

00964568 B: 2173 P: 0999

Page 1 of 14

Alan Spriggs, Summit County Utah Recorder
03/01/2013 09:49:24 AM Fee \$39.00

By BACKMAN FPTP

Electronically Recorded

WHEN RECORDED RETURN TO:

MATTHEW L. ANDERSON
FABIAN & CLENDENIN
A Professional Corporation
215 South State Street, Suite 1200
Salt Lake City, UT 84111

5076716

Affects Parcel No. PP-38-C

Affects Parcel No. PP-38-C-2

WELL SHARING AGREEMENT

This Well Sharing Agreement (the "**Agreement**") is entered into by and between the Estate of Milton L. Weilenmann (the "**Supplier**") and Melanie Anderson ("**Melanie Anderson**"). The Supplier and Melanie Anderson may be referred to collectively as the "**Parties**" and individually as a "**Party**."

RECITALS

WHEREAS, the Supplier owns a certain parcel of real property in Summit County (more particularly described in Exhibit A attached hereto, hereinafter the "**Estate Property**") and owns a certain well located thereon and related well distribution system (located as approximately indicated on Exhibit A, collectively hereinafter referred to as the "**Well**");

WHEREAS, in a separate but related transaction, Melanie Anderson has agreed to purchase from the Supplier an adjacent parcel of real property (more particularly described in Exhibit B, hereinafter referred to as the "**Ranch Property**") and requires access to and use of the Well for water for use at the Ranch Property;

WHEREAS, the Supplier desires to reserve to itself some use of the Well for water for use at the Estate Property and for use at the adjacent "Cabin Property" consistent with historical uses;

WHEREAS, the Parties each have a right to use the water from the Well (the "**Well Water**") pursuant to the respective water contracts, certificates and related documentation (the "**Parties Respective Water Rights**");

WHEREAS, it is the intention and purpose of the Parties that the Well be used and operated to provide an adequate supply of water to the Ranch Property and the Estate Property (referred to collectively as the "**Properties**" or individually as a "**Property**") for the domestic consumption of the occupants of the Properties and to assure the continuous and satisfactory operation and maintenance of the Well for the benefit of the

Properties' present and future owners, their heirs, successors and assigns; and

WHEREAS, the Parties have agreed upon and desire to memorialize reasonable and fair terms to provide for the use of the Well and its water, the allowance of access to the Well and the sharing of the costs, obligations and rights regarding the Well.

NOW WHEREFORE, for good and valuable consideration, the sufficiency of which each Party hereby individually acknowledges, the Parties agree to the following terms, conditions and covenants that shall be appurtenant to the respective Properties;

AGREEMENT

1. Obligation to Pay for Well Costs. The Parties agree that each will timely pay their respective share of all reasonably necessary and reasonably incurred costs ("**Well Costs**") to maintain the Well, including but not limited to improving, repairing, servicing, providing power, pumping, testing and inspecting the Well and any portion of the water distribution system connected thereto (collectively referred to as "**Well Maintenance**") excluding the maintenance of the pipelines or other vessels that carry the Well Water to the individual Properties (the costs of which shall be born exclusively by the respective parcel to which such Well Water is delivered).

2. Responsibility to Provide Well Maintenance. Each of the Parties is entitled to provide Well Maintenance as the need arises but before doing so, the Party proposing the Well Maintenance (the "**Maintaining Party**") must provide the other parties with advance notice of the same and, if the proposed Well Costs are reasonably likely to exceed \$500, the Maintaining Party obtain prior written consent from the other Parties before incurring such costs. Well Water may not be shut off or otherwise terminated for any length of time without prior written consent. Written consent shall be deemed given from any Party that fails to respond in writing to a request for consent within 2 weeks of such request.

3. Emergency Well Maintenance. Notwithstanding the foregoing, the Maintaining Party may perform emergency Well Maintenance without prior written consent if the failure to do so would result in the imminent shut off or serious degradation of potability, quality or quantity of Well Water to any of the Properties.

4. Share of Costs. The Ranch Property's share of the Well Costs shall be equal to the Ranch Property's Respective Water Rights and the Estate shall be responsible for the balance of the Well Costs provided, however, to compensate the Maintaining Party for the time and resources spent in obtaining the Well Maintenance, the Maintaining Party's share of Well Costs shall be reduced by 6% of such Maintenance Costs (and the other Party's the share of the Well Costs shall be increased by 6%). Thus, by way of example, if (a) the Ranch Property has rights to 30% of the Well Water; (b) the proposed expenditure is \$1000; and (c) the Estate Property is the Maintaining Party, then the Estate Property will owe \$640 and the Ranch Property will owe \$360.

5. Payment of Well Costs. The Maintaining Party shall submit a copy of the receipt or other documentation of the Well Costs and the other Parties shall pay their respective share of such Well Costs to the Maintaining Party within 2 weeks of such submission.

6. Resolution of Disputes. Any dispute arising from this Agreement, including but not limited to when a Party does not consent to a proposed Well Maintenance, shall be resolved by a vote of the Parties, each Party having one vote. A minority vote is bound by the majority vote. If a majority cannot be reached, and unless otherwise agreed by the Parties, any remaining dispute shall be submitted to binding arbitration (the "Arbitration") as follows:

a. Arbitrator: [Name of Arbitrator]. If not available, such Arbitrator shall designate an alternate Arbitrator.

b. The Arbitration shall be governed by the rules of the American Arbitration Association except as otherwise provided herein or agreed to by the parties.

c. The Arbitration shall be held within 3 weeks of submission and shall be no longer than three hours in length.

d. Briefing to be limited to 3 pages in length.

e. A binding ruling shall be made within one week of the Arbitration and any such ruling shall be satisfied or complied with (including the payment of monies and the costs of such arbitration) within one week of such ruling and may be enforced by the Third District Court of Utah.

7. Easements and Access.

a. Each of the Parties does hereby grant to the other Parties, heirs, successors and assigns, such easements over, across and through the respective Properties as shall be reasonably necessary for Well Maintenance and access consistent with the purposes of this Agreement.

b. The Parties are prohibited from installing any landscaping, improvements or other that will impair the use of said easements, the access to the Well and the performance of Well Maintenance.

8. Default. Any default not cured within thirty (days) written notice of the same shall be grounds to terminate delivery of Well Water to the defaulting Party's Property until such default is cured.

9. Covenants and Acknowledgements. The Parties represent, acknowledge and/or covenant:

a. That each will promptly repair, maintain and replace all water pipes or mains serving their respective Properties;

b. That Well Costs including costs of supplying power to the Well may become due and payable on a monthly basis.

c. That only the Properties shall be permitted to receive Well Water and that it will not allow or permit other persons or properties, other than the household guests of the Properties, to take, draw, use or receive Well Water and not permit other persons to connect to the pipes or mains serving their respective Properties or the Well.

d. That notwithstanding the ability of the Parties to transfer or convey all or a portion of the Property and/or the Parties Respective Water Rights, any resulting change including but not limited to a change in Well Water usage or the development of a Property will not reduce the other Party's rights or increase the

other Party's obligations under this Agreement.

e. Authority to Convey. Supplier represents that it has the authority to execute this Agreement, documentation of which, ~~including a certified copy of the letters of administration for the estate,~~ are attached hereto as Exhibit D.

MA PCN

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10. Termination. The Parties acknowledge and accept that their respective rights and obligations under this Agreement run with the land and are appurtenant to the respective Properties. Notwithstanding the foregoing, this Agreement and the rights and obligations set forth herein, may be modified or terminated but only by a recorded document executed by then owner of the Estate Property and the then owner of the Ranch Property modifying or terminating this Agreement.

11. Notice. All written notices or submissions required by this Agreement are deemed received when sent via email or when received by national courier next-day delivery to the following:

If to the Estate Property:

If to the Ranch Property:

P. Christian Anderson
Ballard Spahr
201 S. Main # 800 SLC 84111
@gmail.com

Melanie Anderson
2444 Sunnyside Avenue
Salt Lake City, Utah 84108
mlanderson6@gmail.com

The above notice addresses may be modified only by written notice to the other Parties.

12. Interest. Any amounts due and unpaid under this Agreement shall accrue interest at an annual rate of 18%.

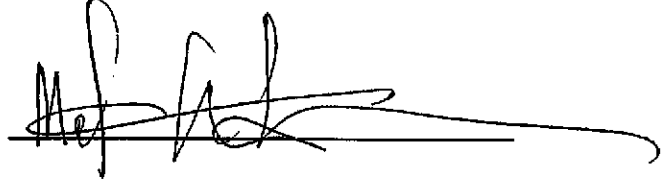
13. Attorney Fees. The prevailing Party in any action to enforce or interpret this Agreement (including but not limited to the Arbitration) shall be entitled to costs and attorney fees from the other Party(ies) to such action.

14. Run with the Land. Except as otherwise explicitly stated herein, this Agreement shall be perpetual and the benefits and burdens of this Agreement shall constitute a covenant running with the Properties and shall be binding upon the heirs, successors in title and assigns of the parties hereto.

[signatures on following page]

IN WITNESS WHEREOF

Melanie Anderson



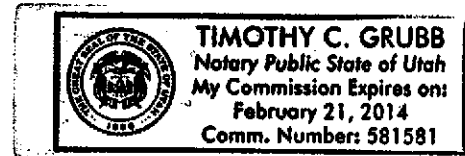
County of Salt Lake)
)ss
State of Utah)

Sworn and subscribed before me this 28 day of Feb., 2013.

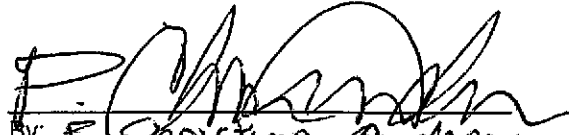


Notary Public

My commission expires: 2-21-14



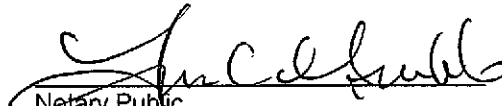
The Estate of Milton L. Weilenmann

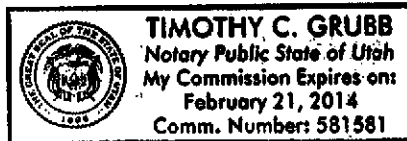

By: P. Christian Anderson
Its: Personal Representative

STATE OF UTAH)
County of Salt Lake) ss.

The foregoing instrument was acknowledged before me this 28 day of February, 2013, by P. Christian Anderson, the Personal Representative of the Estate of Milton L. Weilenmann.

My commission expires:
2-21-14


Notary Public



ND: 4836-9643-7522, v. 1

EXHIBIT A

Part of Lot 2 of Section 10, Township 1 South, Range 3 East, Salt Lake Base and Meridian, in Summit County, Utah, being more particularly described as follows:

Lot PP-38-C -- Containing Approximately 20.984 Acres

BEGINNING at the East quarter corner of Section 10, in Township 1 South of Range 3 East of the Salt Lake Base and Meridian; and running thence North 89°58'00" West 1502.15 feet along the center of Section; thence North 00°02'00" West 327.91 feet; thence North 10°00'00" East 162.43 feet; thence South 42°19'31" East 410.84 feet; thence North 42°54'58" East 248.60 feet; thence North 02°12'48" West 305.16 feet; thence North 56°37'40" East 368.86 feet; thence South 18°21'11" East 157.78 feet; thence North 46°43'36" East 181.53 feet; thence South 00°04'11" East 15.4 feet; thence North 61°16'46" East 625.69 feet; thence South 0°04'11" East 1134.85 feet to the point of beginning.

Excepting from the above described parcel, the following described tracts of land (in which Grantors have no interest):

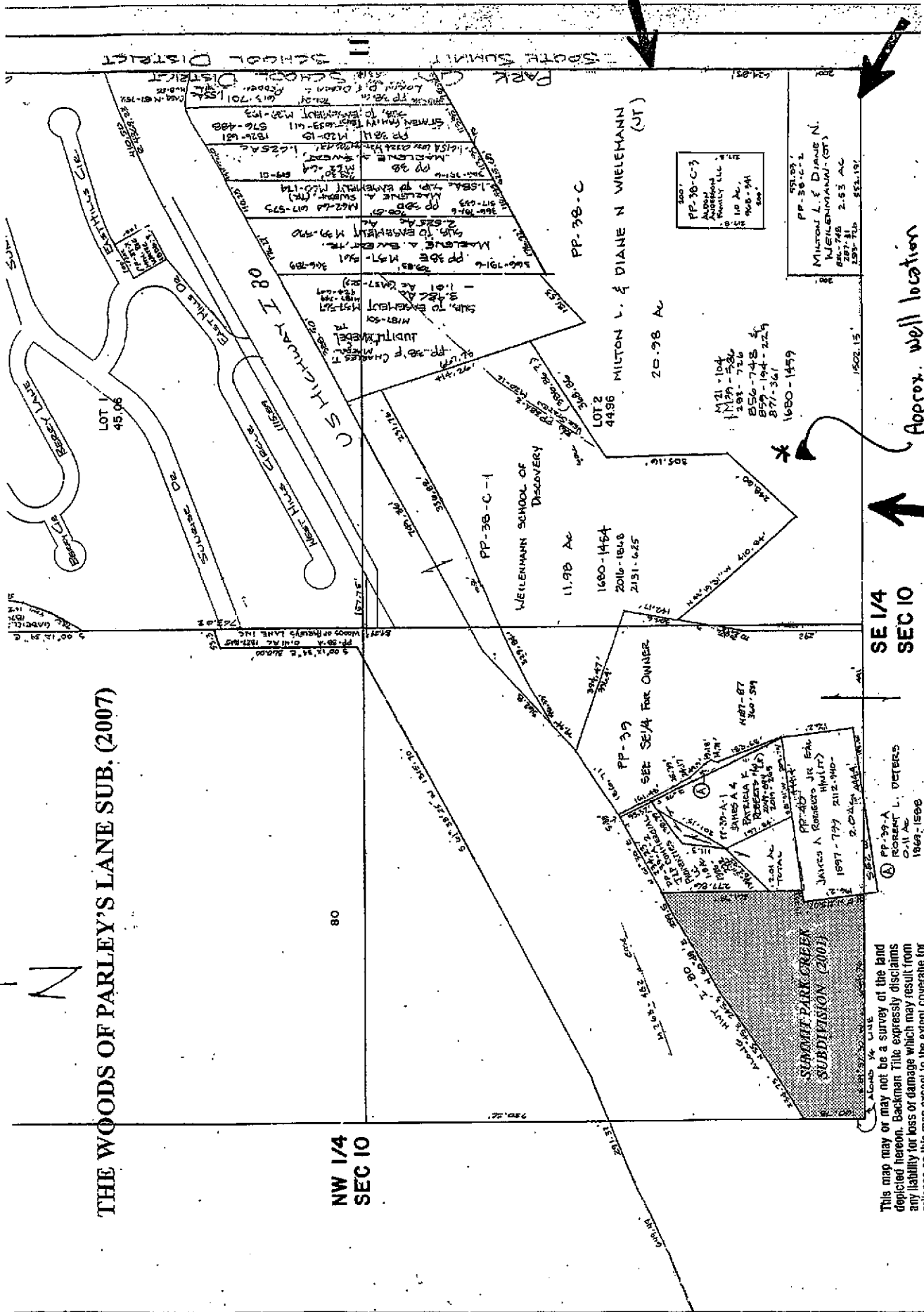
A. PP-38-C-2 -- Containing Approximately 2.53 Acres

BEGINNING at the East quarter corner of Section 10, Township 1 South, Range 3 East, Salt Lake Base and Meridian, said point also being the Southeast corner of Lot 2 of said Section 10; thence North 89°58'00" West along the South line of said lot a distance of 552.19 feet; thence North 00°02'00" East 200.0 feet; thence South 89°58'00" East parallel with said South line 551.83 feet to a point on the East side of said lot; thence South 00°04'11" East 200.0 feet to the point of beginning.

B. PP-38-C-3 -- Containing 43,560 Square Feet or 1.000 Acre

BEGINNING at a point South, 2155.20 feet and West, 225.00 feet from the Northeast Corner of Section 10, Township 1 South, Range 3 East, Salt Lake Base and Meridian; Running thence South, 217.80 feet; thence West, 200.00 feet; thence North 217.80 feet; thence East, 200.00 feet to the point of beginning.

1 of 3



THE WOODS OF PARLEY'S LANE SUB. (2007)

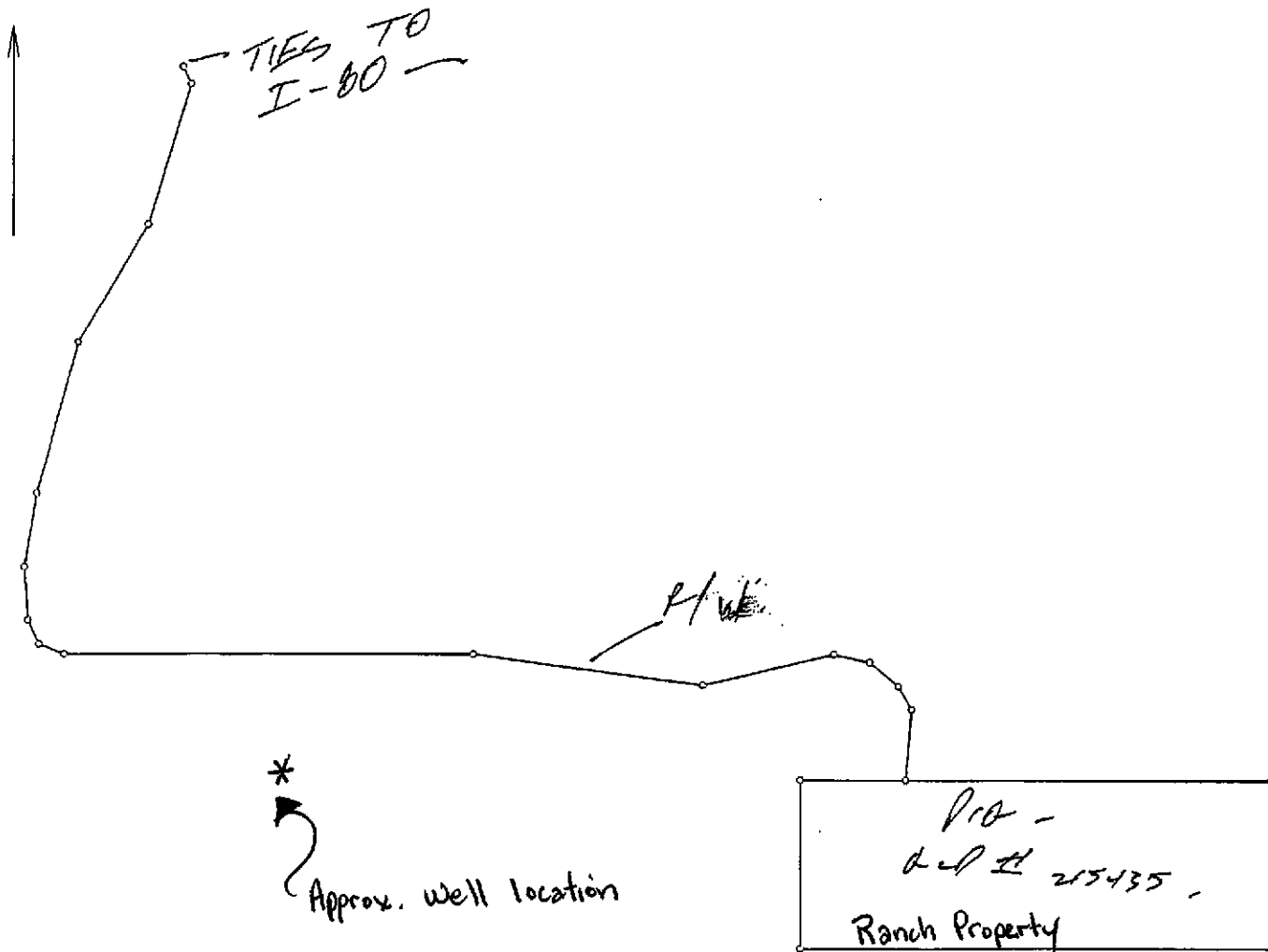
NW 1/4
SEC 10

SE 1/4
SEC 10

Approx. well location

This map may or may not be a survey of the land depicted hereon. Backman Title expressly disclaims any liability for loss or damage which may result from reliance on this map except to the extent coverage for such loss or damage is expressly provided by the terms and provisions of the title insurance policy, if any, to which this map is attached.

EXHIBIT A. cont.



Title:		Date: 01-09-2013
Scale: 1 inch = 200 feet	File: piq.des	
Tract 1: 2.534 Acres: 110402 Sq Feet: Closure = s39.3857e 0.00 Feet: Precision >1/999999: Perimeter = 1504 Feet Tract 2: 0.053 Acres: 2298 Sq Feet: Closure = n45.1349w 1205.24 Feet: Precision =1/ 2: Perimeter = 1878 Feet		
001=N89.5800W 552.19	009=S16.4000W 173	017=S82.0800E 273
002=N00.0200E 200	010=S30.2000W 161	018=N76.5500E 160
003=S89.5800E 551.83	011=S15.0500W 186	019=S78.0000E 44
004=S00.0411E 200	012=S10.0000W 88	020=S49.0000E 44
005=@0 Merge 1	013=S03.4600E 63	021=S30.0000E 32
006=N00.0411W 1050.62	014=S25.2000E 32	022=S05.0000W 84.97
007=S89.5549W 1282.31	015=S68.0000E 32	
008=S24.4730E 23	016=S89.4800E 482	

Order No.: 5-078718

EXHIBIT "B"

LEGAL DESCRIPTION

Part of Lot 2 of Section 10, Township 1 South, Range 3 East, Salt Lake Base and Meridian, in Summit County, Utah, being more particularly described as follows:

Beginning at the East quarter corner of Section 10, Township 1 South, Range 3 East, Salt Lake Base and Meridian, said point also being the Southeast corner of Lot 2 of said Section 10; thence North 89 deg. 58'00" West along the South line of said lot a distance of 552.19 feet; thence North 00 deg. 02'00" East 200.00 feet; thence South 89 deg. 58'00" East parallel with said South line 551.83 feet to a point on the East line of said lot; thence South 00 deg. 04'11" East 200.00 feet to the point of beginning.

Parcel No.: **PP-38-C-2**

EXHIBIT D
DOCUMENTATION OF AUTHORITY TO ENTER AGREEMENT

4826-9334-9907, v. 1

3RD DISTRICT COURT - SALT LAKE
SALT LAKE COUNTY, STATE OF UTAH

IN THE MATTER OF THE ESTATE OF MILTON LYMAN WEILENMANN

CASE NUMBER 093900122 Estate Infrml Pers R

CURRENT ASSIGNED JUDGE
KEITH KELLY

PARTIES

Petitioner - PAUL CHRISTIAN ANDERSON
Represented by: CHRISTIAN ANDERSON

Decedent - MILTON LYMAN WEILENMANN

ACCOUNT SUMMARY

TOTAL REVENUE	Amount Due:	186.75
	Amount Paid:	186.75
	Credit:	0.00
	Balance:	0.00

REVENUE DETAIL - TYPE: COMPLNT-NO AMT PROBA

Amount Due:	155.00
Amount Paid:	155.00
Amount Credit:	0.00
Balance:	0.00

REVENUE DETAIL - TYPE: CERTIFIED COPIES

Amount Due:	1.50
Amount Paid:	1.50
Amount Credit:	0.00
Balance:	0.00

REVENUE DETAIL - TYPE: CERTIFICATION

Amount Due:	12.00
Amount Paid:	12.00
Amount Credit:	0.00
Balance:	0.00

REVENUE DETAIL - TYPE: CERTIFIED COPIES

Amount Due:	1.00
Amount Paid:	1.00
Amount Credit:	0.00
Balance:	0.00

REVENUE DETAIL - TYPE: CERTIFICATION

Amount Due: 8.00
Amount Paid: 8.00
Amount Credit: 0.00
Balance: 0.00

REVENUE DETAIL - TYPE: COPY FEE

Amount Due: 0.25
Amount Paid: 0.25
Amount Credit: 0.00
Balance: 0.00

REVENUE DETAIL - TYPE: CERTIFIED COPIES

Amount Due: 1.00
Amount Paid: 1.00
Amount Credit: 0.00
Balance: 0.00

REVENUE DETAIL - TYPE: CERTIFICATION

Amount Due: 8.00
Amount Paid: 8.00
Amount Credit: 0.00
Balance: 0.00

CASE NOTE

PROCEEDINGS

- 01-28-09 Petition filed by aubreed
- 01-28-09 Judge TYRONE E MEDLEY assigned.
- 01-28-09 Filed: Complaint No Amount Probate
- 01-28-09 Fee Account created Total Due: 155.00
- 01-28-09 COMPLNT-NO AMT PROBA Payment Received: 155.00
Note: Code Description: COMPLNT-NO AMT PROBA
- 01-28-09 Note: Dated of Death - November 21, 2008
- 01-28-09 Filed: Application for Informal Probate of Will and Informal
Appointment of Personal Representative
- 01-28-09 Filed: Will - Dated 01/28/2009
- 01-28-09 Filed: Waiver of Notice and Consent to Appointment - Michael
Lyman Weilenmann
- 01-28-09 Filed: Waiver of Notice and Consent to Appointment - Martha
Weilenmann Starr
- 01-28-09 Filed: Waiver of Notice and Consent to Appointment - Margaret
Weilenmann Mackey
- 01-28-09 Filed: Waiver of Notice and Consent to Appointment - Merry
Chris Weilenmann Fusselman
- 01-28-09 Filed: Waiver of Notice and Consent to Appointment - Mark
Truman Weilenmann

01-28-09 Filed: Waiver of Notice and Consent to Appointment - Melanie Weilenmann Anderson
01-28-09 Filed: Waiver of Notice and Consent to Appointment - Melissa Weilenmann Livingston
01-28-09 Filed: Waiver of Notice and Consent to Appointment - William G. Gibbs
01-28-09 Filed order: Statement of Informal Probate of Will and Informal Appointment of Personal Representative
Judge ROBERT FAUST
Signed January 28, 2009
01-28-09 Filed: Acceptance of Appointment
01-28-09 Filed: Letters Testamentary - Paul Christian Anderson
04-29-09 Fee Account created Total Due: 1.50
04-29-09 Fee Account created Total Due: 12.00
04-29-09 CERTIFIED COPIES Payment Received: 1.50
04-29-09 CERTIFICATION Payment Received: 12.00
07-30-09 Case Disposition is Granted
Disposition Judge is ROBERT FAUST
07-30-09 Case Disposition is Granted
Disposition Judge is ROBERT FAUST
10-26-09 Fee Account created Total Due: 1.00
10-26-09 Fee Account created Total Due: 8.00
10-26-09 CERTIFIED COPIES Payment Received: 1.00
10-26-09 CERTIFICATION Payment Received: 8.00
04-01-10 Fee Account created Total Due: 0.25
04-01-10 COPY FEE Payment Received: 0.25
04-22-11 Fee Account created Total Due: 1.00
04-22-11 Fee Account created Total Due: 8.00
04-22-11 CERTIFIED COPIES Payment Received: 1.00
04-22-11 CERTIFICATION Payment Received: 8.00
08-17-12 Judge KEITH KELLY assigned.