalidation would render the remaining portions of this Agreement ineffective to carry out the material intentions of the Parties as expressed or implied by this Agreement, then the invalid provisions hereof shall be construed, and this Agreement shall be deemed amended, as if such provision were replaced with an enforceable provision which effectuates, as nearly as possible, the material intentions indicated herein.

12. **Entire Agreement.** This Agreement contains the entire agreement with respect to the subject matter of this Agreement as of the date hereof. Any prior correspondence, inducements, representations, memoranda or agreements are superseded in total by and integrated into this Agreement. This Agreement may be executed in counterparts.

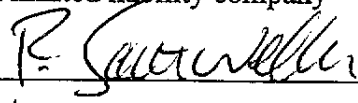
13. **Approvals.** All approvals, consents, designations, opinions, determinations and other actions called for hereunder shall not be unreasonably withheld or delayed, and shall be undertaken in a reasonable manner.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the day and year first above written.

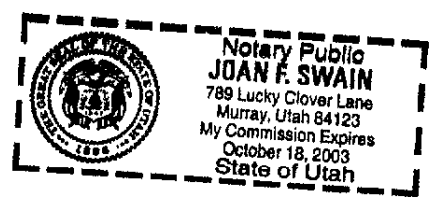
CREEK ROAD ASSOCIATES, LC,
a Utah limited liability company

By: 
Richard M. Webber, Its Manager

FORT UNION PROPERTIES, LC,
a Utah limited liability company

By: 
Its: Managing Member

STATE OF UTAH)
) ss.
COUNTY OF Salt Lake)



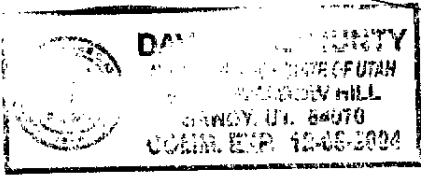
The foregoing instrument was acknowledged before me this 9 day of March, 2001, by Richard M. Webber, who acknowledged that he execute the same in the capacity indicated.

Joan F. Swain
Notary Public

STATE OF UTAH)
) ss.
COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 2nd day of April, 2001, by R. Scott Webber, who acknowledged that he execute the same in the capacity indicated.

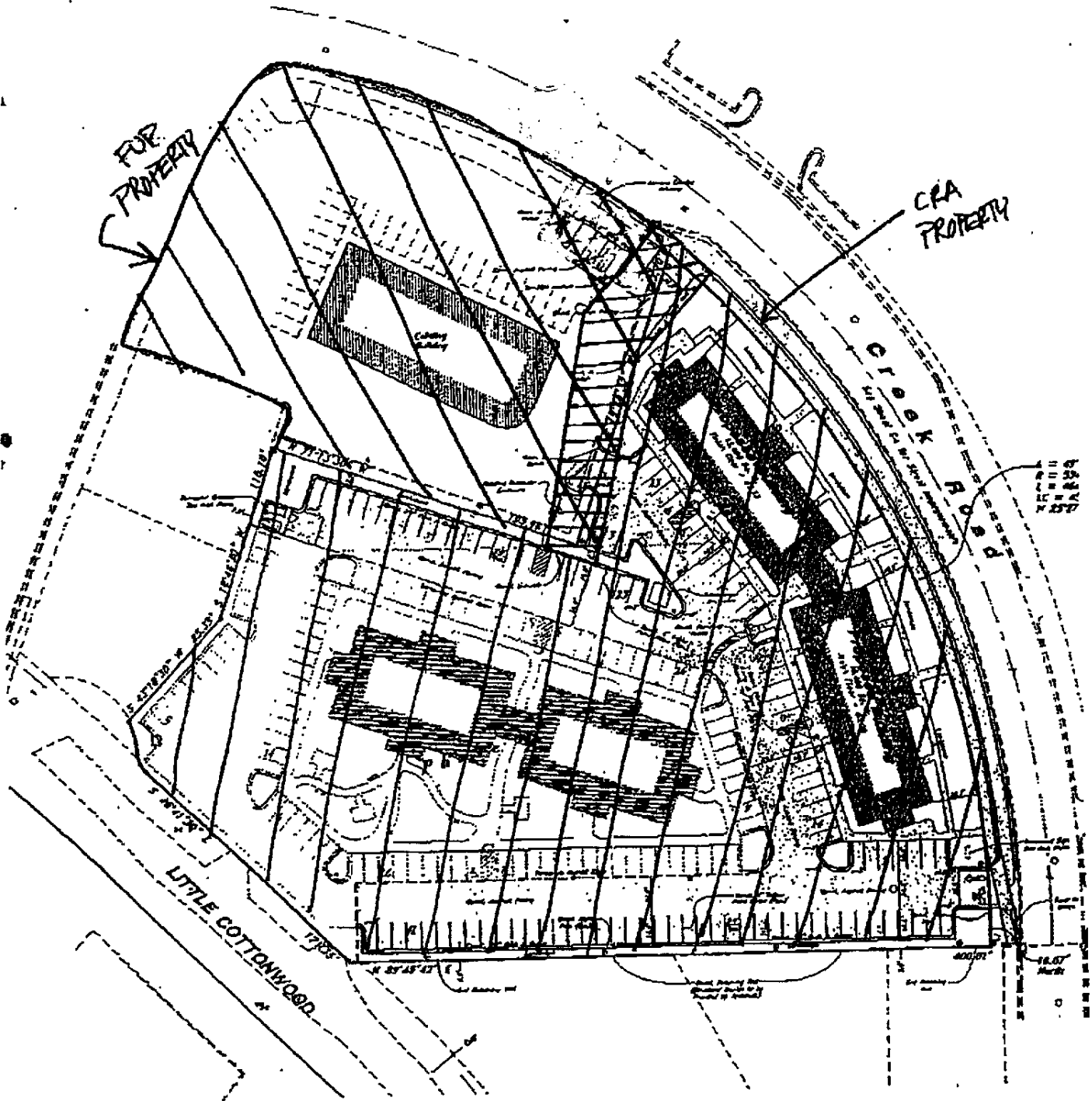
[Signature]
Notary Public



NOTARY SEAL NOT LEGIBLE
- CO RECORDER -

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SITE PLAN



1" = 40'
 1/4" = 10'
 1/8" = 5'
 1/16" = 2.5'
 1/32" = 1.25'

OWNER'S NOTICE TO CONTRACTOR

The Contractor agrees that he shall assume sole and complete responsibility for job site conditions during the course of construction of the project, including safety of all persons and property that the subcontractor and any contractor and not be liable for any and all claims and that the contractor shall defend, indemnify, and hold the owner and the engineer harmless from any and all claims, suit or charges, in connection with the performance of such as this project, including for liability arising from the sole negligence of the owner or the engineer.

EXHIBIT A

JK844 | PG 9039

EXHIBIT B

CRA PROPERTY

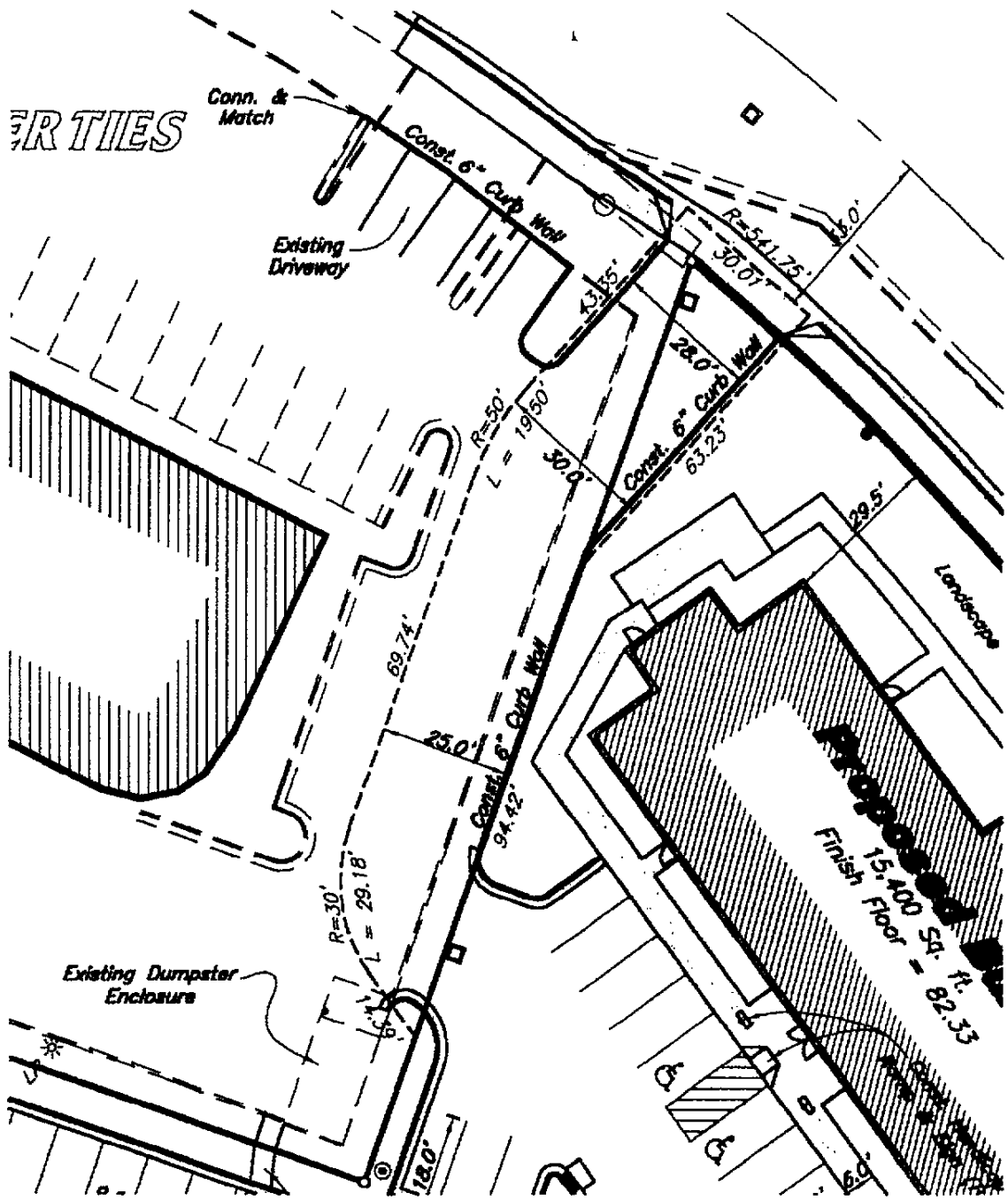
Commencing at the East⁴ Quarter corner of Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian; thence West a distance of 697.93 feet; thence South a distance of 185.75 feet; thence South 89° 45' 42" West a distance of 201.33 feet to the Northeast corner of Lot 16, as filed on CURTIS SUBDIVISION No. 4, said point being the point of beginning; thence South 89° 45' 42" West a distance of 407.01 feet; thence North 46° 41' 30" West a distance of 171.35 feet; thence Northwesterly along a curve to the right having a radius of 15.00 feet; through a central angle of 44° 18' 32" a distance of 11.60 feet; thence Northwesterly along a reverse curve to the left, having a radius of 50.00 feet, through a central angle of 24° 43' 44" a distance of 21.58 feet; thence North 43° 18' 30" East a distance of 85.35 feet; thence North 18° 46' 30" East, a distance of 110.09 feet; thence South 71° 13' 30" East a distance of 195.96 feet; thence North 19° 38' 32" East a distance of 191.15 feet; thence Southeasterly along a curve to the right having a radius of 541.75 feet through a central angle of 50° 25' 20" a distance of 476.73 feet (chord bears South 25° 24' 54" East 461.490'); thence South a distance of 16.71 feet to the point of beginning.

EXHIBIT C

FUP PROPERTY

BEGINNING AT A POINT ON THE EAST LINE OF 1300 EAST STREET, SAID POINT ALSO BEING NORTH 73° 15' 39" WEST 1445.39 FEET AND SOUTH 15° 34' 22" WEST 206.808 FEET AND SOUTH 71° 31' 30" EAST 16.61 FEET FROM THE EAST QUARTER CORNER OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, SAID POINT ALSO BEING ON A 2030.48 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS SOUTH 64° 56' 25" EAST AND HAS A CENTRAL ANGLE OF 03° 58' 00"); THENCE ALONG THE ARC OF SAID CURVE AND EAST LINE 140.57 FEET; THENCE SOUTH 76° 40' 00" EAST 6.22 FEET TO A POINT ON THE PROPOSED 1300 EAST STREET AND CREEK ROAD WIDENING, SAID POINT ALSO BEING ON A 30.00 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS SOUTH 55° 34' 28" EAST 30.00 FEET AND HAS A CENTRAL ANGLE OF 73° 38' 59") AND THE FOLLOWING 3 CALLS BEING ON SAID PROPOSED ALIGNMENT; THENCE ALONG THE ARC OF SAID CURVE 38.56 FEET; THENCE SOUTH 72° 02' 22" EAST 43.33 FEET TO A POINT ON A 529.75 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS SOUTH 17° 57' 38" WEST AND HAS A CENTRAL ANGLE OF 8° 56' 52"); THENCE ALONG THE ARC OF SAID CURVE 82.73 FEET; THENCE NORTH 17° 48' 50" EAST 12.72 FEET TO A POINT ON A 541.75 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS SOUTH 26° 49' 40" WEST AND HAS A CENTRAL ANGLE OF 12° 43' 16"); THENCE ALONG THE ARC OF SAID CURVE 120.28 FEET; THENCE SOUTH 19° 38' 44" WEST 191.18 FEET; THENCE NORTH 71° 13' 30" WEST 195.96 FEET TO THE EAST LINE OF CREEK ROAD CONDOMINIUMS; THENCE NORTH 18° 46' 30" EAST 21.13 FEET ALONG SAID EAST LINE TO THE NORTHEAST CORNER OF SAID CONDOMINIUMS; THENCE NORTH 71° 13' 30" WEST 101.01 FEET ALONG THE NORTH LINE OF SAID CONDOMINIUMS TO A POINT ON THE EAST LINE OF 1300 EAST STREET; SAID POINT BEING ON A 2030.48 FOOT RADIUS CURVE TO THE RIGHT (CENTER BEARS SOUTH 65° 47' 57" EAST AND HAS A CENTRAL ANGLE OF 00° 51' 31"); THENCE ALONG THE ARC OF SAID CURVE AND EAST LINE 30.43 FEET TO THE POINT OF BEGINNING.

EXHIBIT D



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EXHIBIT E

COMMON ACCESS AREA

A part of the Northeast Quarter of Section 29, Twnship 2 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey in Salt Lake County, Utah:

Beginning at a point on the Southwesterly Line of Creek Road as it exists at a 33.00 foot half-width being 1077.89 feet South $89^{\circ}46'05''$ West along the Quarter Section Line and 232.70 feet North from the East Quarter Corner of said Section 29; and running thence South $41^{\circ}59'22''$ West 63.23 feet; thence South $19^{\circ}38'32''$ West 94.42 feet; thence North $36^{\circ}05'29''$ West 14.39 feet to a point of curvature; thence Northerly along the arc of a 30.00 foot radius curve to the right a distance of 29.18 feet (Central Angle equals $55^{\circ}44'01''$ and Long Chord bears North $8^{\circ}13'29''$ West 28.05 feet) to a point of tangency; thence North $19^{\circ}38'32''$ East 69.74 feet to a point of curvature; thence Northeasterly along the arc of a 50.00 foot radius curve to the right a distance of 19.50 feet (Central Angle equals $22^{\circ}20'50''$ and Long Chord bears North $30^{\circ}48'57''$ East 19.38 feet) to a point of tangency; thence North $41^{\circ}59'22''$ East 45.35 feet to a point on the Southwesterly Line of said Creek Road as it exists at a 30.00 foot half-width; thence Southeasterly along the arc of a 541.75 foot radius curve to the right a distance of 30.01 feet (Central Angle equals $3^{\circ}10'27''$ and Long Chord bears South $49^{\circ}29'31''$ East 30.01 feet) along said Southwesterly Line to the Point of Beginning.

Contains 4,110 sq. ft.