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Gary W. Ott
Recorder, Salt Lake County, UT
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BY: eCASH, DEPUTY - EF 16 P.

**DEVELOPMENT, EASEMENT
AND
MAINTENANCE AGREEMENT**

THIS DEVELOPMENT, EASEMENT AND MAINTENANCE AGREEMENT
("Agreement") is made and entered into by and between **SANDY CENTENNIAL PARTNERS, L.C.**, a Utah limited liability company, ("SCP") and **SANDY PAYDIRT L.L.C.**, a Utah limited liability company ("Sandy Paydirt") on JUNE 8, 2006.

RECITALS

- A. SCP is the owner of that certain parcel of real property located in Salt Lake County, State of Utah which is legally described as Lots 1 through 7 and Lots A and B of the Sandy City Centre Final Plat Amendment and Extended, according to the official plat thereof on file and of record in the office of the Salt Lake County Recorder as shown in part on the attached Exhibit A and referred to collectively herein as the "SCP Lots".
- B. Sandy Paydirt is the owner of that certain parcel of real property located in Salt Lake County, State of Utah which is legally described as Lot 8, Sandy City Centre Final Plat Amendment and Extended according to the official plat thereof on file and of record in the office of the Salt Lake County Recorder as shown on the attached as Exhibit A and referred to herein as "Lot 8".
- C. As used herein, the term "Parcel" shall mean the SCP Lots, Lot 8, or any portion(s) thereof as the context so requires.
- D. As used herein, the term "Owner" shall mean the record owner of the fee title to each Parcel or any portion thereof, their respective heirs, successors and assigns. In the event there are multiple Owners of any Parcel in the future, any payment obligations of the Owner hereunder shall apply pro rata to the successor Owners.
- E. SCP and Sandy Paydirt desire to develop and maintain a common roadway for their respective Parcels in accordance with this Agreement.

THEREFORE, in consideration of the mutual promises, covenants, restrictions and conditions contained herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

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1. **The Roadway.** The Owners desire to develop and construct the "Roadway" from 10000 South Street to the southern boundary of Lot 8 as more particularly described in Exhibit "B" on the following terms:
 - a) **Grant of Easement.** Pursuant to that certain Right of Way and Easement Grant recorded September 7, 2000 as Entry Number 7714461, Book 8386 Pages 4146 through 4148 as amended by the Amendment to Right of Way and Easement Grant recorded _____ as Entry Number _____ Book _____ Pages _____ through _____, SCP has granted and conveyed to Sandy Paydirt, a perpetual, non-exclusive easement over and across the Roadway area as shown on Exhibit "B" as well as an extended area for an anticipated future road continuing south and then east all as legally described on the attached Exhibit C, for vehicular and pedestrian ingress, egress and utility services.
 - b) **Construction of Roadway.** On or before the opening of the hotel to be constructed by Sandy Paydirt on Lot 8, Sandy Paydirt shall construct the Roadway Improvements (defined below) at its expense and obtain, with the full cooperation of SCP, all necessary approvals for such construction.
 - c) **License.** SCP hereby grants to Sandy Paydirt permission to occupy the areas located on the SCP Lots adjacent to the Roadway which are reasonably necessary for the construction staging in connection with the Roadway Improvements, provided however, that Sandy Paydirt shall restrict the staging as much as is commercially reasonable to Lot 7 and shall take reasonable measures to minimize interference with access and parking on the SCP Lots.
 - d) **Initial Roadway Improvements.** The "**Initial Roadway Improvements**" shall include i) Roadway constructions drawings, plans and specifications; (ii) any required demolition, clearing and grubbing, excavation, fill, compaction, rough grading, including any necessary undercutting or stabilization of subgrades; (iii) all street paving, storm drains, curbs, curb cuts, gutter and median strips; (iv) any required relocation of existing utility lines including power transmissions lines, telephone lines, traffic control lines and devices, and any required installation or modification of utility lines; (v) extension of existing water, sanitary sewer, and storm water lines currently terminating under the Roadway, if any, and stub to the southern end of the Roadway; (vi) any improvements relating to the



anticipated "roundabout" portion of the Roadway, including curbs, gutters, paving, landscaping, etc.; and (vii) any other improvements required by the appropriate governmental agency or regulations or in order to gain all appropriate and official approvals for the improvement and use of the Roadway.

- e) Specifications. The Initial Roadway Improvements shall meet all city, county and state requirements, and the requirements of any other governmental bodies having jurisdiction.
- f) Indemnification. Sandy Paydirt shall indemnify, defend and hold SCP harmless against all claims, losses, inabilities, damages or expenses (including without limitation, reasonable attorney's fees) relating to persons or property which may arise from, or be related to Sandy Paydirt's construction of the Initial Roadway Improvements.

2. Roadway Maintenance. Sandy Paydirt shall initially provide maintenance services for the Roadway, once constructed, and SCP shall reimburse Sandy Paydirt for fifty percent (50%) of the Roadway Maintenance Costs as defined below within thirty (30) days of receipt of any billing therefor. The "**Roadway Maintenance Costs**" shall consist of any and all reasonably necessary costs of maintaining the Roadway in good condition and repair including (1) maintaining the surface at a grade and level such that the Roadway may be used as a contiguous and homogeneous common roadway, (2) maintaining the asphalt surface of the Roadway in a smooth and even-colored condition free of cracks and holes, (3) maintaining appropriate striping of the Roadway, (4) timely removing all snow, ice, refuse, debris and filth and, (5) maintaining any landscaping within the roundabout. In the event Sandy Paydirt fails to maintain the Roadway in a commercially reasonable manner and such failure continues without correction more than thirty (30) days after receipt of written notice from SCP specifying the deficiencies in the manner of maintenance, SCP shall have the option, upon prior written notice to Sandy Paydirt, of assuming the obligation for Roadway Maintenance as set forth herein and thereafter Sandy Paydirt shall reimburse SCP for fifty percent (50%) of the Roadway Maintenance Costs on the same terms set forth above. In the event SCP constructs additional road extending the Roadway ("SCP Extension"), Sandy Paydirt shall continue to maintain the Roadway and the SCP Extension as provided above (subject to SCP's option to maintain upon default as described above), however SCP's share of the Roadway Maintenance Costs shall increase from fifty percent (50%) to a pro rata share calculated by use of a fraction, the numerator of which shall be the total square footage

of the SCP Lots and the denominator of which shall be the total of the square footage of the SCP Lots and the square footage of Lot 8. In the event of an SCP Extension, Sandy Paydirt shall have the option to elect to transfer to SCP the maintenance obligations for the Roadway and the SCP Extension upon thirty (30) days prior written notice to SCP, in which event Sandy Paydirt shall become obligated to reimburse SCP for Sandy Paydirt's pro rata share of Roadway Maintenance Costs which share shall be calculated by use of a fraction, the numerator of which shall be the square footage of Lot 8 and denominator of which be the total of the square footage of the SPC Lots and the square footage of Lot 8. If either Owner fails to timely pay any amounts that become due, such amount shall bear interest at the rate of fifteen percent (15%) per annum, compounded monthly, until fully paid and the other entity Owner shall have the right to file a notice of non-payment in the land records of the County against the Parcel of the defaulting Owner in the amount of that Owner's pro rata share of the Roadway Maintenance Costs not paid plus any accrued interest. From the time of such recordation, the amount stated in such notice, together with interest, costs, and reasonable attorney's fees, shall become a lien against the Parcel of the defaulting Owner. The sale or transfer of a Parcel shall not affect the lien. No sale or transfer shall relieve the Owner of a Parcel from liability for any assessments thereafter becoming due or from the lien thereof.

3. **Roadway Insurance.** Each Owner covenants and agrees to provide and maintain in force at all times general public liability insurance in the minimum amount of \$1,000,000 combined single limit against all claims for personal injury, death or property damage occurring in, on or about the portion of Roadway located on their Parcel. Each policy shall bear endorsements naming the other Owner as additional insured and requiring the other Owner to be notified at least sixty (60) days in advance of any modification or cancellation thereof. Endorsed copies or certificates of such policies shall be promptly delivered to any Owner upon such Owner's written request.
4. **Landscape and Sign Area.** Sandy Paydirt desires to install and maintain the landscaping on "Lot B", which is more particularly described in the attached Exhibit D, for the use and benefit of the Lot 8 Owners, their customers, guests, tenants and invitees. So long as SCP is the Owner of Lot B, SCP shall have the option to construct and maintain a "Monument Sign" within such area for the sole purpose of identifying the development and businesses being conducted on the SCP Lots.
 - a) **Construction and Maintenance.** Sandy Paydirt shall, at its sole cost and expense, landscape Lot B in accordance with a design and plan

approved by Sandy City. If SCP does not exercise its option pursuant to Section 4 (c) below and SCP elects to construct and use a Monument Sign within Lot B, SCP shall, at its sole cost and expense, construct and thereafter operate, light and maintain such Monument Sign. SCP shall repair and or replace any landscaping impacted by the construction, operation or maintenance of the Monument Sign .

- b) Alterations. So long as SCP is the Owner of Lot B, no portion of Lot B may be altered, changed, demolished, sold, leased, pledged or encumbered without the prior written consent of both the Owner of Lot 8 and the Owner of the SCP Lots.
- c) SCP Option. SCP shall have the option, upon written notice received by Sandy Paydirt prior to August 1, 2006, to require Sandy Paydirt to purchase Lot B from SCP at a purchase price of Fourteen and 16/100 Dollars (\$14.16) per square foot to be paid upon conveyance of title to Sandy Paydirt by Special Warranty Deed free and clear of all encumbrances, exceptions, and defects with an Alta survey and an extended coverage owner's policy of title insurance to be provided to Sandy Paydirt at SCP's expense. Sandy Paydirt's obligation to purchase Lot B shall be subject to Sandy Paydirt's right to inspect and approve, in its discretion, the physical condition of Lot B. SCP shall deliver to Sandy Paydirt the survey and title commitment within fifteen (15) days of the written notice of exercise of its option. Sandy Paydirt shall have thirty (30) days after receipt of the survey and title commitment to review the same and inspect Lot B, and notify SCP of any objections to title or the condition of Lot B. If Sandy Paydirt does not give SCP written notice of acceptance of the condition of and title to Lot B within said thirty (30) day period, Sandy Paydirt shall be deemed to have objected. SCP shall have fifteen (15) days after objection to cure the same or the option rights of SCP hereunder shall be deemed to have been waived. The transaction conveying Lot B shall close within fifteen (15) days of the later of Sandy Paydirt's notice of acceptance or the cure of all objections.
5. Lot Line Adjustment. SCP agrees to adjust the lot line between Lot A and Lot B as set forth in Exhibit "E", and to execute any documents necessary to effectuate and record such lot line adjustment.
6. General Provisions.

- a) Covenants Running With the Land. All of the provisions of this Agreement shall be covenants running with the land pursuant to applicable law. It is expressly acknowledged that each covenant to do or refrain from doing some act on each Parcel is for benefit of and a burden upon the other Parcels, shall benefit or be binding upon each successive Owner during its ownership of each Parcel, or any portion thereof, and each person having any interest therein derived in any manner through any owner of any Parcel or any portion thereof.
- b) Parties Benefitted. Nothing in this Agreement whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the Owners and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third person to any party to this Agreement, nor shall any provisions give any third person any right of subrogation or action over or against any party to this Agreement.
- c) Waiver. No term or provision of this Agreement shall be deemed waived, and no breach or default shall be deemed excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. No consent by any party to, or waiver of, a breach or default by the other, whether express or implied, shall constitute a consent to, waiver of, or excuse for any different or subsequent breach or default.
- d) Amendment. This Development Agreement shall be effective as of the date hereof and may be canceled, changed, modified or amended in whole or in part only by written instrument by all Owners.
- e) Termination of Liability. Whenever a transfer of ownership of any Parcel occurs, the transferor will not be liable for a breach of this Agreement occurring after such transfer.
- f) Not a Partnership. The Owners do not by this Agreement, in any way or for any purpose, become partners or joint venturers of the other party in the conduct of their respective businesses or otherwise.
- g) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, successors (by merger, consolidation or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other person acquiring any Parcel, or any portion thereof, or any interest therein, whether by operation by law or in any manner whatsoever.

- h) Recordation. This Agreement or memorandum hereof shall be recorded in the office of the Salt Lake County Recorder's office.
- i) Estoppel Certificate. Each Owner agrees to deliver an estoppel certificate to the Owners and any lender of the other Owners stating that all payments due to the other Owners or otherwise due and payable under this Agreement have been paid and that there is no default by the requesting Owner under this Agreement, or if such statements cannot be truthfully made, then such estoppel certificate shall state the reasons why it cannot be made. Such estoppel certificated shall be delivered with twenty (20) days of a written request therefore.

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

Sandy Centennial Partners, L.C.
a Utah limited liability company

OHM L.C., a Utah limited liability company,
Its Manager

By: 

Michael Minson, Manager

Sandy Paydirt L.L.C.,
a Utah limited liability company

By: Woodbury Corporation, Its Manager

By: 

W. Richards Woodbury, Its President

By: 

O. Randall Woodbury, Its Secretary

STATE OF)
 ss
COUNTY OF)

On _____, 2006, before me, personally appeared Michael Minson, personally known to me to be the person 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 on the instrument the person, or entity upon behalf of which the person acted, executed the instrument. *see attached*

WITNESS my hand and official seal.

Notary Public

(CORPORATE)

STATE OF UTAH)
 : ss.
COUNTY OF)

On this ___ day of _____, 2006 before me personally appeared W. Richard Woodbury and O. Randall Woodbury, to me personally known to be the President, and Secretary of Woodbury Corporation as Manager for Sandy Paydirt LLC, and acknowledged to me that they executed the within instrument, on behalf of said entity therein named, and acknowledged to me that such entity executed the within instrument.

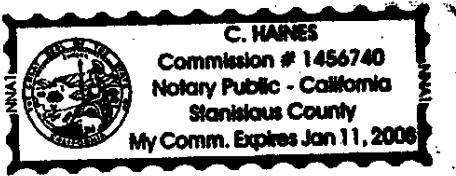
Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Stanislaus } ss.

On June 8, 2006 before me, C. Hanes, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Michael J. Minson
Name(s) of Signer(s)

- personally known to me
- ~~proved to me on the basis of satisfactory evidence~~



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

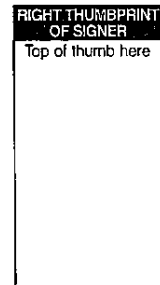
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

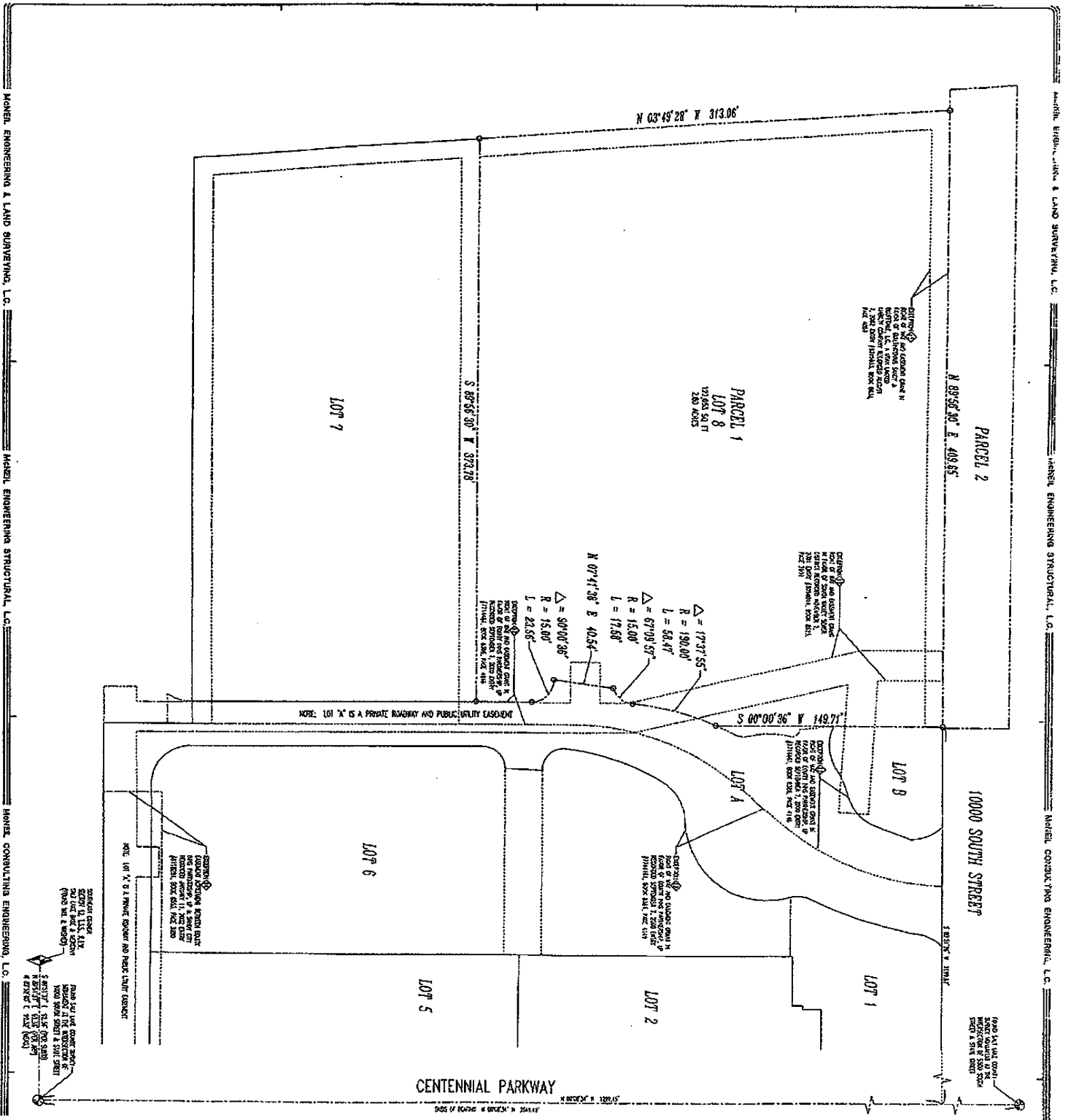
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



[Handwritten initials]

Exhibit "A"



MONTEL ENGINEERING & LAND SURVEYING, L.C.

MONTEL ENGINEERING STRUCTURAL, L.C.

MONTEL CONSULTING ENGINEERING, L.C.

MONTEL ENGINEERING & LAND SURVEYING, L.C.

MONTEL ENGINEERING STRUCTURAL, L.C.

MONTEL CONSULTING ENGINEERING, L.C.

27-124577-028, 27-124577-038

(Handwritten initials)

Exhibit "B"
To
Development, Easement and Maintenance Agreement
Drawing of Roadway
[Attached]



S 89°51'26" W 1899.82'

LOT B

LOT

ANT
R
23,

EXCEPTION 12
RIGHT OF WAY AND EASEMENT GRANT IN
FAVOR OF EQUITY INNS PARTNERSHIP, LP
RECORDED SEPTEMBER 7, 2000 ENTRY
#7714461, BOOK 8386, PAGE 4146

S 00°00'36" W 149.71'

LOT A

EXCEPTION 12
RIGHT OF WAY AND EASEMENT GRANT IN
FAVOR OF EQUITY INNS PARTNERSHIP, LP
RECORDED SEPTEMBER 7, 2000 ENTRY
#7714461, BOOK 8386, PAGE 4149

17°37'55"
190.00'
58.47'
'09'57"
00'
58'
10.54'
'00'36"
00'
56'

Exhibit "B" - Drawing of
Roadway

RIGHT OF WAY AND EASEMENT GRANT IN
FAVOR OF EQUITY INNS PARTNERSHIP, LP
RECORDED SEPTEMBER 7, 2000 ENTRY
BOOK 8386, PAGE 4146

EASEMENT

Exhibit "C"

To

Development, Easement And Maintenance Agreement

Lot A, SANDY CITY CENTRE FINAL PLAT FIRST AMENDMENT AND EXTENDED according to the official plat thereof on file, and of record in the office of the Salt Lake County Recorder, together with the following :

BEGINNING AT A POINT ON THE EASTERLY LINE OF LOT 8 OF SAID SANDY CITY CENTRE FINAL PLAT FIRST AMENDMENT AND EXTENDED SUBDIVISION, SAID POINT BEING ON THE WESTERLY LINE OF THE RIGHT OF WAY AND EASEMENT GRANT RECORDED SEPTEMBER 7, 2000 AS ENTRY NO. 7714461 IN BOOK 8386 ON PAGE 4146 OF THE OFFICIAL RECORDS, SAID POINT ALSO BEING SOUTH 00°00'36" WEST ALONG SAID EASTERLY LINE 72.80 FEET FROM THE NORTHEAST CORNER OF SAID LOT 8, AND RUNNING THENCE SOUTH 05°30'49" EAST ALONG SAID WESTERLY LINE 22.85 FEET; THENCE NORTH 89°59'25" WEST 2.20 FEET TO SAID EASTERLY LINE OF LOT 8; THENCE NORTH 00°00'36" EAST ALONG SAID EASTERLY LINE 22.74 FEET TO THE POINT OF BEGINNING.

W

Exhibit "p"

To

Development, Easement And Maintenance Agreement

Lot B, SANDY CITY CENTRE FINAL PLAT FIRST AMENDMENT AND EXTENDED,
according to the official plat thereof on file, and of record in the office of the Salt Lake
County Recorder.

OS
W

Exhibit "E"
To
Development, Easement, and Maintenance Agreement
Lot Line Adjustment Drawing
[Attached]



S 89°51'26" W 1899.82'

LOT B

LOT

ANT
R
23.

EXCEPTION 12
RIGHT OF WAY AND EASEMENT GRANT IN
FAVOR OF EQUITY INNS PARTNERSHIP, LP
RECORDED SEPTEMBER 7, 2000 ENTRY
#7714461, BOOK 8386, PAGE 4146

S 00°00'36" W 149.71'

LOT A

EXCEPTION 12
RIGHT OF WAY AND EASEMENT GRANT IN
FAVOR OF EQUITY INNS PARTNERSHIP, LP
RECORDED SEPTEMBER 7, 2000 ENTRY
#7714461, BOOK 8386, PAGE 4149

17°37'55"
190.00'
58.47'
09'57"
00'
58'
10.54'
00'36"
00'
56'

New Lot Line

Exhibit "E" - Lot Line
Adjustment Drawing

RIGHT OF WAY AND EASEMENT GRANT IN
FAVOR OF EQUITY INNS PARTNERSHIP, LP
RECORDED SEPTEMBER 7, 2000 ENTRY
BOOK 8386, PAGE 4146

RIGHT OF WAY EASEMENT