

Agreement Page 1 of 21
Russell Shirts Washington County Recorder
05/11/2009 08:12:03 AM Fee \$60.00 By
INTEGRATED TITLE INSURANCE SERVICES, LLC
(DRAPER)

WHEN RECORDED, PLEASE RETURN TO:

Cristina Coronado
Ballard Spahr Andrews & Ingersoll, LLP
201 South Main Street, Suite 800
Salt Lake City, Utah 84111

**AGREEMENT AND
FIRST AMENDMENT TO EASEMENT AGREEMENT**

THIS AGREEMENT AND FIRST AMENDMENT TO EASEMENT AGREEMENT (this "Agreement") is effective as of May 7, 2009 and entered into by and among AVEDEA, LLC, a Utah limited liability company ("Avedea"), DRY DITCH, LLC, a Utah limited liability company ("Dry Ditch"), PEACH FARM PROPERTIES, LLC, a Utah limited liability company ("Peach Farm") (Avedea, Dry Ditch and Peach Farm and their respective successor and assigns are collectively, "Grantor"), BOYER SANTA CLARA CENTER, L.L.C., a Utah limited liability company ("Boyer"), and HARMON CITY, INC., a Utah corporation ("Harmons"). The parties listed above are referred to herein as the "Parties."

RECITALS

A. Grantor and Boyer entered into that certain Easement dated March 4, 2008, and recorded in the office of the Washington County Recorder on March 10, 2008 as Entry No. 20080009892 (the "Original Easement").

B. Grantor owns the property described as the "Burdened Property" in the Original Easement Agreement, which property is further described in Exhibit A attached hereto and made a part of this Agreement.

C. Boyer owns the property described as the "Benefitted Property" in the Original Easement Agreement, which property is further described in Exhibit B attached hereto and made a part of this Agreement.

D. Under the Original Easement, Boyer is required to perform certain work related to stabilizing the wash located on the Burdened Property (the "Wash Work"), and Grantor is required to reimburse Boyer for the cost of the Wash Work.

E. Harmons has entered into a Purchase and Sale Agreement with Boyer for the purchase of the Benefitted Property from Boyer, and Harmons is willing to pay a portion of the cost of the Wash Work, but does not want to be required to perform the Wash Work.

F. Grantor and Boyer desire to amend the Original Easement, and Grantor, Boyer and Harmons desire to establish Harmons' share of the cost of the Wash Work, as set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals, which recitals are incorporated herein by this reference, the mutual covenants, promises and obligations hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Recitals. The above recitals are an integral part of the agreement and understanding of the Parties and are incorporated into this Agreement by this reference.
2. Amendment to Original Easement. The Original Easement is amended as follows:
 - (a) Section 1(d). Section 1(d) of the Original Easement is deleted in its entirety.
 - (b) Section 2. The terms "and/or the Wash Work" in the first clause of the first sentence of Section 2 of the Original Easement are hereby deleted in their entirety. The terms "the Wash Work and" in the second clause of the first sentence of Section 2 of the Original Easement are hereby deleted in their entirety. The terms "and the Wash Work" in the last clause of the second sentence of Section 2 of the Original Easement are hereby deleted.
3. Grantor to Comply with NOI. Grantor shall perform all obligations and pay all costs and expenses associated with that certain Notice of Intent for Storm Water Discharge associated with Construction Activity attached hereto as Exhibit C (the "NOI"). Grantor shall enter into a contract with R&O Construction or another competent contractor to perform the work required to be performed under the terms of the NOI. If Grantor elects not to use R&O Construction to perform such work, Grantor shall hire another contractor to do such work and shall enter into a new NOI and take all actions necessary to release R&O Construction from the NOI. If Grantor elects not to use R&O Construction to perform such work, Grantor shall indemnify R&O Construction from any claims, losses, costs and expenses asserted against R&O Construction arising out of Grantor's or its chosen contractor's failure to perform the obligations of the NOI. Grantor shall indemnify Harmons from any claims, losses, costs and expenses asserted against Harmons arising out of Grantor's or its NOI contractor's failure to perform the obligations of the NOI.
4. Harmons Contribution to Cost of Wash Work. Within two (2) days of the date this Agreement is signed by all Parties, Harmons shall pay Grantor \$30,000 (the "NOI Payment") to cover a portion of the cost of the Wash Work. No other payment shall be due from Harmons to Grantor in connection with the NOI.
5. Effect of Agreement. Except as expressly modified in this Agreement, all of the terms and conditions of the Original Easement shall remain in full force and effect. In the event of a conflict between the terms of the Original Easement and this Agreement, this Agreement shall control.
6. Representations. Each Party hereby represents and warrants to the other that the person or entity signing this Agreement on behalf of such Party is duly authorized to execute and

deliver this Agreement and to legally bind the Party on whose behalf this Agreement is signed to all of the terms, covenants and conditions contained in this Agreement.

7. Acknowledgement. Grantor and Harmons agree and acknowledge that Boyer has satisfied and discharged all of Boyer's obligations under the Original Easement and hereby release Boyer from any and all liabilities arising under the Original Easement.

8. Governing Law. This Agreement shall be construed and controlled by and under the laws of the State of Utah, without giving effect to principles of conflicts of laws

9. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, for the same effect as if all Parties hereto had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages. Delivery of an executed signature page of this Agreement by facsimile or electronic transmission by any of the Parties hereto shall be effective as delivery of a manually executed counterpart hereof. The Parties shall deliver the original signature pages to the other Parties and agree that this Agreement may be recorded in the appropriate real property records of Washington County, Utah.

10. Third-Party Beneficiary. R&O Construction shall be deemed a third-party beneficiary of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

GRANTOR:

AVEDEA, LLC, a Utah limited liability company

By: Shandon D. Gubler
Name: SHANDON D. GUBLER
Title: Manager

DRY DITCH, LLC, a Utah limited liability company

By: Shandon D. Gubler
Name: SHANDON D. GUBLER
Title: Manager

PEACH FARM PROPERTIES, LLC, a Utah limited liability company

By: Shandon D. Gubler
Name: SHANDON D. GUBLER
Title: Manager

BOYER:

BOYER SANTA CLARA CENTER, L.L.C., a Utah limited liability company

THE BOYER COMPANY, L.C., a Utah limited liability company

By: _____
Name:
Title:

HARMONS:

HARMON CITY, INC., a Utah corporation

By: _____
Name:
Title:

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

GRANTOR:

AVEDEA, LLC, a Utah limited liability company

By: _____
Name:
Title:

DRY DITCH, LLC, a Utah limited liability company

By: _____
Name:
Title:


PEACH FARM PROPERTIES, LLC, a Utah limited liability company

By: _____
Name:
Title:

BOYER:

BOYER SANTA CLARA CENTER, L.L.C., a Utah limited liability company

THE BOYER COMPANY, L.C., a Utah limited liability company

By:  _____
Name: *David Boyer*
Title: *Manager*

HARMONS:

HARMON CITY, INC., a Utah corporation

By: _____
Name:
Title:

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

GRANTOR:

AVEDEA, LLC, a Utah limited liability company

By: _____

Name:

Title:

DRY DITCH, LLC, a Utah limited liability company

By: _____

Name:

Title:

PEACH FARM PROPERTIES, LLC, a Utah limited liability company

By: _____

Name:

Title:

BOYER:

BOYER SANTA CLARA CENTER, L.L.C., a Utah limited liability company

THE BOYER COMPANY, L.C., a Utah limited liability company

By: _____

Name:

Title:

HARMONS:

HARMON CITY, INC., a Utah corporation


By: John W. Wards

Name: John W. Wards

Title: CFO

STATE OF UTAH)
)
COUNTY OF ~~UTAH~~ ^{WASH}) : ss.
WASHINGTON)

The foregoing instrument was acknowledged before me this 8th day of May, 2009, by Shandon D. Gubler, who is the Manager of AVEDEA, LLC, a Utah limited liability company.



Notary Public
Residing at ST. GEORGE, UTAH

My Commission Expires:
02-04-2013



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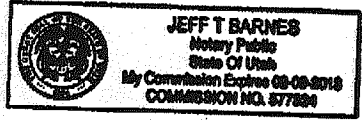
STATE OF UTAH)
)
COUNTY OF ~~UTAH~~ WASHINGTON) : ss.

The foregoing instrument was acknowledged before me this 31st day of May, 2009, by Shandon D. Gubler, who is the Manager of DRY DITCH, LLC, a Utah limited liability company.




Notary Public
Residing at: St. George, Utah

My Commission Expires:
02-09-2013



STATE OF UTAH)
)
COUNTY OF UTAH (12))
WASHINGTON)

The foregoing instrument was acknowledged before me this 8th day of MAY, 2009, by Shandon D. Gabler, who is the Manager of PEACH FARM PROPERTIES, LLC, a Utah limited liability company.



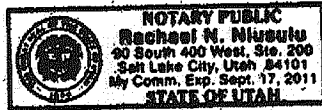
Notary Public
Residing at: St. George, Utah

My Commission Expires:
02-09-2013



STATE OF UTAH)
) : ss.
COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this 9th day of May, 2009, by Devon M. Allen, who is the Manager of THE BOYER COMPANY, L.C., a Utah limited liability company, who is the Manager of BOYER SANTA CLARA CENTER, L.L.C., a Utah limited liability company.



Rachel N. Mizutani
Notary Public
Residing at: Salt Lake City

My Commission Expires:

9-17-11

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this 8th day of May, 2009, by John Wood who is the CEO of HARMON CITY, INC., a Utah corporation.

[Signature]
Notary Public
Residing at: Salt Lake County

My Commission Expires:
3/3/2010

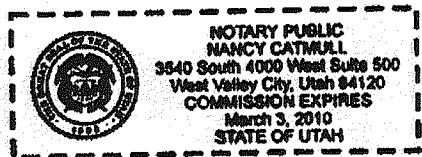


EXHIBIT A

LEGAL DESCRIPTION OF BURDENED PROPERTY

[Legal Description of Grading Property]

Certain real property located in Washington County, Utah, more particularly described as follows:

A part of Lots 1, 2, 3, and 8, Block 28, of the St. George and Santa Clara Bench Irrigation Company Survey within the Northwest Quarter of Section 9, Township 42 South, Range 16 West, Salt Lake Base and Meridian, U.S. Survey in Washington County, Utah.

Beginning at a point on the East Line of Rachel Drive as it exists at 30.00 foot half-width located 858.22 feet North 0°37'37" East along the Section Line and 30.00 feet South 89°22'23" East from the West Quarter corner of said Section 9; and running thence North 0°37'37" East 147.06 feet along said East Line to the North Line of the South Half of said Lot 3; thence South 88°59'13" East 1284.36 feet along the North Line of said South Half of Lot 3 and the North Line of the South Half of Lot 8 to the West Line of Red Mountain Road as it exists at 24.75 foot half-width; thence South 0°28'08" West 970.10 feet along said West Line of Red Mountain Road to the North Line of Pioneer Parkway as it exists at 40.00 foot half-width; thence North 88°47'13" West 1,084.40 feet along said North Line of Pioneer Parkway; thence North 0°37'37" East 202.70 feet; thence North 88°47'28" West 202.68 feet to the East line of Rachel Drive as it exists at 30.00 foot half-width; thence North 00°37'37" East 615.84 feet along said East Line to the point of beginning.

Contains 1,203,232 sq. ft. or 27.622 acres

Less and excepting the following:

A part of Lots 1, 2, and 3, Block 28, of the St. George and Santa Clara Bench Irrigation Company Survey within the Northwest Quarter of Section 9, Township 42 South, Range 16 West, Salt Lake Base and Meridian, U.S. Survey in Washington County, Utah:

Beginning at a point on the East Line of Rachel Drive as it exists at 30.00 foot half-width located 858.22 feet North 0°37'37" East along the Section Line and 30.00 feet South 89°22'23" East from the West Quarter corner of said Section 9; and running thence South 89°22'23" East 504.53 feet; thence South 28°38'27" East 146.96 feet; thence South 16°36'53" East 238.27 feet; thence South 0°37'37" West 469.39 feet to the North Line of Pioneer Parkway as it exists at 40.00 foot half-width; thence North 88°47'13" West 444.36 feet along said North line; thence North 0°37'37" East 202.70 feet; thence North 88°47'28" West 202.68 feet to the East line of Rachel Drive as it exists at 30.00 foot half-width; thence North 00°37'37" East 615.84 feet along said East Line to the point of beginning.

Contains 468,955 sq. ft. or 10.766 acres; Net Area Contains 734,277 sq. ft. or 16.856 acres

Tax Parcel Id: SC-6-2-9-4301, SC-6-2-9-4302, SC-6-2-9-4303, SC-6-2-9-4304, SC-6-2-9-4305, SC-6-2-9-4310, SC-6-2-6-4311, and SC-6-2-9-4313.

[Legal Description of Triangle Property]

That portions of the West 1/2 of the Southeast 1/4 of the Northwest 1/4 of Section 9, Township 42 South, Range 16 West, Salt Lake Base and Meridian, that lies South of the current Tuscahn Wash East of Red Mountain Drive, and North of Pioneer Parkway.

SC-6-2-9-1100 and SC-6-2-9-1

EXHIBIT B

LEGAL DESCRIPTION OF BENEFITTED PROPERTY

A PART OF LOTS 1, 2, AND 3, BLOCK 28, OF THE ST. GEORGE AND SANTA CLARA BENCH IRRIGATION COMPANY SURVEY WITHIN THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY IN WASHINGTON COUNTY, UTAH:

BEGINNING AT A POINT ON THE EAST LINE OF RACHEL DRIVE AS IT EXISTS AT 30.00 FOOT HALF-WIDTH LOCATED 858.22 FEET NORTH $0^{\circ}37'37''$ EAST ALONG THE SECTION LINE AND 30.00 FEET SOUTH $89^{\circ}22'23''$ EAST FROM THE WEST QUARTER CORNER OF SAID SECTION 9; AND RUNNING THENCE SOUTH $89^{\circ}22'23''$ EAST 504.53 FEET; THENCE SOUTH $28^{\circ}38'27''$ EAST 146.96 FEET; THENCE SOUTH $16^{\circ}36'53''$ EAST 238.27 FEET; THENCE SOUTH $0^{\circ}37'37''$ WEST 469.39 FEET TO THE NORTH LINE OF PIONEER PARKWAY AS IT EXISTS AT 40.00 FOOT HALF-WIDTH; THENCE NORTH $88^{\circ}47'13''$ WEST 444.36 FEET ALONG SAID NORTH LINE; THENCE NORTH $0^{\circ}37'37''$ EAST 202.70 FEET; THENCE NORTH $88^{\circ}47'28''$ WEST 202.68 FEET TO THE EAST LINE OF RACHEL DRIVE AS IT EXISTS AT 30.00 FOOT HALF-WIDTH; THENCE NORTH $00^{\circ}37'37''$ EAST 615.84 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING.

THE PARCEL ABOVE ALSO BEING DESCRIBED AS FOLLOWS:

PARCEL 1:

A PART OF LOT 2, BLOCK 28, OF THE ST. GEORGE AND SANTA CLARA BENCH IRRIGATION COMPANY SURVEY WITHIN THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY IN WASHINGTON COUNTY, UTAH: BEGINNING AT A POINT ON THE EAST LINE OF RACHEL DRIVE AS IT EXISTS AT 30.00 FOOT HALF-WIDTH LOCATED 518.22 FEET NORTH $0^{\circ}37'37''$ EAST ALONG THE SECTION LINE; AND 30.00 FEET SOUTH $89^{\circ}22'23''$ EAST FROM THE WEST QUARTER CORNER OF SAID SECTION 9; AND RUNNING THENCE SOUTH $89^{\circ}22'23''$ EAST 132.50 FEET; THENCE SOUTH $0^{\circ}37'37''$ WEST 256.00 FEET; THENCE NORTH $89^{\circ}22'23''$ WEST 132.50 FEET TO THE EAST LINE OF RACHEL DRIVE AS IT EXISTS AT 30.00 FOOT HALF-WIDTH; THENCE NORTH $0^{\circ}37'37''$ EAST 256.00 FEET ALONG SAID EAST LINE OF RACHEL DRIVE TO THE POINT OF BEGINNING.

PARCEL 2:

A PART OF LOTS 1, 2, AND 3, BLOCK 28, OF THE ST. GEORGE AND SANTA CLARA BENCH IRRIGATION COMPANY SURVEY WITHIN THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE & MERIDIAN, U.S. SURVEY IN WASHINGTON COUNTY, UTAH: BEGINNING AT A POINT ON THE EAST LINE OF RACHEL DRIVE AS IT EXISTS AT 30.00 FOOT HALF-WIDTH LOCATED 518.22 FEET NORTH $0^{\circ}37'37''$ EAST ALONG THE SECTION LINE AND 30.00 FEET SOUTH

89°22'23" EAST FROM THE WEST QUARTER CORNER OF SAID SECTION 9; AND RUNNING THENCE NORTH 0°37'37" EAST 340.00 FEET ALONG SAID EAST LINE OF RACHEL DRIVE; THENCE SOUTH 89°22'23" EAST 504.53 FEET; THENCE SOUTH 28°38'27" EAST 146.96 FEET; THENCE SOUTH 16°36'53" EAST 67.70 FEET TO THE SOUTH LINE OF SAID LOT 3; THENCE NORTH 88°55' 13" WEST 115.27 FEET ALONG SAID SOUTH LINE; THENCE SOUTH 0°37'37" WEST 30.26 FEET; THENCE NORTH 89°22'23" WEST 12.85 FEET; THENCE SOUTH 0°37'37" WEST 114.80 FEET; THENCE SOUTH 89°22'23" EAST 172.85 FEET; THENCE SOUTH 16°36'53" EAST 19.64 FEET; THENCE SOUTH 0°37'37" WEST 469.39 FEET TO THE NORTH LINE OF PIONEER PARKWAY AS IT EXISTS AT 40.00 FOOT HALF-WIDTH; THENCE NORTH 88°47'13" WEST 45.00 FEET ALONG SAID NORTH LINE; THENCE NORTH 0°37'37" EAST 228.69 FEET; THENCE NORTH 89°22'23" WEST 399.33 FEET; THENCE SOUTH 0°37'37" WEST 21.91 FEET; THENCE NORTH 88°47'28" WEST 202.68 FEET TO THE EAST LINE OF RACHEL DRIVE AS IT EXISTS AT 30.00 FOOT HALF-WIDTH; THENCE NORTH 0°37'37" EAST 19.85 FEET ALONG SAID EAST LINE; THENCE SOUTH 89°22'23" EAST 132.50 FEET; THENCE NORTH 0°37'37" EAST 256.00 FEET; THENCE NORTH 89°22'23" WEST 132.50 FEET TO THE EAST LINE OF RACHEL DRIVE AND THE POINT OF BEGINNING.

PARCEL 3:

A PART OF LOTS 1 AND 2, BLOCK 28, OF THE ST. GEORGE AND SANTA CLARA BENCH IRRIGATION COMPANY SURVEY WITHIN THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE & MERIDIAN, U. S. SURVEY IN WASHINGTON COUNTY, UTAH: BEGINNING AT A POINT ON THE NORTH LINE OF LOT 2 BEING 158.83 FEET NORTH 88°55'13" WEST ALONG SAID NORTH LINE FROM THE NORTHEAST CORNER OF SAID LOT 2; SAID POINT OF BEGINNING IS ALSO LOCATED 670.32 FEET NORTH 0°37'37" EAST ALONG THE SECTION LINE; AND 511.20 FEET SOUTH 88°55'13" EAST FROM THE WEST QUARTER CORNER OF SAID SECTION 9; AND RUNNING THENCE SOUTH 88°55'13" EAST 115.27 FEET ALONG SAID NORTH LINE; THENCE SOUTH 16°36'53" EAST 150.93 FEET; THENCE NORTH 89°22'23" WEST 172.85 FEET; THENCE NORTH 0°37'37" EAST 114.80 FEET; THENCE SOUTH 89°22'23" EAST 12.85 FEET; THENCE NORTH 0°37'37" EAST 30.26 FEET TO THE POINT OF BEGINNING.

PARCEL 4:

A PART OF LOT 2, BLOCK 28, OF THE ST. GEORGE AND SANTA CLARA BENCH IRRIGATION COMPANY SURVEY WITHIN THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY IN WASHINGTON COUNTY, UTAH: BEGINNING AT A POINT ON THE NORTH LINE OF PIONEER PARKWAY AS IT EXISTS AT 40.00 FOOT HALF-WIDTH LOCATED 410.57 FEET SOUTH 88°47'13" EAST ALONG THE QUARTER SECTION LINE; AND 40.00 FEET NORTH 1°12'47" EAST FROM THE WEST QUARTER CORNER OF SAID SECTION 9; AND RUNNING THENCE NORTH 1°12'47" EAST 226.44 FEET; THENCE SOUTH 89°22'23" EAST 218.72 FEET; THENCE SOUTH 0°37'37" WEST 228.69 FEET TO THE NORTH LINE OF PIONEER PARKWAY AT IT EXISTS AT 40.00 FOOT HALF-WIDTH; THENCE NORTH 88°47'13" WEST 221.05 FEET ALONG SAID NORTH LINE OF PIONEER PARKWAY TO THE POINT OF BEGINNING.

PARCEL 5:

A PART OF LOT 2, BLOCK 28, OF THE ST. GEORGE AND SANTA CLARA BENCH IRRIGATION COMPANY SURVEY WITHIN THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY IN WASHINGTON COUNTY, UTAH: BEGINNING AT A POINT ON THE NORTH LINE OF PIONEER PARKWAY AS IT EXISTS AT 40.00 FOOT HALF-WIDTH LOCATED 410.57 FEET SOUTH 88°47'13" EAST ALONG THE QUARTER SECTION LINE; AND 40.00 FEET NORTH 1°12'47" EAST FROM THE WEST QUARTER CORNER OF SAID SECTION 9; AND RUNNING THENCE NORTH 88°47'13" WEST 178.30 FEET ALONG SAID NORTH LINE OF PIONEER PARKWAY; THENCE NORTH 0°37'37" EAST 224.60 FEET; THENCE SOUTH 89°22'23" EAST 180.61 FEET; THENCE SOUTH 1°12'47" WEST 226.44 FEET TO THE NORTH LINE OF PIONEER PARKWAY AND THE POINT OF BEGINNING.

TOGETHER WITH THOSE EASEMENTS AND RESTRICTIONS SHOWN WITHIN AN EASEMENT AGREEMENT BETWEEN AVEDEA, LLC, A UTAH LIMITED LIABILITY COMPANY, DRY DITCH, LLC, A UTAH LIMITED LIABILITY COMPANY AND PEACH FARM PROPERTIES, LLC, A UTAH LIMITED LIABILITY COMPANY, AS GRANTORS AND BOYER SANTA CLARA CENTER, LLC, A UTAH LIMITED LIABILITY COMPANY (TOGETHER WITH ITS SUCCESSORS AND ASSIGNS) GRANTEE, RECORDED MARCH 10, 2008, AS ENTRY NO. 20080009892, WITHIN THE WASHINGTON COUNTY RECORDER'S OFFICE, STATE OF UTAH.

LESS ANY AND ALL OUTSTANDING OIL AND GAS, MINING AND MINERAL RIGHTS, ETC., TOGETHER WITH THE RIGHT OF THE PROPRIETOR OF A VEIN OR LODE TO EXTRACT HIS ORE THEREFROM SHOULD THE SAME BE FOUND TO PENETRATE OR INTERSECT THE PREMISES, AND THE RIGHT OF INGRESS AND EGRESS FOR THE USE OF SAID RIGHTS.

TAX PARCEL NO: SC-6-2-9-4314; SC-6-2-9-4315; SC-6-2-9-4316; SC-6-2-9-4317; SC-6-2-9-4318

EXHIBIT C

NOI

[Attached]

STATE OF UTAH, DEPARTMENT OF ENVIRONMENTAL QUALITY, DIVISION OF WATER QUALITY 288 North 1460 West, P.O. Box 144870, Salt Lake City, Utah 84114-4870 (801) 538-6146	
NOI	Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity Under the UPDES General Permit No. UTR300454 <u>SEE REVERSE FOR INSTRUCTIONS</u>
Submission of this Notice of Intent constitutes notice that the party(s) identified in Section I of this form intends to be authorized by UPDES General Permit No. UTR300454 issued for storm water discharges associated with construction activity in the State of Utah. Becoming a permittee obligates such discharger to comply with the terms and conditions of the permit. ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM.	
Is this NOI seeking continuation for previously expired permit coverage at the same site? N (Y or N)	
If yes, what is the number of the previous permit coverage? Permit No. _____	
Permit Start Date: 09/08/08 Permit Expiration Date: 09/08/09	
I. OPERATOR INFORMATION Date NOI is received at DWQ (to be completed by DWQ)	
Name (Main operator): R & O Construction Company Phone: 801-627-1403 Address: 933 Wall Avenue Status of Owner/Operator: P-Private City: Ogden State: UT Zip: 84404 Contact Person: Jeff Hawks Phone: 801-627-1403	
Name (1 st Co-permittee): Avedea Phone: 435-628-0722 Address: 170 North 400 East, #E Status of Owner/Operator: P-Private City: St. George State: UT Zip: 84770 Contact Person: Diego Carroll Phone: 435-628-0722	
Name (2 nd Co-permittee): Hawker Enterprises Phone: 435-703-2015 Address: P.O. Box 911747 Status of Owner/Operator: P-Private City: St. George State: UT Zip: 84791-1747 Contact Person: Kyle Hawker Phone: 435-703-2015	

Name (3 rd Co-permittee):	Phone:
Address:	Status of Owner/Operator:
City: State:	Zip:
Contact Person:	Phone:

Please copy this form if you have more co-permittees than what is allowed on this form.

II. FACILITY SITE/LOCATION INFORMATION

Name: Lava Flow Wash

Project No. (if any): _____

Address: SW ¼ Section 4, SE ¼ Section 5 & NW ¼ Section 9, Township

City: SANTA CLARA State: UT Zip: 84765

Latitude: 37 D 08'57"N Longitude: 113 D 39'35"W

Is the facility located in Indian Country?
N (Y or N)

Method (check one): USGS Topo Map, Scale EPA Web Site GPS
 Other

III. SITE ACTIVITY INFORMATION

Municipal Separate Storm Sewer System (MS4) Operator Name: Santa Clara City

Receiving Water Body: Quail Creek (this is guess)

How far to the nearest water body? 15 miles

List the Number of any other UPDES permits at the site: _____

IV. TYPE OF CONSTRUCTION (Check all that apply)

1. Residential 2. Commercial 3. Industrial 4. Road 5. Bridge 6. Utility 7. Contouring, Landscaping 8. Other (Please list) _____

V. MANAGEMENT PRACTICES

Identify proposed Best Management Practices (BMPs) to reduce pollutants in storm water discharges: (Check at that apply)

1. Silt Fences 2. Sediment Pond 3. Seeding/Preservation of Vegetation 4. Mulching/Geotextiles 5. Check Dams 6. Structural Controls (Berms, Ditches, etc.) 7. Other (Please list) _____

VI. ADDITIONAL INFORMATION REQUIRED

A storm water pollution prevention plan has been prepared for this site and is to the best of my knowledge in Compliance with State and/or Local Sediment and Erosion Plans and Requirements. Y (Y or N)
(A pollution prevention plan is required to be on hand before submittal of the NOI.)

Project Start Date: 09/08/08 Completion Date: All coverage's issued under this
terminate on June 30, 2013) 11/30/08 NOI will

VII. CERTIFICATION: I certify under penalty of law that I have read and understand the *Part 1* eligibility requirements for coverage under the general permit for storm water discharges from construction activities. I further certify that to the best of my knowledge, all discharges and BMPs that have been scheduled and detailed in a pollution prevention plan will satisfy requirements of *Part 1*, and *Part 3* of this permit. I understand that continued coverage under this storm water general permit is contingent upon maintaining eligibility as provided for in *Part 1*.

I also certify under penalty of law that this document and all attachments were prepared under the direction or supervision of those who have placed their signature below, in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the Information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false Information, including the possibility of fine and Imprisonment for knowing violations.

Print Name (of responsible person for the main operator from first page): Date:

Jeff Hawks

Signature:

Print Name (of responsible person for the 1st co-permittee from first page): Date:

Signature:

Print Name (of responsible person for the 2nd co-permittee from first page) Date:

Signature

Print Name (of responsible person for the 3rd co-permittee from first page): Date:

Signature:

Amount of Permit Fee Enclosed: \$100