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GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
SANDY CITY
10000 CENTENNIAL PARKWAY
SANDY UT 84070
BY: ZJM, DEPUTY - MA 12 P.

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Dianne H. Aubrey, MMC
Sandy City Recorder
10000 Centennial Parkway
Sandy, Utah 84070
kovich

28-18-151-018-0000

EASEMENT FOR SIDEWALK AND PUBLIC ACCESS

THIS EASEMENT FOR SIDEWALK AND PUBLIC ACCESS ("**Agreement**") is made this 28 day of February, 2005, by SANDBRECK, LLC, a Utah limited liability company ("**Sandbreck**"), as the fee owner of the Property (defined below), and the City of Sandy, State of Utah ("**City**").

RECITALS

WHEREAS, Sandbreck owns fee title to certain real property located in the City of Sandy, State of Utah, generally known as 10585 South State Street, Sandy, Utah, and more particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference ("**Property**");

WHEREAS, the Property abuts a public thoroughfare known as 10600 South Street, which is the property of the City;

WHEREAS, as of the execution of this Agreement, a sidewalk which is approximately five feet (5') wide ("**Sidewalk**") exists that runs parallel to and adjacent to 10600 South Street, and portions of this Sidewalk are located upon the Property.

WHEREAS, the parties acknowledge that an easement is required over the Property to facilitate the preservation of the Sidewalk and to provide public access for pedestrian traffic along 10600 South Street and to the Property, for the benefit of the City and the present and future owners of all, or any portion of, the Property. The parties hereto desire to enter into this Agreement to effectuate such purpose.

NOW THEREFORE, for valuable consideration, the tender, receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

TERMS

1. Grant of Easement. Sandbreck hereby grants to City and its respective successors and assigns, a non-exclusive public access easement on, over and through the portions of the Property labeled "Sidewalk Easement" ("**Easement**") on the site plan attached hereto as

ORIGINAL DOCUMENT
SANDY CITY RECORDER

Exhibit "B" ("Site Plan"), as more particularly described in **Exhibit "C"** hereto, and incorporated herein by this reference.

2. Character of Easement. The Easement shall each be appurtenant to, and shall run with title to 10600 South Street and the Property and each portion and/or parcel thereof, for so long as the Sidewalk exists and 10600 South Street remains public property.

3. Location. The location of the Easement ("**Easement Area**") is depicted on the Site Plan and legally described on **Exhibit "C"** attached hereto and incorporated herein by this reference. The Sidewalk shall be maintained substantially in its present location, at its present width, as depicted on **Exhibit "B"**, with the exception of the construction of the Driveway, which shall require the removal of a portion of the Sidewalk (see below).

4. Use of Easement. The Easement shall be used for the purpose of facilitating pedestrian traffic and providing free and unrestricted ingress to, egress from, and access along 10600 South Street and to the Property by members of the public, subject to the use of the Driveway for vehicular access as set forth below.

5. Driveway. The parties hereto acknowledge that a driveway of approximately twenty five feet (25') in width shall be constructed to provide vehicular and pedestrian access from 10600 South Street to the Property ("**Driveway**"), and is located or shall be located such that it intersects the Easement, as depicted on **Exhibit "B"** hereto. The area in which the Driveway intersects the Easement Area shall hereinafter be referred to as the "**Driveway Area**". While pedestrian traffic will be permitted over this Driveway for the duration of the Easement, this Agreement shall not grant City the right to construct or maintain the Sidewalk over the Driveway. Furthermore, any expansion or contraction of the driveway shall not be construed as a violation of this Agreement or an encroachment on the Easement, provided Sandbreck shall be responsible for any expense or cost of such expansion or contraction of the Driveway, including any necessary repairs to the Sidewalk.

6. Construction of Improvements. The Sidewalk presently exists on the Property. Those sections of the Sidewalk which currently need to be rebuilt or replaced as a result of damage or disrepair are identified on the Site Plan. Rebuilding or replacement shall be done by Sandbreck in accordance with the Site Plan. After inspection and acceptance thereof, the Sidewalk shall be repaired by City in accordance with paragraph 7 below. The Driveway shall be constructed and maintained by Sandbreck in accordance with the Site Plan.

7. Maintenance. In order to facilitate use and access by its customers the responsibility for routine maintenance and upkeep of the Sidewalk shall be borne and paid by Sandbreck. Such maintenance and upkeep shall include, without limitation: maintaining, removing all ice, snow, papers, debris, filth and refuse and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition; maintaining the area free from any obstructions; and keeping the Easement area adequately lighted. Sandbreck shall make its best efforts to notify City, to its Public Works Department, when such repair or resurfacing is necessary. Repairing and resurfacing, when necessary, all paved surfaces of the Driveway Area in a level, smooth and evenly covered condition with the type of surfacing material originally installed or such substitute equal or superior in quality shall be borne and paid by Sandbreck. City shall be responsible to repair the sidewalk of structural defects so that it

remains in a reasonably safe condition. The cost of all repairs to the sidewalk shall be borne by the City.

8. Indemnity. City agrees to indemnify, defend and hold harmless Sandbreck from all damages, costs or expenses in law or in equity, including attorneys fees that may at any time arise or be set up because of damages to property, or bodily injury due to any willful or wrongful act and the negligent repair of the Sidewalk.

Sandbreck shall indemnify, defend and hold harmless the City, its officers, agents employees and volunteers from all damages, costs or expenses in law or equity, including attorneys fees, that may at any time arise or be set up because of damages to property, or bodily injury due to any willful or wrongful act, the negligent maintenance of the Sidewalk and the negligent maintenance or repair of the Driveway Area.

9. Entire Agreement. This instrument contains the entire agreement between the parties relating to the Easement and the obligations herein assumed. Any prior oral and written representations or modifications concerning this instrument shall be of no force and effect and are entirely superseded hereby. No written or oral amendment hereto shall bind the parties, excepting a subsequent modification in writing signed by all parties.

10. Binding Effect. This instrument shall bind and inure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties. This Agreement, the Easement and the various rights and obligations under this Agreement shall run with the land and shall burden the successive owners of the Property.

11. Not a Public Dedication. Except as expressly set forth herein, nothing herein contained shall be deemed to be a gift or dedication of any portion of the Easement to the general public or for the general public, it being the intention of the parties that this Agreement shall be strictly limited to and for the purposes herein expressed.

12. Breach Shall Not Permit Termination. It is expressly agreed that no breach of this Agreement shall entitle any party hereto to cancel, rescind or otherwise to terminate this Agreement, or the Easement, but such limitation shall not affect in any manner, any other rights or remedies which such owner may have hereunder by reason of any breach of this Agreement. Any breach of any of the Easement, covenants or restrictions, however, shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value but such Easement, covenants and restrictions shall be binding upon and effective against such owner of any of said property or any portion thereof whose title thereto is acquired by foreclosure, trustee's sale, or otherwise.

13. Validity and Severance. If any clause, sentence or other portion of this Easement shall become illegal, null or void for any reason, or shall be held by any court of competent jurisdiction to be so, the remaining portion hereof shall remain in full force and effect.

14. Notices. Notices and demands required or permitted to be given hereunder shall be given by registered or certified mail and shall be addressed as follows:

If to Sandbreck: 30252 Tomas
Rancho Santa Margarita, CA 92688

With a copy to: Michael G. Robinson, Esq.
Buckner, Alani, Khouri, Chavos & Mirkovich
3146 Redhill, Suite 200
Costa Mesa, California 92626

If to City: Rick Smith
Director of Public Works
8775 South 700 West
Sandy, Utah 84070

or at such other address as any party shall designate by written notice to the other. Notices and demands shall be deemed to have been given seventy-two (72) hours after depositing same into the United States Mail, postage prepaid.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

“SANDBRECK”

SANDBRECK, LLC,
a Utah limited liability company

By: [Signature]
John D. Gantes

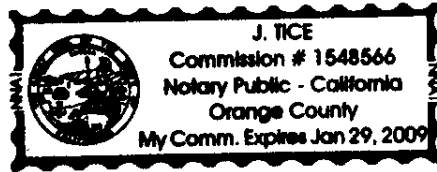
Its: President, Sandbreck Inc., Managing Member

STATE OF California)
) ss.
COUNTY OF Orange)

On February 28, 2005, before me, Jenifer Tice, Notary Public, personally appeared John D. Gantes, // personally known to me OR /___/ 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]
Notary Public



SANDY
“CITY”



By: [Signature]
Tom Dolan

Its: Mayor
Attest: Molly, Berjyal Spain

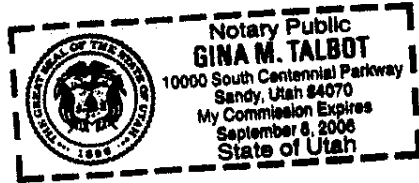
STATE OF Utah)
) ss.
COUNTY OF Salt Lake)

On 3-9-05, 2005, before me, Nine Dallet, Notary Public, personally appeared Tom Dolan, /___/ personally known to me OR /___/ 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.

Gina M. Talbot
Notary Public



3/1/05
SANDY CITY APPROVALS
Department CEP
Risk Mgt. WLP
Budget WLP
Legal Form WLP
Purchasing Compliance WLP

"EXHIBIT A"
LEGAL DESCRIPTION OF
PROPERTY

Beginning at a point on the East right of way line of State Street, said point being South 87°49'05" East 134.93 feet and North 0°01'50" West 231.92 feet and South 89°39'20" East 50.00 feet from the West Quarter Corner of Section 18, Township 3 South, Range 1 East, Salt Lake Base and Meridian, and running thence South 89°48'00" East 514.32 feet; thence South 8°16'00" West 193.05 feet; thence North 84°11'00" West 126.47 feet; thence North 89°37'45" West 317.98 feet; thence Northwesterly 67.20 feet along the arc of a 42.97 foot radius curve to the right (chord bears North 44°49'48" West 60.56 feet); thence North 0°01'50" West 135.02 feet to the point of beginning.

Said property is also described as follows:

PARCEL NO. 1:

Beginning 87°49'05" East 134.93 feet and North 0°01'50" West 231.92 feet and South 89°39'20" East 51.95 feet from the West Quarter Corner of Section 18, Township 3 South, Range 1 East, Salt Lake Base and Meridian, and running thence South 89°48' East 225 feet; thence South 0°01'50" East 179.55 feet; thence North 89°38'29" West 185.28 feet; thence Northwesterly along a curve to the right 55.05 feet; thence North 0°01'50" West 147.2 feet to the point of beginning.

and

PARCEL NO. 2:

Beginning South 87°49'05" East 134.93 feet and North 0°01'50" West 231.92 feet and South 89°48' East 275 feet from the West Quarter Corner of Section 18, Township 3 South, Range 1 East, Salt Lake Base and Meridian, and running thence South 89°48' East 289.32 feet; thence South 8°16' West 198.41 feet; thence North 89°48' West 481.05 feet; thence North 0°01'50" West 50.32 feet, more or less; thence Southeasterly along a curve to the left 55.05 feet; thence South 89°38'29" East 185.28 feet; thence North 0°01'50" West 179.55 feet to the point of beginning.

Excepting and Excluding from the foregoing Parcels 1 and 2:

1. A parcel of land conveyed to Sandy City Corporation, by Quit Claim Deed dated August 17, 1979 recorded August 29, 1979 as Entry No. 3329068 in Book 4933 at Page 28 of Official Records, described as follows:

Beginning at a point South 89°48' East 454.50 feet and North 0°03'20" West 33.00 feet from the West Quarter Corner of Section 18, Township 3 South, Range 1 East, Salt Lake Base and Meridian; thence running North 89°48' West 4.50 feet to a curve to the right which radius point bears North 0°12'00" East 628.50 feet; thence along the arc of said curve 50.17 feet; thence North 82°57'26" West 50.36 feet to a curve to the left which radius point bears South 04°46'26" West 628.50 feet; thence along the arc of said curve 50.17 feet; thence North 89°48' West 208.25 feet to a curve to the right which radius point bears North 0°12'00" East 41.75 feet; thence along the arc of said curve 65.36 feet; thence South 0°03'20" East 62.95 feet; thence South 89°48' East 404.5 feet; thence North 0°03'29" West 7.0 feet to the point of beginning.

2. A parcel of land, described as follows:

Beginning at a point on the East right of way line of State Street, said point being South 87°49'05" East 134.93 feet and North 0°01'50" West 231.92 feet and South 89°39'20" East 50.00 feet from the West Quarter Corner of Section 18, Township 3 South, Range 1 East, Salt Lake Base and Meridian, and running thence South 89°48'00" East 514.32 feet; thence South 8°16'00" West 193.05 feet; thence North 84°11'00" West 126.47 feet; thence North 89°37'45" West 317.98 feet; thence Northwesterly 67.20 feet along the arc of a 42.97 foot radius curve to the right (chord bears North 44°49'48" West 60.56 feet); thence North 0°01'50" West 135.02 feet to the point of beginning.

Said property is also known by the street address of:
10585 South State Street Sandy UT 84070

EXHIBIT "B"

SITE PLAN SHOWING LOCATION OF EASEMENT

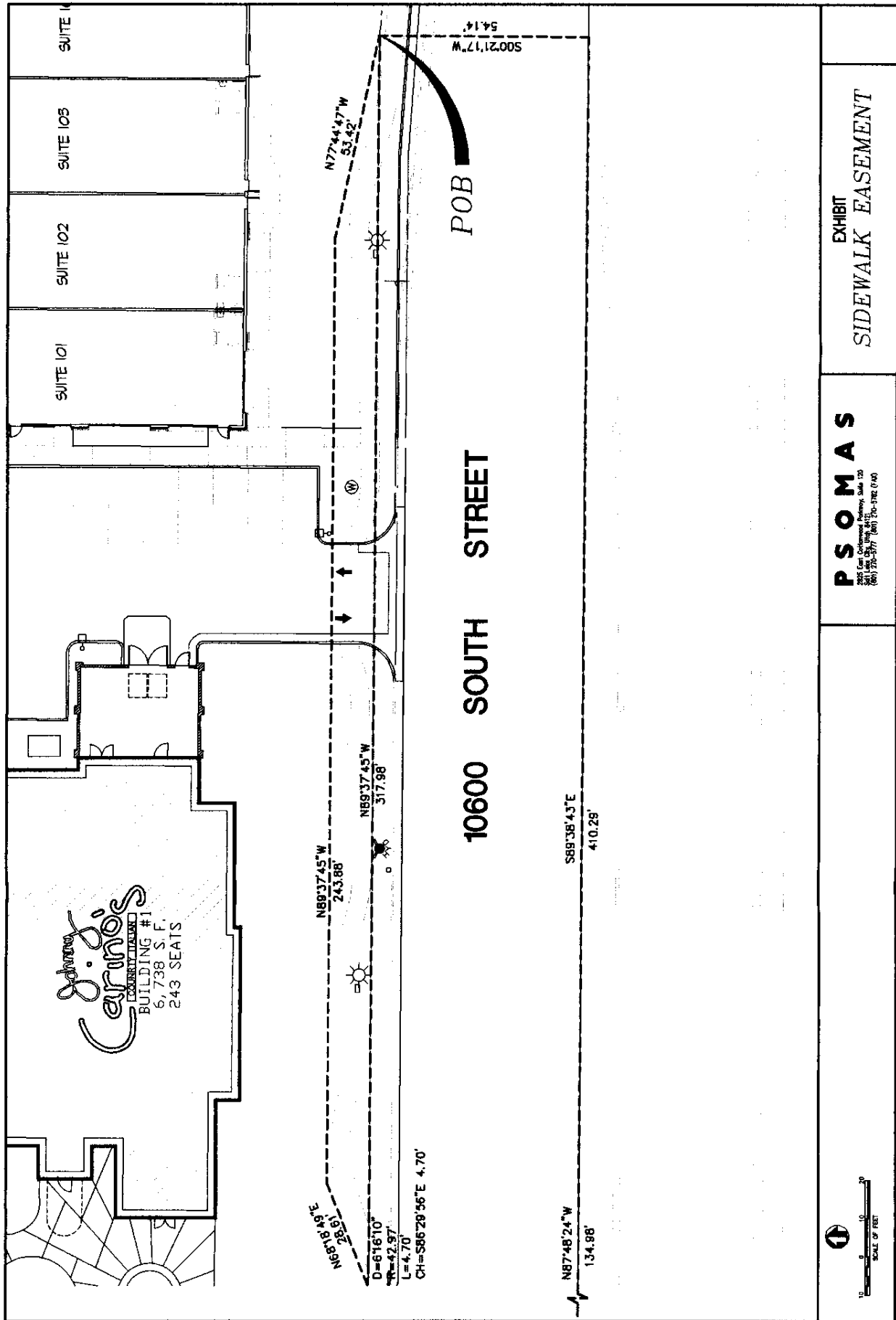


EXHIBIT "C"

Johnny Carino's Sandy Utah Sidewalk Easement Description

Beginning at an angle point on the Southern boundary of the grantors parcel, said point being South 87°48'55" East 134.98 feet and South 89°38'43" East 410.29 feet and North 00°21'17" East 54.14 feet from the West Quarter Corner of Section 18, Township 3 South, Range 1 East, Salt Lake Base and Meridian and running thence along the Northerly right-of-way line of 10600 South Street North 89°37'45" West 317.98 feet to a point on a 42.97 foot radius curve to the right; thence along said radius curve 4.70 feet through a central angle of 6°16'10" (chord bears North 86°29'56" West 4.70 feet); thence North 68°18'49" East 28.61 feet; thence South 89°37'45" East 243.88 feet; thence South 77°44'47" East 53.42 feet to the point of beginning.

Contains 3,119 Square Feet

EXHIBIT "C"
LEGAL DESCRIPTION OF
EASEMENT

(to be attached)

EXHIBIT "B"
SITE PLAN SHOWING
LOCATION OF EASEMENT

(to be attached)

EXHIBIT "A"
LEGAL DESCRIPTION
OF PROPERTY

(to be inserted)