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Book - 8692 Pg - 6951-6964
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
FIRST AMERICAN TITLE
BY: ELF, DEPUTY - WT 14 P.

When Recorded, Mail To:
Denis R. Morrill
Kirton & McConkie
1800 Eagle Gate Tower
Salt Lake City, Utah 84845

8437656

Space Above For Recorder's Use

DRAINAGE EASEMENT AGREEMENT

THIS DRAINAGE EASEMENT AGREEMENT ("Agreement") is made this 27 day of November, 2002 ("Effective Date"), between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, Grantor, and PROPERTY RESERVE, INC., a Utah corporation, Grantee.

WITNESSETH:

WHEREAS, Grantee is the owner of a parcel of land in Salt Lake County, Utah, described in Exhibit "A" attached hereto and made a part hereof (the "**Grantee Parcel**"); and

WHEREAS, Grantor is the owner of certain real property adjacent to the Grantee Parcel and described in Exhibit "B" attached hereto and made a part hereof (the "**Easement Area**"); and

WHEREAS, Grantee and Grantor desire to provide for use by Grantee and its successors and assigns, of the drainage facilities located or to be located in the Easement Area for drainage of storm water from the Grantee Parcel, subject to the terms and conditions in this Agreement.

NOW, THEREFORE, for One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, as well as the mutual covenants, undertakings and agreements of the parties under this Agreement, the parties hereto, for themselves and for their respective successors and assigns, grant, declare and agree as follows:

1. Grant of Easement.

Grantor grants to Grantee, its successors and assigns, subject to all outstanding rights except any rights created by Grantor, and further subject to the terms and limitations in this Agreement, (a) a non-exclusive easement for storm water drainage from the Grantee Parcel through the facilities or any replacements thereof (herein called the "**Facilities**") located or to be located on the Easement Area described in Exhibit "B" (herein called the "**Drainage Easement**") and constructed in accordance with the drainage plan (herein called the "**Drainage Plan**") attached as Exhibit "C" and hereby made a part hereof; together with (b) a non-exclusive easement for the natural surface flow of storm water drainage from the Grantee Parcel over and across the portion of the Easement Area over which such drainage flows to such drainage's point of discharge into the Facilities (herein called the "**Natural Flow Area**"), or, in connection with, or from and after the construction of improvements on all or any portion of the Grantee Parcel, for the construction, installation, maintenance and use of all pipes, flumes,

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conduits and other drainage facilities (herein called "**Grantor's Drainage Facilities**") as may be required, in lieu of such surface flow of storm water drainage, to transport storm water drainage from Grantee's Parcel through the Natural Flow Area to the Facilities, *provided, however*, that Grantor's plans and specifications for the construction and installation of Grantor's Drainage Facilities shall be subject to Grantee's approval, which approval shall not be unreasonably withheld or delayed, and that Grantor's entry upon the Natural Flow Area for purposes of such construction, installation, maintenance and use shall be subject to such requirements as may reasonably be imposed by Grantee, including without limitation, indemnification and insurance for the benefit of Grantee. In no event shall the storm water discharged from the Grantee Parcel through the Facilities and/or the Easement Area exceed two-tenths (.2) cubic feet per second per acre (herein called the "**Historic Flow**"). If Grantor obtains a survey and legal description of the locations of the Facilities and the Natural Flow Area (or, after construction of Grantor's Drainage Facilities, the location of Grantor's Drainage Facilities in lieu of the location of the Natural Flow Area), then, upon request of Grantor, Grantee shall execute and acknowledge an amendment to this Agreement substituting such legal description for the legal description attached as **Exhibit "B"** and quitclaiming to Grantor all right, title and interest in all portions of the property described in **Exhibit "B"** that are not included in the substituted legal description.

2. Construction, Maintenance, Operation and Use.

(a) Grantee, at its sole cost and expense, shall be responsible for maintaining the storm water drainage or run-off from the Grantee Parcel so as not to increase above the Historic Flow the intensity or amount of such storm water drainage or run-off as the same drains through the Facilities and/or through the Easement Area.

(b) Grantor, at no cost or expense to Grantee, shall be responsible for constructing the Facilities prior to or concurrently with any development of the Easement Area. Grantor, at no cost or expense to Grantee except as otherwise provided in this Agreement, shall be responsible for such maintenance or repair of the Facilities as is necessary to physically allow for drainage or run-off of storm water from the Grantee Parcel through the Facilities at the Historic Flow. Grantor shall have no responsibility whatsoever with respect to the drainage or run-off after it exits the Easement Area.

3. Reserved Rights.

Grantor reserves unto itself, its successors and assigns, the right to use the Easement Area for any purpose, and to grant to third parties such right, so long as there is no material interference with the easement rights granted to Grantee in this Agreement. Grantor further reserves the right to remove and relocate and/or modify the Facilities, provided, however, that Grantor, at its sole cost and expense, shall provide Grantee with a reasonably equivalent alternative easement area location on Grantor's property or otherwise provide for the Historic Flow to be accommodated in a substantially equivalent manner. Any plans for any such relocation or modification shall be submitted to Grantee for Grantee's review and approval, which approval shall not be withheld or delayed unreasonably.

4. Compliance with Laws.

Grantee shall comply with all applicable laws, statutes, rules, regulations and ordinances with respect to the drainage or run-off of storm water from the Grantee Parcel (including,

without limitation, the federal Clean Water Act), and/or the exercise of the easement rights granted to Grantee in this Agreement, and Grantee shall indemnify, defend and hold harmless Grantor, its officers, agents, contractors, affiliates, successors and assigns, from and against all liability, loss, damage, claims, demands, actions, causes of action, costs and expenses of whatsoever nature, including court costs and attorney's fees, arising from or in any manner connected with the failure of Grantee so to comply.

5. No Public Rights.

The easement rights granted to Grantee in this Agreement are private rights, and nothing in this Agreement shall be deemed to or construed as granting or dedicating to the public any rights; provided, however, that Grantor shall have the right, but not the obligation, to dedicate to the public all or a portion of the Facilities and an easement therefor across Grantor's property, or to otherwise arrange for the drainage from the Grantee Parcel to be substantially accommodated in a public drainage system, in which event the easement rights granted to Grantee in this Agreement shall terminate.

6. Successors and Assigns.

The rights and obligations in this Agreement run with the land and are binding upon and inure to the benefit of, and are enforceable by, the parties hereto and their respective successors and assigns.

7. Release of Grantee.

In the event that Grantee sells, conveys or transfers any portion of the Grantee Parcel, from and after the date of such sale, conveyance and transfer Grantee shall be released of any obligations under this Agreement accruing after the date of such sale, conveyance or transfer to the extent that such obligations pertain to such sold, transferred or conveyed portion.

8. Interpretation.

This Agreement shall be construed in accordance with the laws of the State of Utah. This Agreement constitutes the entire understanding of the parties in connection with the subject matter herein and may be amended only by a writing executed by the party to be charged. If any term, provision or condition of this Agreement is found to be or is rendered invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the remaining terms, provisions or conditions of this Agreement, and each and every other term, provision or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

9. Notices.

In the event that any communication or notice is deemed necessary or advisable under the terms of this Agreement, it shall be in writing and either delivered personally to the party sought to be charged thereby, or mailed postage prepaid, certified mail, return receipt requested, in the following manner:

If to Grantor: UNION PACIFIC RAILROAD COMPANY
ATTN: Real Estate Manager, Utah
1416 Dodge Street, WP-001
Omaha, Nebraska 68179

with a copy to: Christine M. Smith, General Contract Counsel
Union Pacific Railroad Company
1416 Dodge Street, Room 830
Omaha, Nebraska 68179

If to Grantee: PROPERTY RESERVE, INC.
10 East South Temple
P.O. Box 511196
Salt Lake City, UT 84151-1196
Attention: Dean Davies, Vice President

With a copy to: Kirton & McConkie
1800 Eagle Gate Tower
60 East South Temple
P.O. Box 45120
Salt Lake City, UT 84145-0120
Attention: Denis R. Morrill, Esq.

or at such other address as the parties may hereafter designate in the manner provided herein.

[Remainder of the page is intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

ATTEST:

 (Seal)
Assistant Secretary

UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation

By: 
Title: Vice President - Law

ATTEST:

Assistant Secretary (Seal)

PROPERTY RESERVE, INC.,
a Utah corporation

By: _____
Title: _____

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IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

ATTEST:

UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation

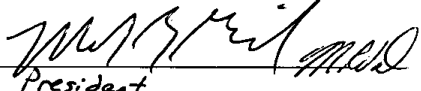
Assistant Secretary (Seal)

By: _____
Title: _____

ATTEST:

PROPERTY RESERVE, INC.,
a Utah corporation

Assistant Secretary (Seal)

By: 
Title: President

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STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On November 22, 2002, before me, a Notary Public in and for said County and State, personally appeared J. Michael Memmer, Vice President - Law of UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, personally known to me (or proved to me on the basis of satisfactory evidence) 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 the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Beverly A. Meeks
Notary Public

(SEAL)

STATE OF UTAH)
) ss.
COUNTY OF _____)

On _____, 2002, before me, a Notary Public in and for said County and State, personally appeared _____ and _____, _____ and _____, respectively, of PROPERTY RESERVE, INC., a corporation organized under Utah law, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

(SEAL)

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STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On _____, 2002, before me, a Notary Public in and for said County and State, personally appeared _____, _____ of UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, personally known to me (or proved to me on the basis of satisfactory evidence) 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 the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

(SEAL)

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

On Nov. 25, 2002, before me, a Notary Public in and for said County and State, personally appeared Mark B. Nelson and _____, President and _____, respectively, of PROPERTY RESERVE, INC., a corporation organized under Utah law, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Kathryn R. Provard
Notary Public



(SEAL)

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EXHIBIT A

To Drainage Easement

[Legal Description Grantor Parcel]

Lot 1, West Salt Lake Intermodal Subdivision, according to the official plat thereof on file in the office of the Salt Lake County Recorder (part of Section 12, Township 1 South Range 2 West, Salt Lake Base & Meridian).

EXHIBIT B

To Drainage Easement

See the Narrative Below and the Attached Plat Labeled "EXHIBIT B PLAT"

Description of Required Utilities Related to the UP Intermodal Facility

The installation and construction of 1100 South Street between 4800 West and 5600 West Streets will comply with existing Salt Lake City design standards for utilities, including, but not limited to, primary water, sanitary sewer, and storm drainage. At this time, a 12-inch diameter primary water pipeline and a 18-inch diameter sanitary sewer line are proposed to be installed along the entire length of the new 1100 South Street between 4800 West and 5600 West Streets. The sizes of these pipes may be modified before the final approval is given to the final project design drawings depending on the results of the city's network model.

It is proposed that storm water flow from Grantee's remaining property north of the 1100 South road be accepted into and conveyed through a new/improved storm drainage conveyance facility. Existing Salt Lake City standards require a design storm water flow of 0.2 cubic feet per second (cfs) per acre for undeveloped property. A storm water collection and drainage swale will be located just north of the south UP property line (e.g., north of the unsold PRI property), and will be designed to retain 0.05 cfs of storm water discharge per acre for the increased development storm water discharge. Thus the total capacity of the swale will be 0.25 cfs per acre. This drainage swale would then discharge as downstream capacity becomes available in the proposed storm drainage conveyance facility, which is described in the subsequent paragraph. In addition, storm water collected on 1100 South Street will be collected in a closed system consisting of a series of catch basins located on either side of the street. The catch basins will drain into a new 24-inch pipe located on the north side of 1100 South Street and which will convey water to the east into an improved drainage ditch located on the west side of 4800 West Street. This ditch will run from 1100 South Street to south of the south UP tracks right-of-way (ROW).

Water collected both in the drainage swale located on UP property and from 1100 South Street will pass under 4800 South Street through a new 36-inch culvert that will be installed just south of the south set of UP tracks ROW. Water will then drain into an improved drainage ditch on the south side of the south UP tracks and flow to the east. The water will pass under the Brighton Canal through a new 48-inch siphon (that will be constructed to limit solids deposition in the siphon) and then pass under the south set of UP tracks. Water will then be conveyed to the north through a series of new 48-inch culverts and open ditches to the south side of 700 South Street. A new 48-inch culvert will convey water under 700 South Street, from where it will flow north in an open ditch to the south side of the north set of UP tracks. An improved open ditch will convey water along the south side of the north set of UP tracks to a new 48-inch culvert that will pass water under the north set of UP tracks. The culvert will drain into a new open ditch along the north side of the UP tracks and be conveyed to the west, from which it will ultimately flow into the Goggin Drain. This conceptual drainage plan has been reviewed by the Salt Lake City Department of Public Utilities, and they have provided input to the plan. That agency is also required to review all detailed design documents related to public utilities, including storm water drainage, and any proposed drainage system will require their final approval to ensure the drainage system will function properly.

Any material modifications to the foregoing must be submitted to and approved in writing by Grantee, which approval will not be unreasonable withheld or delayed.

RELOCATED INTERMODAL FACILITY

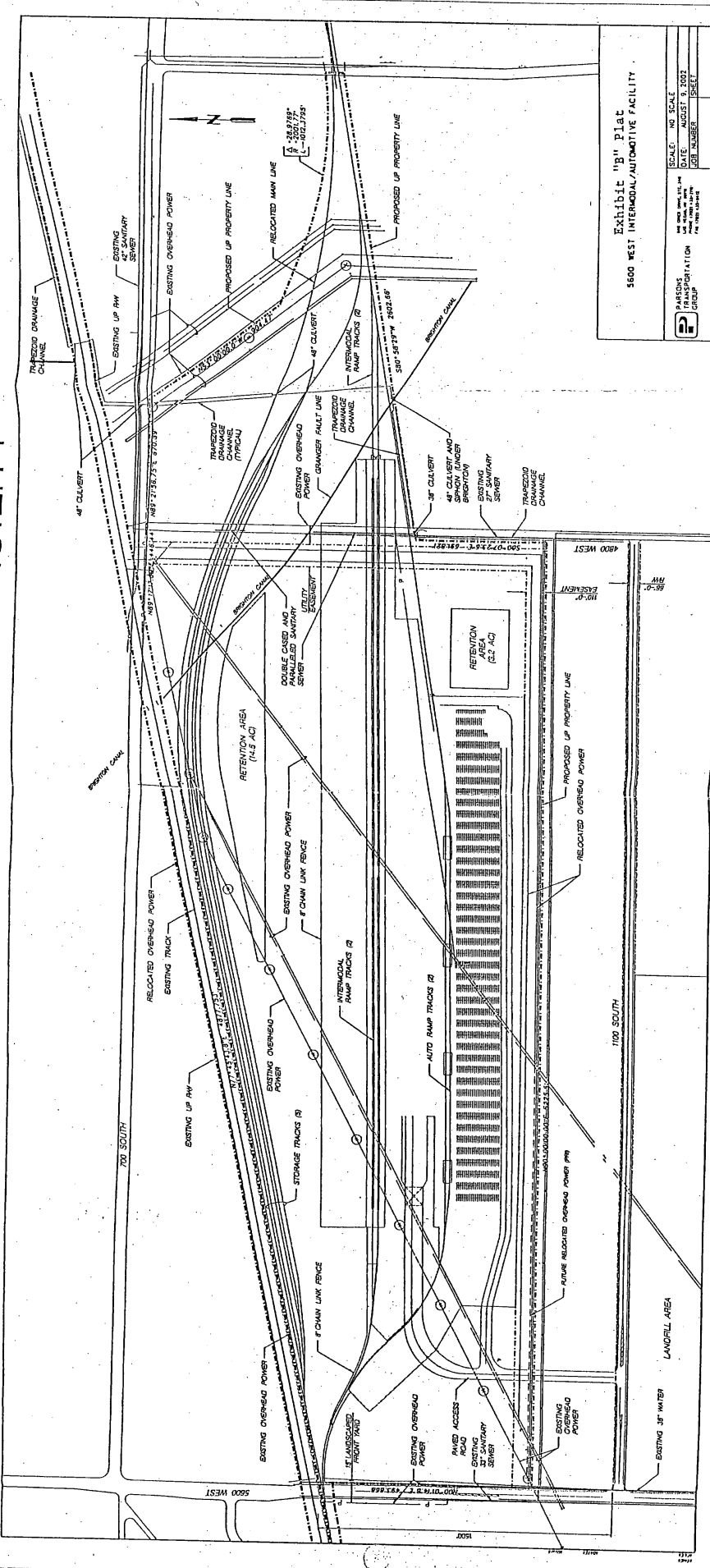


Exhibit "g" Plat
5600 WEST INTERMODAL/AUTOMOTIVE FACILITY

SCALE: NO SCALE
DATE: AUGUST 9, 2002
JOB NUMBER: 02-001
SHEET: 1

PARRISS TRANSPORTATION GROUP

LEGEND

- TRUCK/CONTAINER LOADING/UNLOADING TRACKS
- AUTO UNLOADING TRACKS
- RELOCATED MAIN TRACK

PROPOSED PROPERTY LINE (PROPOSED AREA 238.75 AC)
 M-1 MINIMUM YARD REQUIREMENTS
 15' FRONT YARD
 NONE REQUIRED FOR INTERIOR SIDE YARD OR REAR YARD

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1:10000 Scale - 150' X 100' Grid

EXHIBIT C

To Drainage Easement

[Legal Description Grantee Parcel]

All of Section 12, Township 1 South, Range 2 West, Salt Lake Base and Meridian.

Excepting therefrom the following described tract of land:

Beginning at the intersection of the South line of 700 South Street and the East line of 5600 West Street, said point being South 89°53'22" East 40.00 feet and South 0°01'17", 33.00 feet from the Northwest Corner of Section 12, Township 1 South, Range 2 West, Salt Lake Base and Meridian, and running thence South 0°01'17" West 940.87 feet along the East line of said 5600 West Street to the Northerly right of way line of the Western Pacific Railroad; thence North 77°47'00" East 4406.86 feet along said railroad right of way line to the South line of 700 South Street; thence North 89°53'22" West 4306.70 feet along the South line of 700 South Street to the point of beginning.

Less and Excepting therefrom the portions of the property within the Union Pacific Railroad right of ways.

Less and Excepting therefrom the portions of the property within the bounds of 700 South Street, 1300 South Street (California Avenue), 5600 West Street and 4800 West Street.

Less and Excepting therefrom the following described parcels of land:

PARCEL A:

A parcel of land situated in the North 1/2 of Section 12, Township 1 South, Range 2 West, Salt Lake Base & Meridian, Salt Lake County, State of Utah, said parcel being more particularly described as follows:

Beginning at the point of intersection, of the East Line of 5600 West Street and the North Right of Way Line of the Los Angeles & Salt Lake Railroad, as defined in that certain Warranty Deed dated August 27, 1917, and recorded in Book 10-I, Pages 142 & 143, said point being situated North 00°01'14.8" East 946.607 feet along the West Line of said Section 12, AND South 89°58'45.2" East 40.000 feet from the West 1/4 Corner of said Section 12; thence North 00°01'14.8" East along said East Line of 5600 West Street, 626.998 feet to a point on the South Right of Way Line of the Western Pacific Railroad as defined in that certain Condemnation Order Dated July 3, 1906, and recorded in Book 7-A, Pages 378 & 379; thence North 77°45'43.8" East along said South Right of Way Line, 4,877.753 feet to a point on the South Line of 700 South Street; thence South 89°54'17.7" East along said South Line, 446.442 feet to the West Line of 4800 West Street, said point being situated South 00°07'23.6" East 33.000 feet along the Section Line AND North 89°54'17.7" West 33.000 feet from the Northeast Corner of said Section 12; thence South 00°07'23.6" East along the West Line of 4800 West Street, 1,388.274 feet to a point on the North Right of Way Line of the Leamington Cut Off of the Oregon Short Line Railroad, as defined in that certain Order of the Court dated March 12, 1904,

and recorded in Book 3-C, Page 251; thence South 80°53'32.0" West along said North Right of Way Line, 1,998.244 feet to the point of curvature of a tangent curve to the right, said point also being the Northeasterly Corner of that certain Warranty Deed dated August 27, 1917, and recorded in Book 10-I, Pages 142-143; thence Westerly and to the right 1,202.760 feet along said North Right of Way Line and along the arc of a circular curve with a radius of 5,679.651 feet, through a central angle of 12°08'00.0" (Long Chord = South 86°57'32.0" West 1,200.514 feet); thence North 86°58'28.0" West along said North Right of Way Line, 2,047.546 feet to the East Line of 5600 West Street, and the Point of Beginning of Parcel A.

PARCEL B:

A parcel of land situated in Section 12, Township 1 South, Range 2 West, Salt Lake Base & Meridian, Salt Lake County, State of Utah, said parcel being more particularly described as follows:

Beginning at a point on the East Line of 5600 West Street, said point being situated North 00°01'14.8" East 390.919 feet along the Section Line, AND South 89°58'45.2" East 40.000 feet from the West 1/4 Corner of said Section 12; thence North 00°01'14.8" East along said East Line, 455.551 feet to a point on the South Right of Way Line of the Los Angeles & Salt Lake Railroad, as defined in that certain Warranty Deed dated August 27, 1917, and recorded in Book 10-I, Pages 142 & 143; thence South 86°58'28.0" East along said South Right of Way Line, 2,042.297 feet to the point of curvature of a tangent curve to the left; thence Easterly and to the left 147.240 feet along said South Right of Way Line and along the arc of a curve with a radius of 5,779.651 feet, through a central angle of 01°27'34.7" (Long Chord = South 87°42'15.4" East 147.236 feet), to a point on the North Right of Way Line of the Oregon Short Line Railroad as defined by an Order of the Court dated March 12, 1904, and recorded in Book 3-C, Page 251; thence Easterly along the Southwestern limit of said Right of Way Line and to the left 1,076.697 feet along the arc of a curve with a radius of 5,779.651 feet, through a central angle of 10°40'25.3" (Long Chord = North 86°13'44.6" East 1,075.141 feet), to a point on the South Right of Way Line of the Oregon Short Line Railroad; thence North 80°53'32.0" East along said South Right of Way Line, 1,982.433 feet to a point on the West Line of 4800 West Street; thence South 00°07'23.6" East along said West Line, 717.594 feet to a point situated North 00°07'23.6" West 390.852 feet along the Section Line AND South 89°52'36.4" West 33.000 feet from the East 1/4 Corner of Section 12; thence South 89°54'13.0" West 4,479.718 feet to a point; thence South 00°05'47.0" East 450.000 feet to a point; thence North 89°54'13.0" East 4,479.716 feet to a point on the West Line of 4800 West Street; thence South 00°04'58.5" West along said West Line 33.000 feet to a point situated South 00°04'58.5" West 92.164 feet along the Section Line, AND South 89°54'12.6" West 33.000 feet from the East 1/4 Corner of Section 12; thence South 00°04'58.5" West along said West Line 33.000 feet to a point; thence South 89°54'13.0" West 5,184.374 feet to a point; thence South 44°54'13.0" West 49.512 feet to a point on the East Line of 5600 West Street; thence North 00°01'01.5" East along said East Line 68.059 feet to a point situated South 00°01'01.5" West 92.174 feet along the Section Line AND North 89°54'12.6" East 40.000 feet from the West 1/4 Corner of Section 12; thence North 00°01'01.5" East along said East Line 67.941 feet to a point; thence South 45°05'47.0" East 49.400 feet to a point; thence North 89°54'13.0" East 638.734 feet to a point; thence North 00°05'47.0" West 272.671 feet to a point of curvature of a tangent curve to the left; thence Westerly and to the left 54.281 feet along the arc of a curve with a radius of 45.000 feet, through a central angle of 69°06'47.7" (Long Chord = North 34°39'10.8" West 51.050 feet), to a point of reverse curvature; thence Northerly and to the right 190.391 feet along the arc of a circular curve with a radius of 70.000 feet,

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through a central angle of 155°50'14.8" (Long Chord = North 08°42'32.7" East 136.899 feet), to a point; thence South 89°54'13.0" West 664.818 feet to a point on the East Line of 5600 West and the Point of Beginning of Parcel B.

14-12-300-001