

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Kyle V. Leishman
Jones Waldo Holbrook & McDonough
170 South Main Street, Suite 1500
Salt Lake City, UT, 84101-1644

Space Above For Recorder's Use Only

UTILITY EASEMENT AGREEMENT

^{5th} This UTILITY EASEMENT AGREEMENT ("Agreement") is entered into this day of December, 2006, by and between PAYSON PLACE, LLC, a Utah limited liability company ("Payson Place") and PAYSON FRUIT GROWERS, INC., a Utah corporation ("PFG") (individually, a "Party" and collectively, the "Parties").

RECITALS

A. Payson Place is, or will be, the owner of that certain real property located in Payson City, Utah County, Utah, depicted as the Payson Place Parcel on Exhibit "A" (the "Site Plan") and more particularly described on Exhibit "B" (the "Payson Place Parcel").

B. PFG is the owner of that certain real property located adjacent to the Payson Place Parcel which is depicted on the Site Plan as the Payson Fruit Growers Parcel and more particularly described in Exhibit "C" (the "Payson Fruit Growers Parcel").

C. Pursuant to that certain Purchase and Sale Agreement dated August 10, 2006 by and between PFG, as seller, and Payson Place, as buyer, Payson Place agreed to grant PFG an easement across a portion of the Payson Place Parcel as depicted on the Site Plan as the Payson Fruit Growers Water Line Easement to maintain the existing water line which provides water service to a portion of the Payson Fruit Growers Parcel.

NOW, THEREFORE, in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. **Grant of Easement:** Payson Place, as owner of the Payson Place Parcel, hereby grants to PFG a non-exclusive easement for the purpose of maintaining,

repairing and operating the existing water line and other appurtenant devices, over, upon, across, under and through the Payson Fruit Growers Waterline Easement area depicted on the Site Plan (the "Waterline Easement Area"). PFG shall perform any installation, operation, maintenance, repair and replacement as expeditiously as possible so as to minimize interference with the use of the Payson Place Parcel. This Agreement shall include the right of PFG to enter upon such other portions of the Payson Place Parcel as are reasonably necessary for the purpose of maintaining and/or repairing the Waterline Easement Area.

The foregoing grant of easement is to PFG, as the owner of the Payson Fruit Growers Parcel, for the benefit of the Payson Fruit Growers Parcel and for the use of PFG, its tenants, and their occupants, contractors, customers, agents, licensees, guests, permittees and invitees (collectively referred to in this Agreement as the "Permittees").

2. **Relocation.** The owner of the Payson Place Parcel reserves the right to hereafter relocate the Waterline Easement Area on the Payson Place Parcel; provided, however, that such Waterline Easement Area, as relocated, is at least ten feet (10') in width and provides direct and convenient access, comparable to the easement provided herein or referred to hereunder.

3. **No Obstructions:** Payson Place hereby agrees not to prohibit, restrain, or otherwise deter PFG and Permittees from passing freely into, out of, on and over the Waterline Easement Area. This grant is not a dedication to the public and Payson Place reserves the right to close off the Waterline Easement Area on the Payson Place Parcel for such reasonable period or periods of time as may be legally necessary to prevent the acquisition of prescriptive rights by anyone.

4. **Agreement to Run With Land.** This Agreement shall run with the land and shall be binding on and inure to the benefit of the parties to this Agreement and their respective heirs, successors and assigns. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Payson Place Parcel to the general public or for the general public or for any public purpose whatsoever, it being the intention of the parties that this Agreement shall be strictly limited to and for the purposes herein expressed.


5. **Provisions Regarding the Interpretation and Amendment of this Agreement:** This Agreement may be amended or terminated only by the consent of each of the owners of the Payson Place Parcel and the Payson Fruit Growers Parcel. This Agreement shall be recorded in the official records of Utah County, Utah. This Agreement contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The attached exhibits and the recitals are incorporated into this Agreement. This Agreement is not intended to create any third party beneficiary rights. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party. In construing the provisions of this Agreement and whenever the context so requires, the use of a gender

shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular and headings are for reference only and do not define or limit the scope or meaning of any provision of this Agreement. If any provision of this Agreement is adjudicated invalid or unenforceable, the remaining provisions shall continue in full force and effect. This Agreement shall be governed by the laws of the State of Utah.

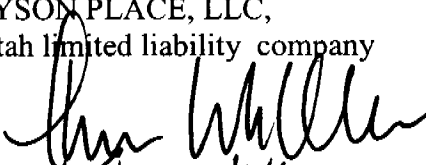
6. **Provisions Regarding Enforcement of this Agreement:** This Agreement may be enforced by injunction. The failure of a person to insist upon strict performance of any of the provisions of this Agreement shall not be deemed a waiver of any rights or remedies that person may have, and shall not be deemed a waiver of any subsequent breach or default by the same or any other person. The prevailing party in a suit to enforce this Agreement shall be entitled to reasonable attorneys fees (and reasonable attorneys fees on appeal).

IN WITNESS WHEREOF, this Agreement has been executed as of the date first written above.

PAYSON FRUIT GROWERS, INC.,
a Utah corporation

By: 
Name: Chad A. Rowley
Title: General manager

PAYSON PLACE, LLC,
a Utah limited liability company

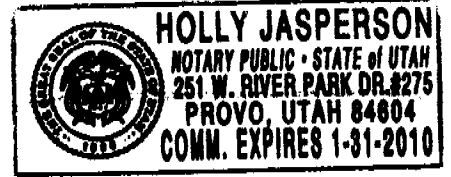
By: 
Name: Thom Williamson
Title: Manager

STATE OF UTAH)
 Utah : ss
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 5th day of ~~November~~ DECEMBER, 2006, by CHAD A ROWLEY, as GENERAL MANAGER of Payson Fruit Growers, Inc.

Holly Jaspersen
NOTARY PUBLIC
Residing at: Utah

My Commission Expires:
01-31-2010



STATE OF UTAH)
 Utah : ss
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 5th day of ~~November~~ DECEMBER, 2006, by THOM WILLIAMSEN, as MANAGER of Payson Place, LLC, a Utah limited liability company.

Holly Jaspersen
NOTARY PUBLIC
Residing at: Utah

My Commission Expires:
01-31-2010



Exhibit "A"
Site Plan

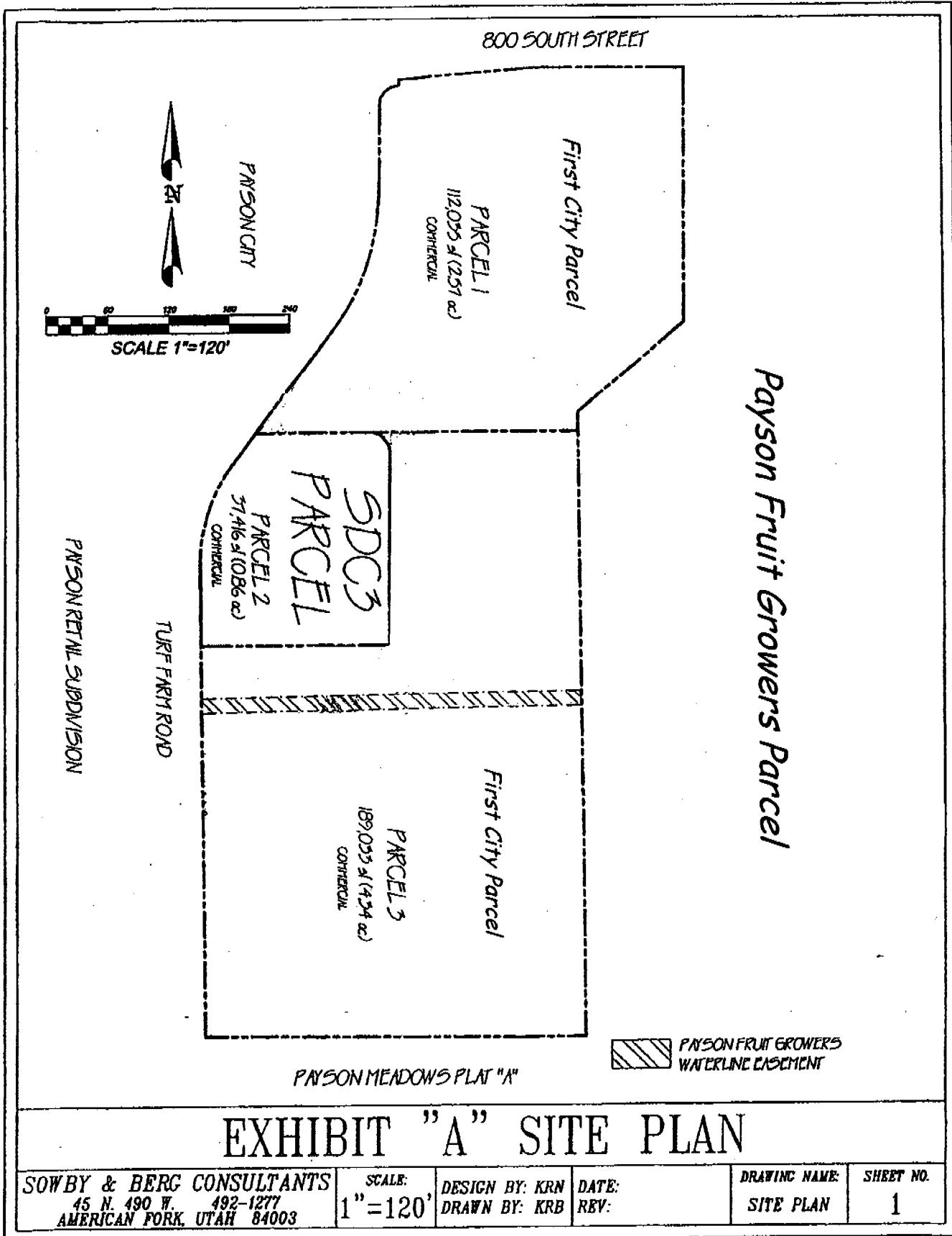


EXHIBIT "A" SITE PLAN

SOWBY & BERG CONSULTANTS 45 N. 490 W. 492-1277 AMERICAN FORK, UTAH 84003	SCALE: 1" = 120'	DESIGN BY: KRN	DATE:	DRAWING NAME:	SHEET NO.
		DRAWN BY: KRB	REV:	SITE PLAN	1

Exhibit B
Legal Description of Payson Place Parcel

EXHIBIT B

Escrow No. **323-4600960 (haj)**
 A.P.N.: **30-063-0069**

Parcel 1:

All that land in the City of Payson, County of Utah, State of Utah, being part of the Southeast Quarter of Section 18, T. 9 S., R. 2 E., S.L.B. & M., US Survey, more particularly described as follows:

Beginning at a point on a fence line, which is called out in the Boundary Line Agreement recorded as Entry # 30214, Book 2633 Page 775, said point being N89°54'12"E. 1453.88 feet, N00°11'30"W 731.48 feet; along the East line of said Payson Meadows Subdivision, N00°11'36"W 0.38 feet; to the fence line called out in the Boundary Line Agreement recorded as Entry #11238 Book 1197 Page 391, N89°59'03"E 60.63 feet along said fence line to the intersection of the fence line called out in the Boundary Line Agreement Entry #30214 Book 2633 Page 775, and N00°45'56"W 603.79 feet along said fence line from the South Quarter Corner of said Section 18, said point also being N04°47'17"W 11.74 feet, N89°54'12"E 1453.88 feet, N00°11'30"W 731.48 feet, N00°11'36" W 0.38 feet, N89°59'03"E 60.63 feet, and N00°45'56"W 603.79 feet from the found reference corner of the South Quarter Corner of said Section 18; thence N00°45'56"W 18.19 feet along said fence line; thence leaving said fence line and running N49°46'57"E 139.45 feet to the third fence line called for in said Boundary Line Agreement; thence N00°15'45"E 247.80 feet along said fence line to the right of way line being 25 feet perpendicular South of centerline of 800 South Street per Deed recorded in Book 1573 Page 675; thence N89°46'25" 147.85 feet along said line; thence S85°42'46"W 139.60 feet; thence S01°18'19"W 6.17 feet to the beginning of a non-tangent curve concave to the Southeast with a radius of 19.00 feet with a radial bearing of N00°18'59"E; thence Southwesterly along said curve a distance of 29.95 feet, through a central angle of 90°18'59"; thence S00°40'11"W 95.37 feet to the beginning of a tangent curve concave to the West, with a radius of 237.99 feet; thence Southerly along said curve a distance of 177.01 feet, through a central angle of 42°36'54"; thence S43°17'05"W 89.63 feet; thence S90°00'00"E 326.23 feet to the point of beginning.

Parcel 2:

All that land in the City of Payson, County of Utah, State of Utah, being part of the Southeast Quarter of Section 18, T. 9 S., R. 2 E., S.L.B. & M., US Survey, more particularly described as follows:

Beginning at a rebar and cap stamped with Number 150228, being an original monument at the Northeast Corner of Lot 13 Plat "A" Payson Meadows Subdivision recorded as Entry # 77590 Map # 7268 Page 85, said point being N89°54'12"E 1453.88 feet; thence N00°11'30"W 731.48 feet; along the East line of said Payson Meadows Subdivision from the South Quarter Corner of said Section 18, said point also being N04°47'17"W 11.74 feet, and N89°54'12"E 1453.88 feet, and N00°11'30"W 731.48 feet from the found reference corner of the South Quarter Corner of said Section 18; thence N00°11'36"W 0.38 feet; to the fence line called out in the Boundary Line Agreement recorded as Entry #11238 Book 1197 Page 391; thence N89°59'03"E 60.63 feet along said fence line to the intersection of the fence line called out in the Boundary Line Agreement Entry #30214 Book 2633 Page 775; thence N00°45'56"W 603.79 feet along said fence line; thence leaving said fence line and running N90°00'00"W 210.26 feet to a point on a non-tangent curve concave to the Southwest with a radius of 20.00 feet, and a radial bearing of N00°00'00"E; thence Southeasterly along said curve a distance of 31.42 feet, through a central angle of 90°00'00"; thence S00°00'00"W 193.24 feet; thence N90°00'00"W 184.20 feet to the East Right of Way Line of Turf Farm Road; thence along said East Line the following two courses: 1) S00°40'11"W 38.42 feet, 2) S01°07'34"E 350.65 feet; thence S89°39'20"E 315.46 feet to the point of beginning.

Exhibit C
Legal Description of Payson Fruit Growers Parcel

Exhibit C

All that land in the City of Payson, County of Utah, State of Utah, being part of the Southeast Quarter of Section 18, Township 9 South, Range 2 East, Salt Lake Base & Meridian, US Survey; more particularly described as follows:

Beginning at a Point on a Fence Line called out in the Boundary Line Agreement #11238 in Book 1197, at Page 391, said point being North 89°54'12" East 1453.88 feet; thence North 00°11'30" West 731.48 feet; along the East side line of said Payson Meadows Subdivision; thence North 00°11'36" West 0.38 feet to the Fence Line called out in the Boundary Line Agreement recorded as Entry #11238 in Book 1197, Page 391; thence North 89°59'03" East 60.63 feet along said Fence Line from the South Quarter Corner of said Section 18, said Point being North 04°47'17" West 11.74 feet, and North 89°54'12" East 1453.88 feet, and North 00°11'30" West 731.48 feet, and North 00°11'36" West 0.38 feet, and North 89°59'03" East 60.63 feet from the found reference corner of the South Quarter Corner of said Section 18; thence North 89°37'43" East 602.23 feet along said Fence Line; thence North 00°32'36" West 953.95 feet along a Fence Line called out in said Boundary Line Agreement and in Boundary Line Agreement #17844, Book 1784, Page 786 to a line 25 feet South of Centerline 800 South Street; thence North 89°46'25" West 493.87 feet along said Line; thence South 00°15'45" West 247.80 feet along the Fence Line; thence South 49°46'57" West 139.45 feet; thence South 00°45'56" East 621.98 feet to the Point of Beginning.