

**EASEMENT AND INDEMNIFICATION AGREEMENT**  
(Utility Easements)

THIS EASEMENT and INDEMNIFICATION AGREEMENT (this "Agreement") is made and entered into this \_\_\_\_ day of January, 2009, by and among Block 29 Developers, LLC, a Utah limited liability company ("Developer"), Qwest Corporation, a Colorado corporation ("QC"), and AT&T Communications of the Mountain States, Inc., a Colorado corporation ("AT&T") (AT&T and QC are collectively referred to as "Owner"). Developer and Owner collectively may be referred to as the "Parties".

**RECITALS**

A. Developer is the owner of the real property located at approximately 172 North University Avenue, Provo, Utah, more particularly described on Exhibit A, attached hereto and by this reference incorporated herein (the "Developer Property"), on which Developer intends to build a multi-story building, parking structure and other improvements (collectively, the "Developer Building").

B. Owner is the owner of certain real property located adjacent to and east of the Developer Property, more particularly described on Exhibit B, attached hereto and by this reference incorporated herein (the "Owner Property"), and on which Owner has certain buildings and improvements (collectively, the "Owner Building").

C. As a part of the construction of the Developer Building, Developer will replace the existing utilities to serve the Developer and the Owner Building and may install additional underground utilities all serving the Developer Building and the Owner Building. The footings, foundation improvements and utilities serving the Owner Building will not be disturbed or disrupted.

D. Developer has requested certain easements on, over and under the Owner Property, as more particularly set forth in this Agreement, and Owner and Developer are willing to grant certain easements on the terms and conditions set forth in this Agreement.

E. Developer desires to construct and install for the benefit of Owner certain improvements on the Owner Property as more particularly described in this Agreement, and Owner desires for Developer to perform such work in accordance with the terms of this Agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Grant of Easements.**

A. **Grant of Temporary Excavation Easement.** Owner grants to Developer, its agents, servants, employees and contractors, a nonexclusive temporary excavation easement (the "Excavation Easement") over, under, across and through the location designated as the "Excavation Easement" on Exhibit C, attached hereto and by this reference incorporated herein (the "Excavation Easement Area"), for the purpose of excavation (to the extent reasonably necessary but no deeper than six feet) associated with the relocation and installation of utility facilities as more particularly described below. Notwithstanding anything herein or in Exhibit C to the contrary, the Excavation Easement Area is limited to that area extending no more than 10 feet east of the westerly property line of the Owner Property and does not include the area on, over, across, under or through (i) the existing concrete slab located on the Owner Property and (ii) the areas of the existing generators and related facilities serving Owner or the Owner Property (collectively, the "Concrete Slab Area") and under no circumstances will exceed 10 feet in width or extend over, under, across or through the Concrete Slab Area. Further, the Excavation Easement Area is limited to a depth of six feet. Developer will promptly deliver copies of the proposed excavation plans to Owner for Owner's review and approval in advance of any excavation activities on the Excavation Easement Area.

B. **Grant of Temporary Construction Easement.** Owner grants to Developer, its agents, servants, employees and contractors, a nonexclusive temporary construction easement (the "Construction Easement") over and across (but not under) the location designated as the "Construction Easement" on Exhibit D, attached hereto and by this reference incorporated herein (the "Construction Easement Area"), for the purpose of ingress and egress to and from the Developer Property limited to light weight vehicles and light weight trucks that do not exceed ten thousand (10,000) pounds, all as approved from time to time by Owner. The Construction Easement Area is limited to that area extending no more than 24 feet east of the westerly property line of the Owner Property. Developer's access to the Construction Easement Area is limited to access from the existing curb cut along 200 North Street. The Excavation Easement and the Construction Easement are collectively referred to as the "Temporary Easements".

C. **Developer/Public Utility Easement.** Owner grants to all public utility agencies, as defined in Utah Code Annotated Section 54-2-1(16), as amended, a non-exclusive public utility easement (the "Developer/Public Utility Easement") under, across and through the Excavation Easement Area (also referred to herein as the "Developer/Public Utility Easement Area") for the purpose of the installation, use, occupancy, maintenance and repair of underground utility lines for electricity, water, sewer, telephone and gas (the "Utilities") to provide services to both the Developer Property and any improvements thereon and the Owner Property and any improvements thereon. The Developer/Public Utility Easement is more particularly described in the Public Utility Easement Dedication attached hereto as Exhibit E and by this reference incorporated herein and will be recorded in the real property records of the County of Utah, State of Utah. Additionally, Developer agrees to bury all existing utilities and other existing facilities (the "Owner Facilities") of Owner located above ground that are on or reasonably near the Developer/Public Utility Easement Area or the Owner Utility Easement Area (as defined below), including without limitation, the existing power pole line serving the Owner Property. All such work will be performed at the sole cost and expense of Developer, and will

be done without interruption to any utility service to Owner. Developer will provide back up utility service to the Owner Building and the Owner Property, as needed, so that there is no interruption of utility services during the performance of such work.

D. **Owner/Public Utility Easement.** Developer grants to all public utility agencies, as defined in Utah Code Annotated Section 54-2-1(16), as amended, a non-exclusive utility easement (the "Owner/Public Utility Easement") under, across and through the location designated as the Owner/Public Utility Easement on Exhibit F, attached hereto and by this reference incorporated herein (the "Owner/Public Utility Easement Area"), for the purpose of the installation, use, occupancy, maintenance and repair of the Utilities and the Owner Facilities to provide services to both the Owner Property and any improvements thereon and the Developer Property and any improvements thereon and the Owner Facilities. The Owner/Public Utility Easement is more particularly described in the Public Utility Easement Dedication attached hereto as Exhibit G and by this reference incorporated herein and will be recorded in the real property records of the County of Utah, State of Utah. Developer, at its sole cost and expense, agrees to bury the Owner Facilities in the Owner/Public Utility Easement Area and the Developer/Public Utility Easement Area. Simultaneously with the execution of this Agreement, Developer and Owner each will grant to the City of Provo and other public utility companies the easements described in Paragraphs 1C and 1D of this Agreement by execution and recording of Public Utility Easement Dedications in the forms attached hereto as Exhibit E and Exhibit G. The Excavation Easement Area, Construction Easement Area, Developer/Public Utility Easement Area and the Owner/Public Utility Easement Area are set forth on Exhibit H, attached hereto and by this reference incorporated herein.

E. **Drainage Easement.** Developer grants to Owner a non-exclusive perpetual drainage easement (the "Drainage Easement") over, upon, under, across and through the drainage system that will be installed on the Developer Property (the "Drainage Easement Area"), for the purpose of allowing rain, storm water and other water to flow away from the Improvement Area (defined below) to the Developer Property. The Temporary Easements, the Developer/Public Utility Easement, and the Owner/Public Utility Easement are collectively referred to as the "Easements". The Excavation Easement Area, the Construction Easement Area, the Owner/Public Utility Easement Area, and the Developer/Public Utility Easement Area, are individually referred to as an "Easement Area," or collectively referred to as the "Easement Areas".

## 2. **Use of Easements.**

A. **Owner Emergency Rights.** The Easements will be used in such a manner so as not unreasonably to disturb Owner or Owner's use or enjoyment of the Owner Property. In the case of an emergency to Owner requiring the exclusive use and operation of the portion of the Construction Easement Area not included in the Excavation Easement Area, or the Developer/Public Utility Easement Area, Owner will so notify Developer (verbally or in writing) and Developer will immediately vacate such Easement Area or the Easement Areas (as specified by Owner) and such vacation will occur within no more than one (1) hour after such notice. In the case of an emergency to Owner requiring the exclusive use and operation of the Excavation Easement Area, Owner will so notify Developer (verbally or in writing) and Developer will

vacate the Excavation Easement Area within a reasonable time under the circumstances that does not exceed twenty-four (24) hours after such notice. If Developer fails to vacate such Easement Area in accordance with this Paragraph 2A, Owner will remove all materials and equipment of Developer, and Owner will be entitled to the exclusive use of the Easement Area or the Easement Areas for such reasonable period of time of Owner's emergency. Owner shall be liable for any damage caused to Developer's materials or equipment or that of its contractors, which are damaged solely to the extent of the willful misconduct or gross negligence of Owner during an emergency described in this Paragraph 2A. Owner will notify Developer when Owner's emergency has ended. Owner will notify Developer of such emergency by using the following contact information:

Martin Christiansen  
CAMCO Construction  
1106 East 6600 South  
Salt Lake City, Utah 84121  
(801) 209-5314

or

Rob Fetzer  
Block 29 Developers, L.L.C.  
One East Center Street, Suite 300  
Provo, Utah 84606  
(801) 655-0559

B. **Non-Exclusive Use.** This Agreement does not grant to Developer the exclusive use of the Easements, and Owner expressly reserves to itself and its invitees, licensees, guests, tenants, agents, servants, employees and their permitted users the right to use the Easements for all legal purposes. Developer agrees that it will not obstruct or block access by Owner to its facilities or the Owner Building or the Owner Property, except that Developer may reasonably obstruct Owner's access to such portion of the Owner Property that is included in the Excavation Easement Area or the Developer/Public Utility Easement Area from time to time during the actual periods of construction for the removal of the aboveground utilities and their installation underground as provided herein; provided, however, Developer will use best efforts to minimize such period, and once such activities have commenced they will be performed diligently, continuously and without interruption until completed.

C. **Restoration.** Upon the earlier completion or termination of the Temporary Easements or all work and improvements allowed under this Agreement, Developer will restore the Easement Areas to the same, or better, condition than existing immediately prior to Developer's use of the Easements. Such restoration may include, but not be limited to, re-asphalting, revegetating or re-landscaping of the Easement Areas.

D. **Other Damage.** In the event that there is any damage to any of the improvements or property on the Owner Property (including, without limitation, any and all landscaping, fences, curbs, gutters, concrete surfaces, asphalt surfaces, buildings, structures, and

any personal property, fixtures, or improvements associated therewith) as a result of the negligence or willful misconduct or omission of Developer or its employees, agents, contractors, tenants, guests, licensees or invitees, Developer will immediately repair such damage and restore such property to the same as, or better, condition than existing immediately prior to such damage. All such repair and restoration work will be subject to the prior approval of Owner and must be immediately repaired or commenced to be repaired and brought to completion as soon as reasonably possible and in no event later than 30 days.

E. **Indian Artifacts.** If Developer, its invitees, guests, tenants, agents, servants, employees or permitted users or other parties under the direction or control of Developer uncover or discover any Native American artifacts (the "Artifacts") on the Owner Property during the excavation of any portion of the Owner Property at any time whatsoever, Developer will immediately cease excavation on the Owner Property. Within five (5) days after uncovering or discovering the Artifacts, Developer will notify Owner and the appropriate governmental authority of the Artifacts and handle the Artifacts as required by such governmental authority. Developer will reimburse Owner for any cost or expense incurred by Owner arising out of or in any way related to the discovery, handling or removal of the Artifacts.

### 3. **Term.**

A. **Temporary Easements.** The term of the Construction Easement and the Excavation Easement will commence upon the later of (i) the date on which this Agreement is executed; or (ii) the date of receipt of the letter, in form satisfactory to Owner, from the Structural Engineer (defined below) stating that the Support Improvements (defined below) are not necessary. The term of the Excavation Easement will terminate upon the earlier of (a) six (6) months after the commencement of excavation for the construction of the Parking Structure on the Developer Property or (b) June 30, 2009. The term of the Construction Easement will terminate upon the earlier of (x) the completion of construction of the Developer's Building or (y) March 31, 2010. Upon the request of Owner, Developer will provide Owner with estimates of the date of completion of construction of the Parking Structure and all improvements, work or other activities allowed under this Agreement.

B. **Public Utility Easements.** The term of the Developer/Public Utility Easement and the Owner/Public Utility Easement will commence upon installation of utilities and will continue for such period of time as such utilities are in use and operational.

C. **Drainage Easement.** The term of the Drainage Easement will commence upon commencement of the Work (defined below) performed by Developer in accordance with Paragraph 5 of this Agreement and will continue for such period of time necessary to accommodate the flow of water from the Owner Property to the Developer Property.

4. **Obligation of Subadjacent Support.** Developer acknowledges that the Developer Property currently carries the obligation for subadjacent support to the Owner Property and the Owner Building. In carrying out the rights granted in this Agreement and in engaging in the construction and excavation activities on the Developer Property and the Owner Property, Developer assumes and will at all times meet and perform the obligation of subadjacent support to the Owner Property and the Owner Buildings.

5. **Developer License; Developer Work.** Owner grants Developer a license to enter onto that portion of the Owner Property depicted on Exhibit I, attached hereto and by this reference incorporated herein (the "Improvement Area"), for the purpose of performing, and Developer will perform, the work more particularly described in the plans and specifications prepared by Elliot Workgroup Architecture dated October 31, 2007, as supplemented by the City of Provo, and the Off Site Drainage Plan prepared by Ensign Engineering dated November 3, 2008 (the "Work"). The Parties agree that Developer will perform all of the Work, which includes without limitation (a) the burying of the existing utility lines serving Owner or the Owner Property pursuant to Paragraph 1D above, (b) regrading of the Improvement Area in a manner satisfactory to Owner, (c) installing certain drainage facilities and piping reasonably satisfactory to Owner to appropriately channel rain, storm water and other water away from the Improvement Area to the Developer Property, and (d) re-asphalting such area to good order and condition. Developer will perform the Work at the sole cost of Developer and without contribution from Owner. The Work will be performed in a good and workmanlike manner, in compliance with all laws, rules, regulations and other agreements of record. The Work will be performed lien free and by Developer's contractor, Camco Construction, or its subcontractors. The Work will commence immediately upon construction of the east wall of the Parking Structure and will be completed no later than the earlier of (a) thirty (30) days after the completion of construction of the east wall of the Parking Structure or (b) June 30, 2009.

6. **Insurance and Indemnification.** Developer will be fully responsible for and will pay for and agrees to indemnify, defend and hold Owner and each of its managers, members, contractors, directors, subsidiaries, parents, officers, shareholders, agents and employees harmless from and against any fine, penalty, claim (including without limitation claims of Owner's customers and contractors), loss, damage (including without limitation consequential damages, incidental costs and losses and claims based on interruption of services), cause of action, liability, judgment, cost or expense (including, without limitation, reasonable attorneys' fees and any costs to reroute cable services to Owner's customers) arising directly or indirectly from (i) bodily injury suffered by Owner, Developer or any of their respective employees, agents, contractors, tenants, guests, licensees or invitees, including, without limitation, any workman employed to perform construction or excavation under this Agreement or otherwise entering the Developer Property or the Owner Property for the benefit of or under the control or direction of Developer arising from any cause or matter whatsoever, except to the extent caused by the sole gross negligence or willful misconduct of Owner, or any of its employees, contractors, agents, tenants, guests, licensees or invitees, or (ii) any damage to the personal or real property of Owner or Developer, or any of their respective employees, agents, contractors, tenants, guests, licensees or invitees, arising from any cause or matter whatsoever, except to the extent caused by the sole gross negligence or willful misconduct of Owner, or any of its employees, agents, tenants, guests, licensees or invitees, or (iii) any fines, penalties, consequential damages or incidental costs or losses imposed on, assessed against, or incurred by Owner or any of its respective employees, agents, contractors, tenants, guests, licensees or invitees, arising directly or indirectly out of Developer's use of the Easement Areas or Developer's use of the rights granted under this Agreement, or (iv) the breach of this Agreement by Developer or its agents, employees, contractors, tenants, guests, licensees or invitees, or (v) third party claims, actions or omissions by Developer, its agents, employees, contractors, subcontractors and invitees at any time in connection with the Easements or the expiration of the

Easements, except to the extent caused solely as a result of the gross negligence or willful misconduct of Owner.

Developer will obtain, keep in force and maintain and cause each of its contractors using the Easement Area to obtain, keep in force and maintain, at no cost to Owner, the following insurance policies:

A. Commercial general liability insurance providing coverage for bodily injury, death, personal injury and property occurring or arising out of the performance of this Agreement, including coverage for products/completed operations, independent contractor's protective coverage (required if Developer hires subcontractors), and contractual liability with respect to liability assumed in this Agreement. This insurance will also include: (i) explosion hazard coverage (commonly referred to as "X" coverage) if there will be blasting, (ii) collapse hazard coverage (commonly referred to as "C" coverage) if the construction may cause structural damage due to excavation, burrowing, tunneling, caisson work or under-pinning, and (iii) underground hazard coverage if the construction may cause damage to underground facilities. The policy shall be written on an occurrence basis with a combined single limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. This insurance shall be primary and non-contributing insuring Developer, QC and AT&T against all liability arising out of this Agreement (including Developer's contractual indemnity obligations hereunder).

B. Automobile liability insurance with minimum limits of \$1,000,000 combined single limit per accident for bodily injury and property damage, extending to all owned, hired, and non-owned vehicles. If Developer or its affiliates do not own automobiles, contractors of Developer must keep in force and maintain the insurance required by this Paragraph 6B.

C. Workers' compensation insurance with statutory limits as required in the state in which the Project is located and Employer's Liability or "Stop Gap" insurance with limits of not less than \$1,000,000 each accident, \$1,000,000 each disease and \$2,000,000 per occurrence. If Developer or its affiliates do not employ workers, contractors of Developer must keep in force and maintain the insurance required by this Paragraph 6C.

In addition to the above insurance, Developer will cause its general contractor using the Easement Area to obtain an umbrella/excess liability policy with a \$10,000,000 limit of liability per occurrence and in the aggregate.

All policies required hereunder will (a) name QC and AT&T and such other parties as QC and AT&T will require to be named as an additional insured ((ISO form CG 20 10 07 04) or loss payee, as appropriate, (b) contain a waiver of subrogation provision, pursuant to which the insurer waives all expressed and implied rights of subrogation against the named insured and each additional insured and the respective affiliates of each, (c) provide that coverage is primary and not excess of, or contributory with, any other valid and collectible insurance maintained by QC and AT&T, (d) not be cancelled, lapsed or materially reduced, except where the insurer(s) have provided QC and AT&T at least thirty (30) days advance written notice thereof, and Developer will deliver evidence of such insurance to Owner upon the execution of this Agreement, and as appropriate, prior to the expiration of any existing policy,

and (e) shall contain a provision that Owner, although named as an additional insured, shall nevertheless be entitled to recover under such policies for any loss occasioned to Owner and its employees, notwithstanding any negligence of Owner.

All the foregoing policies will all be written by insurance companies licensed to do business in the State of Utah and will have general ratings of at least "A-" and a financial rating of at least "VII" or greater in the most current Best's Insurance reports available on the date that the party obtains or renews the insurance policy (or, if such report is no longer published, comparable financial quality of insurance company).

Developer and its contractors using the Easement Areas will provide before the expiration of any certificates of coverage, up-to-date certificates of such coverage and subsequent renewals or replacement thereof evidencing the above described insurance.

QC makes no representation that the limits of liability specified to be carried by Developer and its contractors pursuant to this Paragraph 6 are adequate to protect Developer and its contractors. The insurance provisions set forth are the minimum amounts and scopes of coverage to be maintained by Developer and its contractors and are not to be construed in any way as a limitation of Developer's liability under this agreement and does not limit Developer's liability.

Developer agrees not to permit any mechanics' or other liens to be created or filed against the Owner Property by reason of any labor performed or materials furnished to Developer or its agents, employees, contractors or subcontractors. If any such mechanics' or other liens shall be filed against the Owner Property, Developer shall, at its sole cost and expense, cause such lien to be satisfied and discharged of record, by bonding or otherwise, within thirty (30) business days' of notice from Owner of its filing. If Developer fails to so satisfy and discharge any such lien within such thirty (30) day period, then, in addition to any other rights and remedies available to Owner, Owner shall have the right to satisfy and discharge any such lien by payment, bonding, or otherwise, and all costs and expenses incurred by Owner in connection therewith, together with interest thereon accruing from the date incurred, shall be paid by Developer to Owner, as appropriate, upon demand.

7. **Hazardous Materials.** Developer will not generate, use, manufacture, spill, transport, deposit, keep, store, refine, release, discharge or dispose of any substance or material that is described as a toxic or hazardous substance, waste or material or a pollutant or contaminant by any federal, state or local law, ordinance, rule or regulation now or hereafter in force, as amended from time to time, in any way relating to or regulating human health or safety or industrial hygiene or environmental conditions or pollution or contamination (including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601, *et seq.*, and 42 U.S.C. §§ 6901, *et seq.*, the Toxic Substances Control Act, 15 U.S.C. §§ 2601, *et seq.*, the Clean Water Act, and 33 U.S.C. §§ 1251, *et seq.*, all as amended) including, without limitation, PCBs, oil and petroleum products, asbestos and asbestos-containing materials and radioactive materials (collectively, "Hazardous Substances"), on, under or near the Easement Areas, the Owner Building or the Owner Property. The foregoing provisions shall not prohibit the reasonable temporary use of such Hazardous Substances to the extent necessary to carry out the obligations of Developer under this Agreement provided that such use shall be strictly in



accordance with the above referenced laws. Developer will not cause or permit any waste material or refuse to be dumped upon or remain upon any part of the Easement Areas, the Owner Building or the Owner Property, nor will Developer cause or allow any materials, supplies, equipment, finished products or semi-finished products or articles of any nature to be stored upon or remain upon the Easement Areas, the Owner Building or the Owner Property, except for the materials and supplies comprising the underground utilities which shall be installed in the Owner/Public Utility Easement Area and the Developer/Public Utility Easement Area. Developer will promptly notify Owner of any violation of this Paragraph. Developer agrees to solely be responsible for and to indemnify, defend and hold Owner harmless from any and all loss, cost, liability, claim, damage, cause of action, judgment and expense including, without limitation, reasonable attorneys' fees and disbursements, incurred in connection with or arising from the generation, use, manufacture, storage, disposal or release of any Hazardous Substances by Developer in violation of the foregoing provisions or any person claiming through or under Developer or any contractor, agent, employee, visitor, assignee or licensee of Developer, on the Owner Property or any breach of this Paragraph.

8. **"AS IS" Condition.** Developer agrees that the Easements and Easement Areas are accepted in an AS IS CONDITION AND WITH ALL FAULTS WITHOUT ANY REPRESENTATIONS OR WARRANTIES, and Developer acknowledges and agrees that it has investigated and inspected the condition of the Easement Areas and the suitability of the same for Developer's purposes, and Developer waives and disclaims any objection to, causes of action based upon, or claims relating to the condition of the Easements and the Easement Areas or the suitability of same for Developer's purposes. Developer acknowledges and agrees that Owner, its employees and agents have not made any representation or warranty with respect to the Easements or Easement Areas or with respect to the suitability of either for Developer's use or purposes, and Developer expressly agrees, represents and warrants to Owner that Developer has relied solely on its own investigation and inspection of the Easements and Easement Areas in its decision to enter into this Agreement and use the Easements and Easement Areas.

In consideration of the grant of the Easements and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Developer, on behalf of itself and its respective agents, shareholders, members, owners, managers, officers, directors, employees, partners, joint venturers, limited partners, insurers, sureties, attorneys, successors and assigns and any entity, directly or indirectly, controlled, controlling or under common control with Developer and anyone claiming by, through or under Developer (collectively, Developer and the foregoing, the "Developer Parties"), hereby release, remise, acquit and forever discharge the Owner and its respective agents, shareholders, members, owners, managers, officers, directors, employees, partners, joint venturers, limited partners, insurers, sureties, attorneys, successors and assigns and any entity, directly or indirectly, controlled, controlling or under common control of Owner and anyone claiming by, through or under Owner (collectively Owner and the foregoing, the "Owner Parties") from and against any and all actions, causes of action, suits, proceedings, accounts, contracts, complaints, liabilities, sums of money, covenants, controversies, agreements, promises, suits, counterclaims, claims, demands, debts, damages, losses, expenses, compensation, actions, demands of every kind and nature and consequential damages, in all cases past present and future (except to the extent of any future breach of this Agreement by Owner; provided, however, all claims for consequential damages are waived), which they may now have or may hereafter have on account of and arising

out of any matter, cause, thing or event, known or unknown, express or implied, of whatsoever nature or kind, in law or in equity, for claims asserted or which could have been asserted, arising out of or in any way related to this Agreement, the Easements, the Easement Areas, except to the extent of the sole gross negligence or willful misconduct of the Owner Parties.

9. **Default.**

A. If Developer defaults in its performance of any covenant or obligation of this Agreement after 10 business days' prior written notice to Developer and opportunity to cure such default within such 10-day period, then Owner may exercise all remedies, legal or equitable, to which Owner is entitled by law or by the terms of this Agreement, including, but not limited to, (a) the right, but not the obligation, to perform Developer's obligations hereunder, (b) the right of Owner to terminate or suspend the rights of Developer to use the Temporary Easements, in which case all remaining obligations of Developer will remain in full force and effect and will survive such termination, and (c) the right to damages, including without limitation consequential and incidental damages, resulting from Developer's default under this Agreement. In the event that Owner elects to perform Developer's obligations hereunder, it may give notice to Developer of any amounts due to be paid to Owner, and such amounts shall be paid to Owner within 10 business days after the date of such notice. The failure to pay any amounts due hereunder within such 10-day period shall be an additional default under this Agreement and all such unpaid amounts shall bear interest at the rate of 6% over the prime rate of interest announced from time to time by the Wall Street Journal until paid. Remedies may be exercised at the discretion of the Owner and may be exercised without prejudice to the exercise of any other remedy concurrently or in the future, and at Owner's option, remedies may be exercised concurrently.

B. In the event that Developer defaults in its performance of any covenant or obligation contained in Paragraph 2A or 6 of this Agreement, Owner will have the option to immediately terminate or suspend Developer's rights to use the Temporary Easements by providing Developer with written notice of such termination, in which case all remaining obligations of Developer will remain in full force and effect and will survive such termination.

10. **Waiver.** Waiver by either party of any one default will not be deemed to be a waiver of any other default under this Agreement. Any remedy or election under this Agreement will not be deemed exclusive, but instead, whenever legally permissible, will be cumulative with all other remedies at law or in equity.

11. **Notice.** Except as otherwise set forth herein, all notices under this Agreement to the respective parties will be made in writing and will be served by prepaid registered or certified mail, or by personal delivery, or by reputable overnight delivery, addressed to the respective parties at the following addresses:

If to Owner:	Qwest Corporation 1801 California Street, 46 <sup>th</sup> Floor Denver, Colorado 80202 Attn: Vice President of Real Estate
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With a copy to: Qwest Law Department  
1801 California Street, 10<sup>th</sup> Floor  
Denver, Colorado 80202  
Attn: Stephanie J. Griffin

And to: Sherman & Howard  
633 17<sup>th</sup> Street, Suite 3000  
Denver, CO 80202  
Attn: Diana M. Wendel

If to Developer: Block 29 Developers, LLC  
One East Center Street, Suite 300  
Provo, Utah 84606  
Attn: Cameron S. Gunter

With a copy to: David D. Jeffs  
Jeffs & Jeffs, P.C.  
90 North 100 East  
Provo, Utah 84603

Any such notice will be effective three business days after the notice has been deposited in the United States mail, as provided above, or upon receipt if delivered personally, or one business day after deposit with a reputable overnight courier service.

12. **Amendment.** This Agreement may not be modified, rescinded, or terminated, in whole or in part, except by written Agreement duly executed and acknowledged by Developer and Owner.

13. **Successors and Assigns.** Developer will not assign this Agreement or any rights or obligations of Developer under this Agreement without the prior written consent of Owner, which may be withheld in Owner's sole discretion. This Agreement and the covenants, conditions, restrictions and easements created hereby shall inure to the benefit of and be binding upon the parties and their permitted successors in interest in and to the Owner Property or the Developer Property. The liability of the parties under this Agreement will continue notwithstanding any assignment, and there will be no release as a result of an assignment.

14. **Not a Public Dedication.** Nothing contained in this Agreement will be deemed to be a gift or dedication of any portion of the Easements to the general public or for the general public or for any public purposes whatsoever, except that the Developer/Public Utility Easement and the Owner/Public Utility Easement will be a public dedication in accordance with Utah Code Annotated Section 54-3-27.

15. **Days; Business Days.** If the date for any performance or other act permitted or required under this Agreement falls on a day which is a Saturday, Sunday, or bank holiday in Salt Lake City, Utah, the date for such performance or other act will be the immediately

following Business Day. As used in this Agreement, "Business Day" means every day except for Saturdays, Sundays, national holidays, and any other day on which the banks in Salt Lake City, Utah are not open for the regular transaction of business.

16. **Further Assurances.** In addition to the acts and deeds recited in this Agreement contemplated to be performed, executed, or delivered by Developer, Developer agrees to perform, execute, deliver, and cause to be performed, executed, or delivered all such further acts, deeds, and assurances as may be reasonably necessary or desirable by Owner to evidence Developer's obligations pursuant to this Agreement, including but not limited to execution and/or delivery of estoppel certificates. If at any time during the term of this Agreement, Owner, in its reasonable determination, determines that Developer is not capable of performing its obligations pursuant to this Agreement (either financially or otherwise), Owner will have the right to terminate Developer's rights under this Agreement pursuant to Paragraph 9 above.

17. **Construction.** The rule of strict construction does not apply to this Agreement. This Agreement will be given a reasonable construction so that the intention of the parties can be carried out.

18. **Attorneys' Fees.** In the event of any action or proceeding brought by either party against the other under this Agreement, the prevailing party will be entitled to recover all costs and expenses, including reasonable attorneys' fees.

19. **Choice of Law.** This Agreement will be governed by and construed and enforced in accordance with the laws of the State of Utah.

20. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which, together, will constitute one and the same instrument.

[Remainder of page left intentionally blank]

IN WITNESS WHEREOF the parties have executed this Agreement as of the date and year first above written.

DEVELOPER:

OWNER:

Block 29 Developers, LLC, a Utah limited liability company

Qwest Corporation, a Colorado corporation

By: PEG Development, L.L.C., a Utah limited liability company, Manager

By: [Signature]  
Cameron S. Gunter, Manager

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: Earl Corporation, a Utah corporation  
Manager

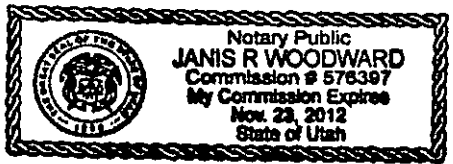
By: [Signature]  
Bruce T. Earl, President

AT&T Communications of the Mountain States, Inc., a Colorado corporation

By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF UTAH            )  
  :SS  
COUNTY OF UTAH        )

On the 7<sup>th</sup> day of JANUARY, 2009, personally appeared before me, Cameron S. Gunter, who represented to me that he is manager of PEG Development, L.L.C., a Utah limited liability company, which is a manager of Block 29 Developers, LLC, a Utah Limited liability company, the signer of the above instrument, who duly acknowledged to me that he executed the within and foregoing instrument in behalf of said limited liability company.

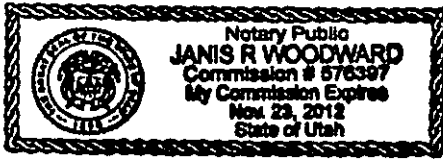


[Signature]  
Notary Public

STATE OF UTAH )  
 ) ss:  
COUNTY OF UTAH )

On this 7<sup>th</sup> day of January, 2009, personally appeared before me Bruce T. Earl, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn (or affirmed), did say that he is the President of Earl Corporation, a Utah corporation, a Manager of Block 29 Developers, LLC, a Utah limited liability company and that said document was signed by him in behalf of said corporation and limited liability company, and acknowledged to me that said corporation and limited liability company executed the same.

[SEAL]



Janis R. Woodward  
Notary Public

STATE OF \_\_\_\_\_ )  
 :ss  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_ day of \_\_\_\_\_, 2009, personally appeared before me \_\_\_\_\_, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn (or affirmed), did say that he/she is the \_\_\_\_\_ of Qwest Corporation, a Colorado corporation and that said document was signed by him/her in behalf of said corporation, and he/she acknowledged to me that said corporation executed the same.

[SEAL]

\_\_\_\_\_  
Notary Public

IN WITNESS WHEREOF the parties have executed this Agreement as of the date and year first above written.

DEVELOPER:

Block 29 Developers, LLC, a Utah limited liability company

By: PEG Development, L.L.C., a Utah limited liability company, Manager

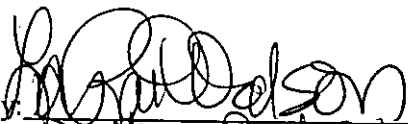
By: \_\_\_\_\_  
Cameron S. Gunter, Manager

By: Earl Corporation, a Utah corporation  
Manager

By: \_\_\_\_\_  
Bruce T. Earl, President

OWNER:

Qwest Corporation, a Colorado corporation

By:   
Title: Director - Real Estate

AT&T Communications of the Mountain States, Inc., a Colorado corporation

By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF UTAH            )  
                                  :SS  
COUNTY OF UTAH        )

On the \_\_\_\_ day of \_\_\_\_\_, 2009, personally appeared before me, Cameron S. Gunter, who represented to me that he is manager of PEG Development, L.L.C., a Utah limited liability company, which is a manager of Block 29 Developers, LLC, a Utah Limited liability company, the signer of the above instrument, who duly acknowledged to me that he executed the within and foregoing instrument in behalf of said limited liability company.

\_\_\_\_\_  
Notary Public

IN WITNESS WHEREOF the parties have executed this Agreement as of the date and year first above written.

DEVELOPER:

OWNER:

Block 29 Developers, LLC, a Utah limited liability company

Qwest Corporation, a Colorado corporation

By: PEG Development, L.L.C., a Utah limited liability company, Manager

By: \_\_\_\_\_  
Cameron S. Gunter, Manager

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: Earl Corporation, a Utah corporation  
Manager

By: \_\_\_\_\_  
Bruce T. Earl, President

AT&T Communications of the Mountain States, Inc., a Colorado corporation

By: *Leonard West*  
Title: Vice President

STATE OF UTAH            )  
                                      :SS  
COUNTY OF UTAH        )

On the \_\_\_\_ day of \_\_\_\_\_, 2009, personally appeared before me, Cameron S. Gunter, who represented to me that he is manager of PEG Development, L.L.C., a Utah limited liability company, which is a manager of Block 29 Developers, LLC, a Utah Limited liability company, the signer of the above instrument, who duly acknowledged to me that he executed the within and foregoing instrument in behalf of said limited liability company.

\_\_\_\_\_  
Notary Public



STATE OF UTAH )  
 ) ss:  
COUNTY OF UTAH )

On this \_\_\_\_ day of \_\_\_\_\_, 2009, personally appeared before me Bruce T. Earl, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn (or affirmed), did say that he is the President of Earl Corporation, a Utah corporation, a Manager of Block 29 Developers, LLC, a Utah limited liability company and that said document was signed by him in behalf of said corporation and limited liability company, and acknowledged to me that said corporation and limited liability company executed the same.

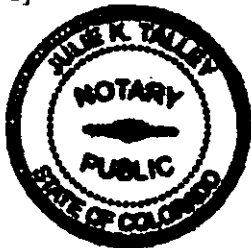
[SEAL]

\_\_\_\_\_  
Notary Public

STATE OF Colorado )  
 ) ss:  
COUNTY OF Denver )

On this 30<sup>th</sup> day of JAN, 2009, personally appeared before me LaBae Dodson, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn (or affirmed), did say that he/she is the Dir - Real estate of Qwest Corporation, a Colorado corporation and that said document was signed by him/her in behalf of said corporation, and he/she acknowledged to me that said corporation executed the same.

[SEAL]



My Commission Expires Sept. 8, 2012

Blake K. Talley  
\_\_\_\_\_  
Notary Public

STATE OF New Jersey )  
 )  
 ) :SS  
COUNTY OF Somerset )

On this 9<sup>th</sup> day of January, 2009, personally appeared before me Leonard Weitz, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn (or affirmed), did say that he/she is the vice President of AT&T Communications of the Mountain States, Inc., a Colorado corporation and that said document was signed by him/her on behalf of said corporation, and he/she acknowledged to me that said corporation executed the same.



Dana Marie Sibiga  
Notary Public





**Exhibit A**

**The Developer Property**

Lot 1 of that certain plat entitled "Zions Bank Financial Center", which plat was filed in the office of the Recorder of the County of Utah, State of Utah on November 25, 2008 as Entry No. 125406:2008.

Exhibit B

The Owner Property

Commencing at the southeast corner of Lot 1, Block 29, Plat "B", Provo City Survey, and running thence north 132 feet; thence west 100 feet; thence south 132 feet; thence east 100 feet to the place of beginning; together with a right of way in common with others over the following described property:

Commencing 8 rods north of the southwest corner of Lot 1 in said Block 29, Plat "B", Provo City Survey, and running thence east 12 rods more or less to the west side of First East Street; thence north 1 rod; thence west 10 rods; thence north 3 rods; thence west 2 rods more or less to a point due north of the point of beginning; thence south 4 rods to the place of beginning.

Exhibit C

The Excavation Easement Area

A parcel of land, to be set aside as a 10-foot Public Utility Easement, situate in the Southeast Quarter of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, being a portion of Block 29, Plat "B", Provo City Survey, more particularly described as follows:

Beginning at a point which is located North 0°59'03" West 1534.92 feet along the Section line and West 356.06 feet from the Southeast Corner of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, and running:

thence South 0°12'52" West 186.57 feet to the wall face of an existing building;  
thence North 89°22'53" West 10.00 feet along the face of said wall;  
thence North 0°12'52" East 186.50 feet;  
thence South 89°47'22" East 10.00 feet to the Point of Beginning.

Parcel contains: 1,865 square feet or 0.04 acres.

Exhibit DThe Construction Easement Area

A parcel of land, to be set aside as a 24-foot Construction Easement, situate in the Southeast Quarter of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, being a portion of Block 29, Plat "B", Provo City Survey, more particularly described as follows:

Beginning at a point on the face of the existing Qwest building, which is located North 0°59'03" West 1349.57 feet along the Section line and West 345.94 feet from the Southeast Corner of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, and running:

thence North 89°35'45" West 4.47 feet along the face of the existing Qwest building, to a corner thereof;

thence South 0°49'53" West 1.38 feet along the face of said existing building, to a corner thereof;

thence North 89°22'53" West 19.51 feet along the face of said existing building;

thence North 0°12'52" East 186.50 feet to and along the east line of the Block 29 Developers' property;

thence South 89°47'22" East 24.00 feet along the south line of the Block 29 Developers' parcel;

thence South 0°12'52" West 185.27 feet to the Point of Beginning.

Parcel contains: 4,472 square feet or 0.10 acres.

**Exhibit E****Developer/Public Utility Easement Dedication**

**WHEN RECORDED MAIL TO:**  
 Sherman & Howard L.L.C.  
 Attn: Diana M. Wendel, Esq.  
 633 17<sup>th</sup> Street, Suite 3000  
 Denver, CO 80209

**UTILITY EASEMENT DEDICATION**

Qwest Corporation, a Colorado corporation, and AT&T Communications of the Mountain States, Inc., a Colorado corporation (collectively, "Grantor"), grants to all public utility agencies, as defined in Utah Code Annotated Section 54-2-1(16), as amended, a non-exclusive public utility easement under, across and through (the "Easement") the location described on Exhibit A (the "Easement Area"), attached hereto and by this reference incorporated herein, but not to exceed ten feet in width, for the purpose of the installation, use, occupancy, maintenance and repair of public utilities as defined in Utah Code Annotated Section 54-2-1(16). Grantor grants the Easement to the City of Provo, on behalf of all public utility agencies subject to the following provisions.

1. The Easement is granted subject to covenants, conditions, restrictions, easements, rights, rights of way, and all other matters of record.

2. The Easement is subject to Utah law regarding public utility easements, including, without limitation, the provisions of Utah Code Section 54-3-27, as amended, except that if a public utility damages facilities within the Easement Area that are owned by Grantor, the public utility will repair such damage and pay all costs related to such repair.

3. This Agreement does not grant to the public utilities the exclusive use of the Easement, and Grantor expressly reserves to itself and its invitees, licensees, guests, tenants, agents, servants, employees and their permitted users the right to use the Easement for all legal purposes which are not inconsistent with the Easement and its use by the public utility agencies, including without limitation constructing, installing, reconstructing, modifying, changing, adding to, operating, maintaining, and removing above-ground or underground telecommunications facilities, electrical and gas facilities and improvements, and other appurtenances, from time to time (collectively, the "Grantor Facilities") in the Easement Area which do not prevent reasonable access to the underground utilities in the Easement Area such as a building. Grantor reserves the exclusive right to use the Grantor Facilities and at no time will the utilities of a public utility be located within the existing or future conduits for or of the Grantor Facilities. Except for such times as it is necessary for the installation, reinstallation, repair or maintenance of the underground utilities, the public utilities will not obstruct, block access by, or interfere with the use of Grantor to the Grantor Facilities or Grantor's property.

4. The Easement is granted together with the right of access thereto, for the purpose of installation, reinstallation, repair, and maintenance of the underground utilities. However, except for such use of the surface for installation, repair, and maintenance of the utilities placed in the Easement Area, the surface mounting of a sectionalizer and transformer which are to serve Grantor, and manhole covers to provide access to the underground utilities, this easement shall not grant the public utilities any rights in and to the surface of the Easement Area. The public utilities will not disturb the Grantor Facilities now located or hereinafter placed within the Easement Area. The public utilities will not relocate the Grantor Facilities without Grantor's prior written consent and the cost of any relocation of the Grantor Facilities requested by any public utility will be paid by the public utility requesting such relocation.

5. Upon the completion of any work and improvements within the Easement Area, the public utility will restore the Easement Area to the same, or better, condition than existing immediately prior to such work or



improvements. Such restoration may include, but not be limited to, re-asphalting, revegetating or relandscaping of the Easement Area.

[Remainder of page intentionally left blank]

WITNESS the execution hereof this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Qwest Corporation, a Colorado corporation

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

AT&T Communications of the Mountain States, Inc., a Colorado corporation

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
:SS  
COUNTY OF \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 2009, personally appeared before me \_\_\_\_\_, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn (or affirmed), did say that he/she is the \_\_\_\_\_ of Qwest Corporation, a Colorado corporation and that said document was signed by him/her in behalf of said corporation, and he/she acknowledged to me that said corporation executed the same.

\_\_\_\_\_  
Notary Public

STATE OF \_\_\_\_\_ )  
:SS  
COUNTY OF \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 2009, personally appeared before me \_\_\_\_\_, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn (or affirmed), did say that he/she is the \_\_\_\_\_ of AT&T Communications of the Mountain States, Inc., a Colorado corporation and that said document was signed by him/her on behalf of said corporation, and he/she acknowledged to me that said corporation executed the same.

\_\_\_\_\_  
Notary Public

**Exhibit A**  
**(To Utility Easement Dedication)**

**Easement Area**

A parcel of land, to be set aside as a 10-foot Public Utility Easement, situate in the Southeast Quarter of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, being a portion of Block 29, Plat "B", Provo City Survey, more particularly described as follows:

Beginning at a point which is located North 0°59'03" West 1534.92 feet along the Section line and West 356.06 feet from the Southeast Corner of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, and running:

thence South 0°12'52" West 186.57 feet to the wall face of an existing building;  
thence North 89°22'53" West 10.00 feet along the face of said wall;  
thence North 0°12'52" East 186.50 feet;  
thence South 89°47'22" East 10.00 feet to the Point of Beginning.

Parcel contains: 1,865 square feet or 0.04 acres.

**Exhibit F****Owner/Public Utility Easement Area**

A parcel of land, to be set aside as a 10-foot Public Utility Easement, situate in the Southeast Quarter of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, being a portion of Block 29, Plat "B", Provo City Survey, more particularly described as follows:

Beginning at a point on the south line of 200 North Street, which is located North 0°59'03" West 1615.14 feet along the Section line and West 164.11 feet to the Northeast Corner of said Block 29, and North 89°40'19" West 190.28 feet along the south line of said 200 North Street from the Southeast Corner of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, and running:

thence South 0°12'52" West 81.30 feet;  
 thence North 89°47'22" West 10.00 feet;  
 thence North 0°12'52" East 81.32 feet to the south line of said 200 North Street;  
 thence South 89°40'19" East 10.00 feet along said south line to the Point of Beginning.

Parcel contains: 813 square feet or 0.02 acres.

AND

A parcel of land, to be set aside as an Easement, in favor of Qwest, situate in the Southeast Quarter of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, being a portion of Block 29, Plat "B", Provo City Survey, more particularly described as follows:

Beginning at the southeast boundary corner of the Block 29 Developers' property, which is located North 0°59'03" West 1318.12 feet along the Section line and West 403.57 feet from the Southeast Corner of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, and running:

thence North 89°39'51" West 11.78 feet along the south line of said Block 29 Developers' property;  
 thence North 0°19'41" East 35.60 feet to the future south wall of the Block 29 Developers' parking structure;  
 thence South 89°35'23" East 44.68 feet along and past the end of the south wall of said future parking structure to the east line boundary line of said Block 29 Developers' property;  
 thence South 0°12'52" West 4.55 feet along said east line to the southeast corner of said Block 29 Developers' property;  
 thence North 89°38'32" West 32.91 feet along the south line of said Block 29 Developers' property to a corner thereof;  
 thence South 0°19'41" West 31.00 feet along the east boundary of said Block 29 Developers' property to the Point of Beginning.

Parcel contains: 569 square feet or 0.01 acres.

## Exhibit G

### Owner/Public Utility Easement Dedication

WHEN RECORDED MAIL TO:  
Block 29 Developers, L.L.C.  
One East Center Street, Suite 300  
Provo, Utah 84606

#### UTILITY EASEMENT DEDICATION

Block 29 Developers, L.L.C., a Utah limited liability company ("Grantor"), grants to all public utility agencies, as defined in Utah Code Annotated Section 54-2-1(16), as amended, a non-exclusive public utility easement under, across and through (the "Easement") the location described on Exhibit A (the "Easement Area"), attached hereto and by this reference incorporated herein, but not to exceed ten feet in width, for the purpose of the installation, use, occupancy, maintenance and repair of public utilities as defined in Utah Code Annotated Section 54-2-1(16). Grantor grants the Easement to the City of Provo, on behalf of all public utility agencies subject to the following provisions (collectively, "Grantee").

1. The Easement is granted subject to covenants, conditions, restrictions, easements, rights, rights of way, and all other matters of record.

2. The Easement is subject to Utah law regarding public utility easements, including, without limitation, the provisions of Utah Code Section 54-3-27, as amended, except that if a public utility damages facilities within the Easement Area that are owned by Grantor, the public utility will repair such damage and pay all costs related to such repair.

3. This Agreement does not grant to the public utilities the exclusive use of the Easement, and Grantor expressly reserves to itself and its invitees, licensees, guests, tenants, agents, servants, employees and their permitted users the right to use the Easement for all legal purposes which are not inconsistent with the Easement and its use by the public utility agencies including without limitation installing, locating and operating Grantor's facilities and improvements in the Easement Area, which do not prevent reasonable access to the underground utilities in the Easement Area such as a building. Except for such times as it is necessary for the installation, reinstallation, repair or maintenance of the underground utilities, the public utilities will not obstruct, block access by, or interfere with the use of Grantor to its facilities or property.

4. The Easement is granted together with the right of access thereto, for the purpose of installation, reinstallation, repair, and maintenance of the underground utilities. However, except for such use of the surface for installation, repair, and maintenance of the utilities placed in the Easement Area and manhole covers to provide access to the underground utilities, this easement shall not grant the public utilities any rights in and to the surface of the Easement Area. The public utilities will not disturb Grantor's facilities now located or hereinafter placed within the Easement Area. The public utilities will not relocate the facilities of Grantor without Grantor's prior written consent and the cost of any relocation of Grantor's facilities requested by any public utility will be paid by the public utility requesting such relocation.

5. By acceptance of this easement, Grantee covenants, acknowledges and agrees to the provisions herein. Additionally, Grantor grants to Qwest Corporation and AT&T Communications of the Mountain States, Inc., their successors and assigns (collectively, the "Service Providers"), a non-exclusive utility easement over, upon, under, across and through the Easement Area for constructing, installing, reconstructing, modifying, changing, adding to, operating, and maintaining underground telecommunication facilities, and improvements and other appurtenances from time to time (collectively, the "Service Provider Facilities"), in the Easement. Grantee

covenants and agrees that at no time will the utilities of a public utility be located within the existing or future conduits for or of the Service Provider Facilities. Except for such times as it is necessary for the installation, reinstallation, repair or maintenance of the Grantee's underground utilities, the public utilities will not obstruct, block access by or interfere with the use by the Service Providers of the Service Provider Facilities. The public utilities will not disturb the Service Provider Facilities now or hereafter placed in the Easement Area. The public utilities will not relocate the Service Provider Facilities without Service Provider's prior written consent and the cost of any relocation of the Service Provider Facilities requested by any public utility will be paid by the public utility requesting such relocation.

6. Upon the completion of any work and improvements within the Easement Area, the public utility will restore the Easement Area to the same, or better, condition than existing immediately prior to such work or improvements. Such restoration may include, but not be limited to, re-asphalting, revegetating or relandscaping of the Easement Area.

WITNESS the execution hereof this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Block 29 Developers, L.L.C., a Utah limited liability company

By: PEG Development, L.L.C., a Utah limited liability company, its manager

By: Cameron S. Gunter  
Its: manager

By: Earl Corporation, a Utah corporation  
Manager

By: Bruce T. Earl  
Its: President

STATE OF UTAH )  
 :SS  
COUNTY OF UTAH )

On the \_\_\_\_ day of \_\_\_\_\_, 2009, personally appeared before me Cameron S. Gunter, manager of PEG Development, L.L.C., a Utah limited liability company who represented to me that he is manager of PEG Development, L.L.C., a Utah limited liability company, which is a manager of Block 29 Developers, LLC, a Utah limited liability company, the signer of the above instrument, who duly acknowledged to me that he executed the within and foregoing instrument on behalf of said limited liability company.

\_\_\_\_\_  
Notary Public

STATE OF UTAH )  
 :SS  
COUNTY OF UTAH )

On the \_\_\_\_ day of \_\_\_\_\_, 2009, personally appeared before me Bruce T. Earl, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn (or affirmed), did say that he is the President of Earl Corporation, a Utah Corporation, a Manager of Block 29 Developers, LLC, a Utah limited liability company and that said document was signed by him on behalf of said corporation and limited liability company, and acknowledged to me that said corporation and limited liability company executed the same.

\_\_\_\_\_  
Notary Public

Exhibit A  
(To Utility Easement Dedication)

Easement Area

A parcel of land, to be set aside as a 10-foot Public Utility Easement, situate in the Southeast Quarter of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, being a portion of Block 29, Plat "B", Provo City Survey, more particularly described as follows:

Beginning at a point on the south line of 200 North Street, which is located North 0°59'03" West 1615.14 feet along the Section line and West 164.11 feet to the Northeast Corner of said Block 29, and North 89°40'19" West 190.28 feet along the south line of said 200 North Street from the Southeast Corner of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, and running:

thence South 0°12'52" West 81.30 feet;  
thence North 89°47'22" West 10.00 feet;  
thence North 0°12'52" East 81.32 feet to the south line of said 200 North Street;  
thence South 89°40'19" East 10.00 feet along said south line to the Point of Beginning.

Parcel contains: 813 square feet or 0.02 acres.

AND

A parcel of land, to be set aside as an Easement, in favor of Qwest, situate in the Southeast Quarter of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, being a portion of Block 29, Plat "B", Provo City Survey, more particularly described as follows:

Beginning at the southeast boundary corner of the Block 29 Developers' property, which is located North 0°59'03" West 1318.12 feet along the Section line and West 403.57 feet from the Southeast Corner of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, and running:

thence North 89°39'51" West 11.78 feet along the south line of said Block 29 Developers' property;  
thence North 0°19'41" East 35.60 feet to the future south wall of the Block 29 Developers' parking structure;  
thence South 89°35'23" East 44.68 feet along and past the end of the south wall of said future parking structure to the east line boundary line of said Block 29 Developers' property;  
thence South 0°12'52" West 4.55 feet along said east line to the southeast corner of said Block 29 Developers' property;  
thence North 89°38'32" West 32.91 feet along the south line of said Block 29 Developers' property to a corner thereof;  
thence South 0°19'41" West 31.00 feet along the east boundary of said Block 29 Developers' property to the Point of Beginning.

Parcel contains: 569 square feet or 0.01 acres.



Exhibit H-1

Excavation Easement

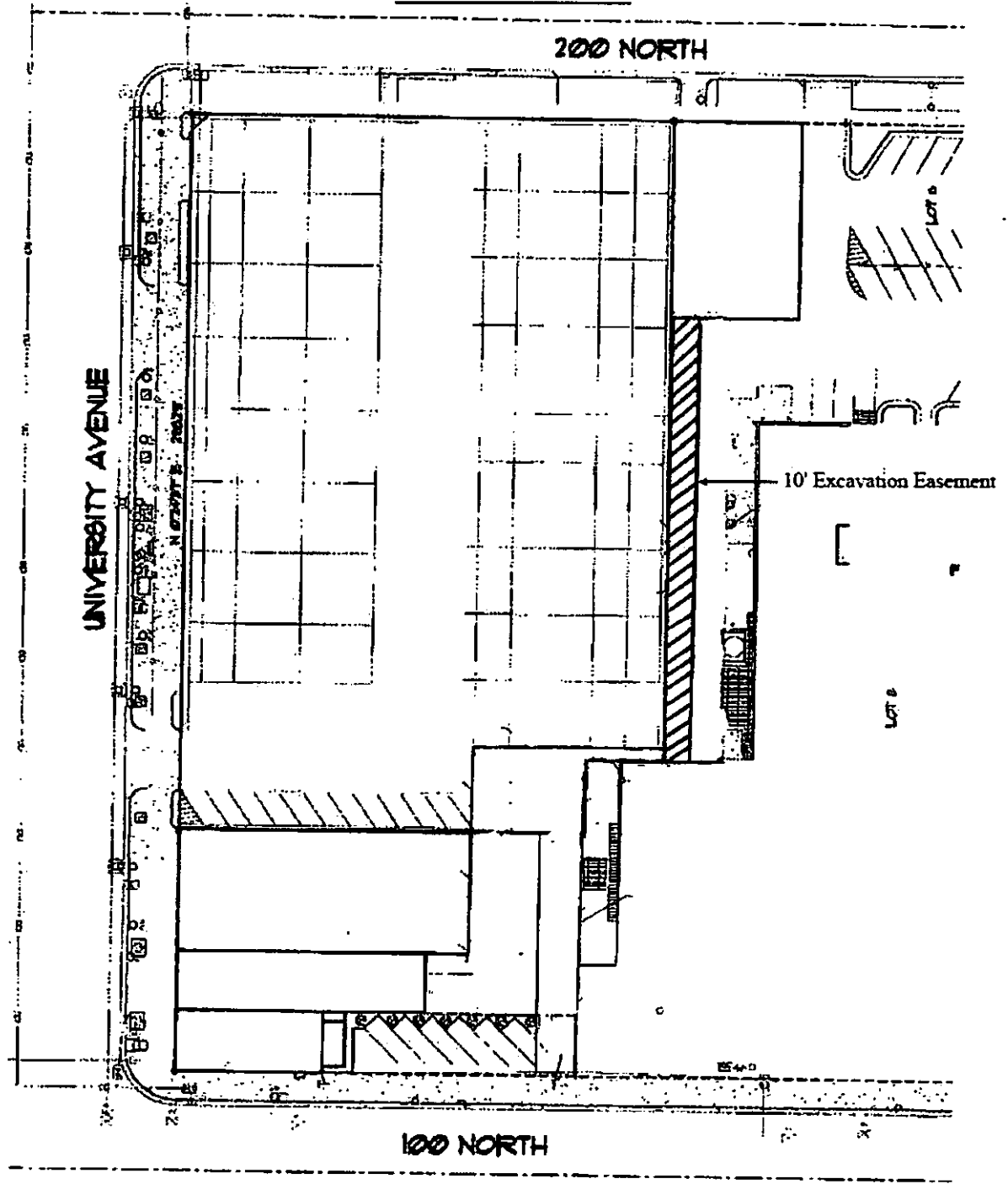


Exhibit H-2

Construction Easement

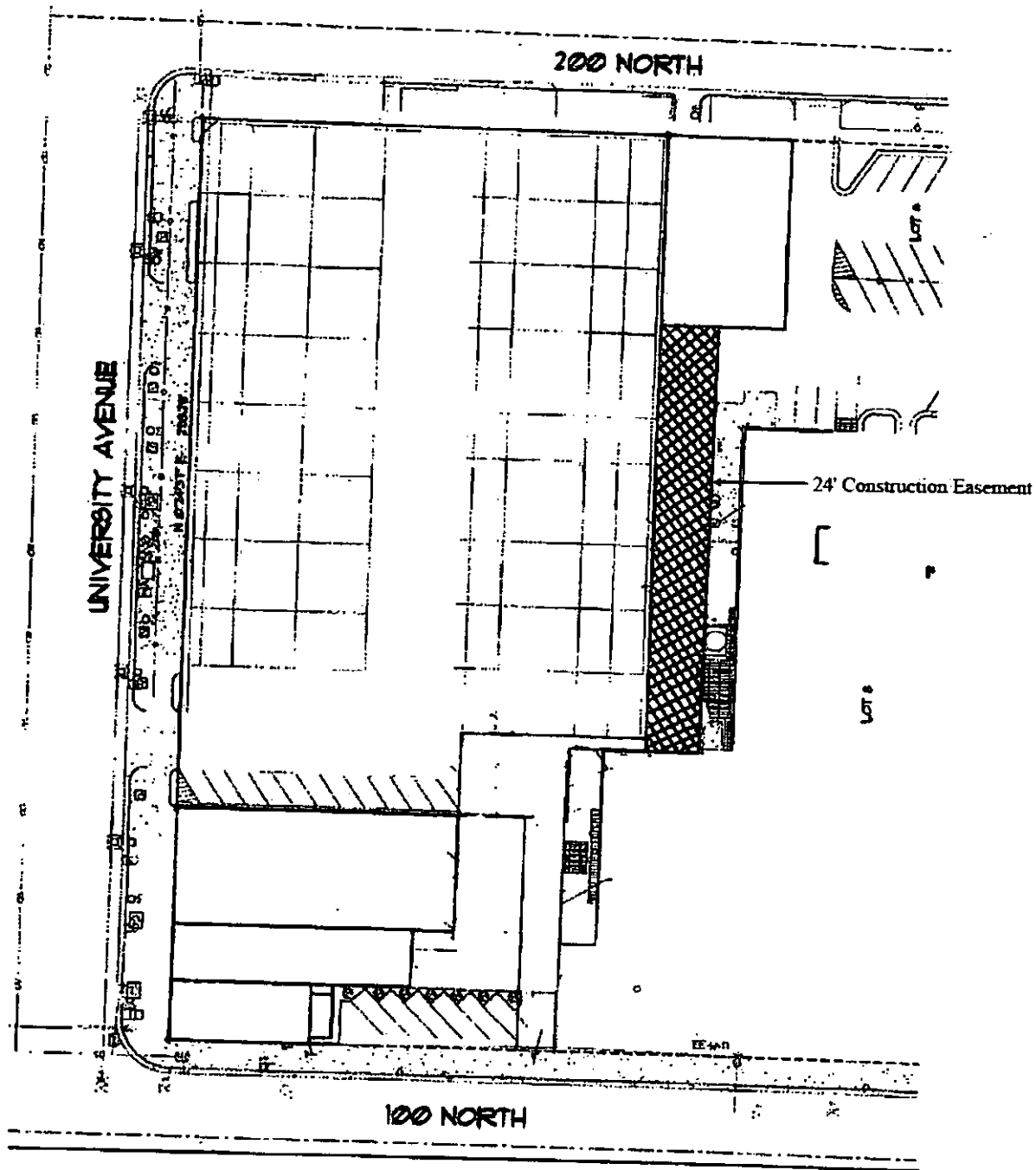


Exhibit H-3

Developer/Public Utility Easement

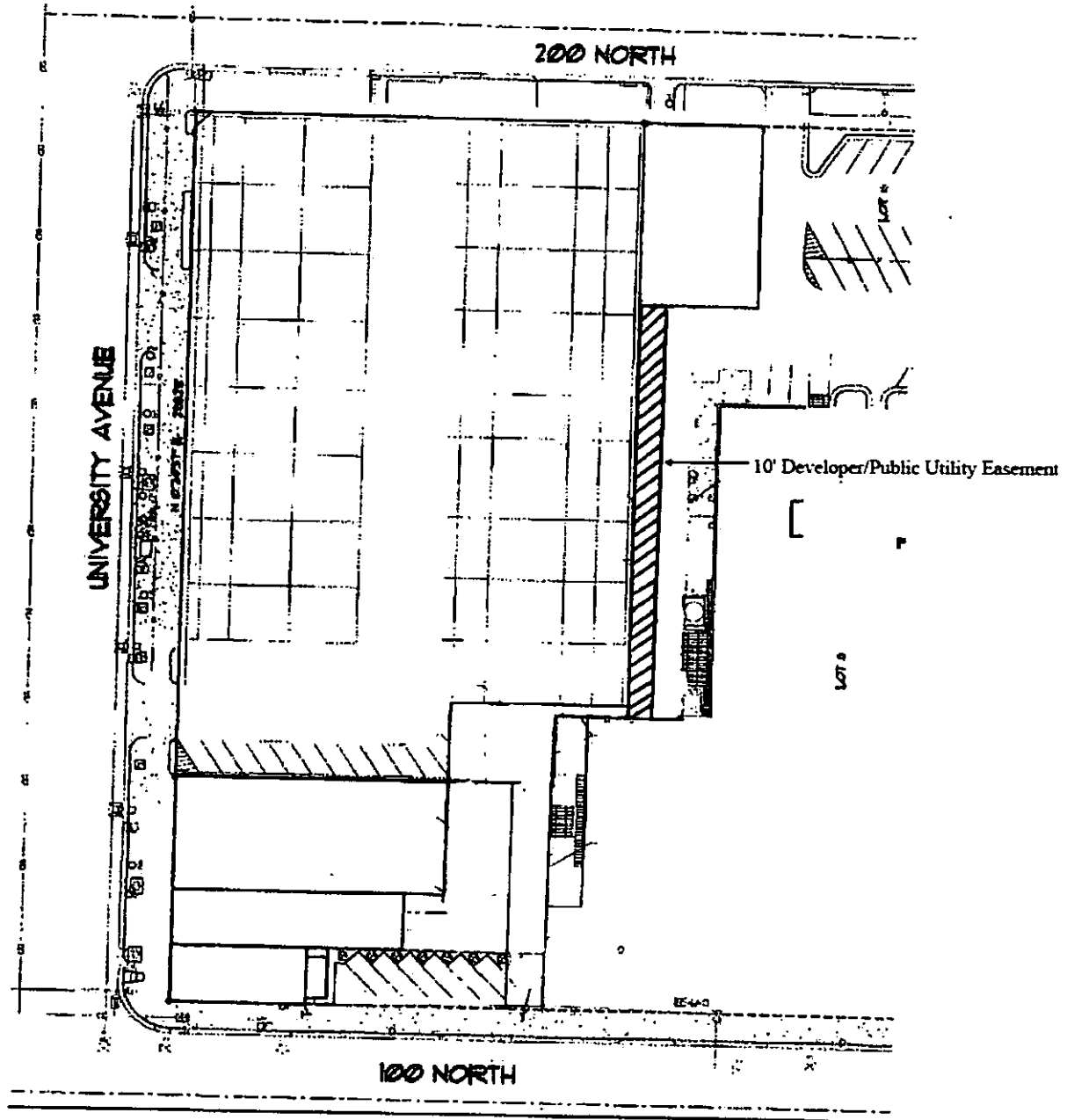
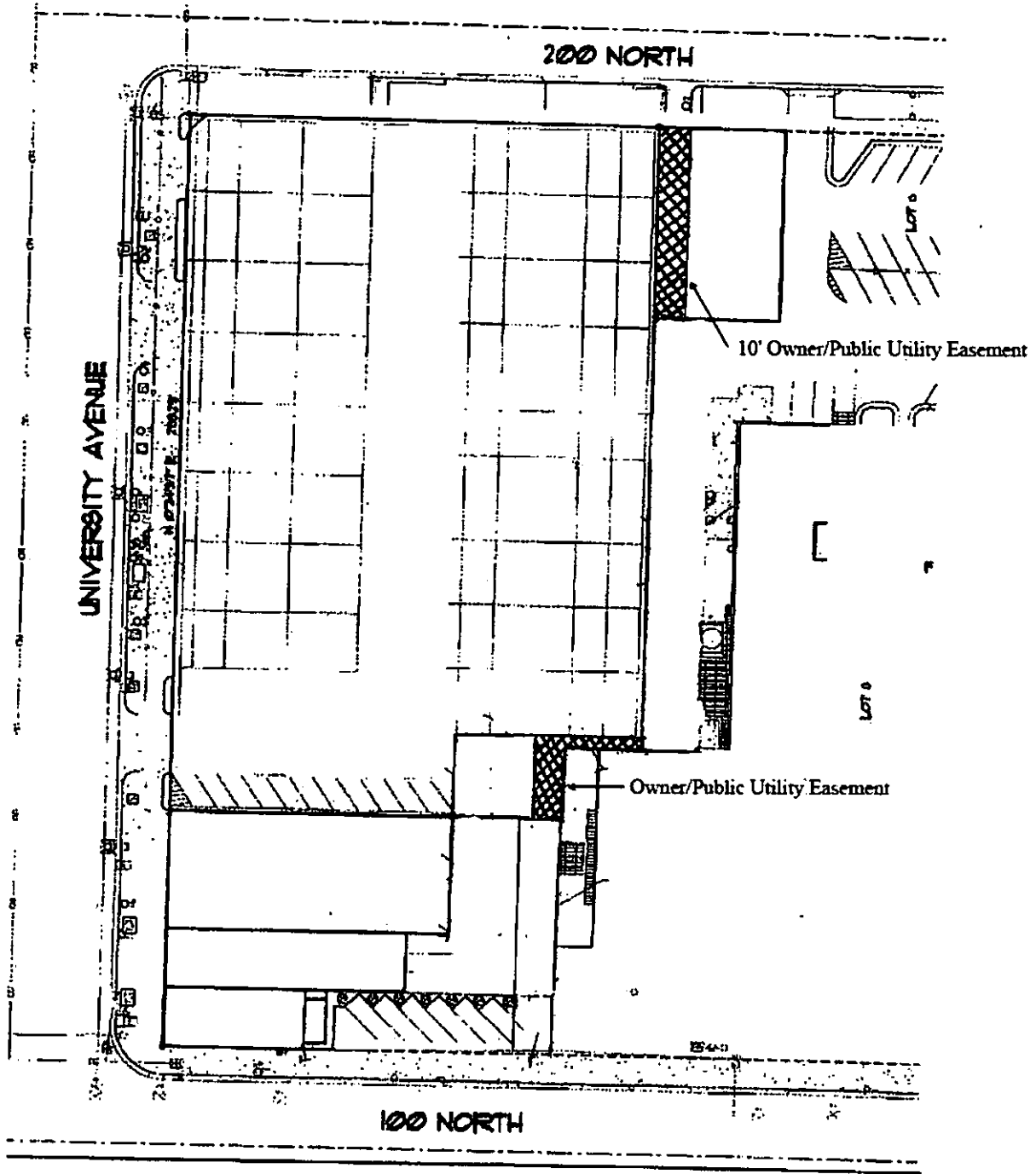


Exhibit H-4

Owner/Public Utility Easement



**Exhibit I**  
**Improvement Area**

(see attached)

