

WHEN RECORDED MAIL TO:

McDonald's Corporation  
711 Jorie Boulevard  
Oakbrook, IL 60521  
Attn: Sarah Mearns

6569148  
02/10/97 12:17 PM 44-00  
NANCY WORKMAN  
RECORDER, SALT LAKE COUNTY, UTAH  
FIRST AMERICAN TITLE  
REC BY: V ASHBY DEPUTY - WI

6569148

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (the "Agreement"), dated February 6, 1997, is between <sup>David P. Johnson and Kathleen Johnson for</sup> ~~David P. Johnson and Kathleen Johnson for~~ Frampton Properties, LTD (collectively, the "Grantors"), McDonald's Corporation, a Delaware corporation ("McDonald's"), and 6200 Airport Road L.C., a Utah limited liability company ("Airport Road") (McDonald's and Airport Road being collectively the "Grantees"). The following statements are a material part of this Agreement:

- A. McDonald's is, or will be at the time of recording of this Agreement, the owner of Lot 1 ("Lot 1"), described in Exhibit A attached.
- B. Airport Road is, or will be at the time of recording of this Agreement, the owner of Lot 2 ("Lot 2"), described in Exhibit B attached.
- C. Grantors are the owners of Lot 3 ("Lot 3"), which includes Parcels 4, 5, and 6 ("Parcels 4, 5, and 6," respectively), described in Exhibit C attached and depicted on Exhibit D attached.
- D. Grantors wish to grant, and Grantees wish to receive, certain easements, over, under and across said Parcels 4, 5, and 6.

Therefore, in consideration of TEN AND NO/100THS DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the following grants, agreements, covenants and restrictions are made:

1. SLOPE EASEMENTS

Grantors grant to McDonald's a perpetual, non-exclusive easement, appurtenant to Lot 1, to cut or fill, and maintain, slopes over, upon and across the portion of Parcel 4 which abuts Lot 1. Grantors grant to Airport Road a perpetual, non-exclusive easement, appurtenant to Lot 2, to cut or fill, and maintain, slopes over, upon and across the portion of Parcel 4 which abuts Lot 2. The slopes cut or filled, and maintained, pursuant to the easements provided for in this Section 1 shall be at a horizontal and vertical foot ratio sufficient to provide lateral support for Lot 1 and Lot 2 and the improvements which may, from time to time, be constructed upon Lot 1 and Lot 2.

2. STORM SEWER EASEMENTS

Grantors grant to McDonald's a perpetual, non-exclusive easement, appurtenant to Lot 1, and grant to Airport Road a perpetual, non-exclusive easement, appurtenant to Lot 2, for the purpose of installing, operating, maintaining, repairing, replacing and renewing a storm sewer line and related

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facilities over, above, along, under, in and across Parcel 5. (The easements granted in this Section 2 are collectively referred to herein as the "Storm Sewer Easement.")

McDonald's will construct a storm sewer line in Parcel 5 beginning at a point within Parcel 5 which is located to the south of the southwest corner of Lot 1 and continuing to the Basin, as defined in Section 3 herein. The construction of such line by McDonald's (which construction shall include a junction box to enable Airport Road to connect to such line) will be sized to accommodate storm water from Lot 1 and Lot 2 and will be completed in a good and workmanlike manner and in compliance with all governmental requirements within five (5) months after the date of this Agreement. The bids for construction of such line shall be subject to approval by Airport Road, which approval shall not be unreasonably withheld, and Airport Road agrees to reimburse McDonald's for one-half of the construction costs for such line. Such reimbursement shall be made within thirty (30) days after receipt by Airport Road of an invoice for the amount to be reimbursed. McDonald's shall provide such supporting information for such invoice as Airport Road may reasonably request. If McDonald's is not reimbursed within such thirty (30) day period, McDonald's may, at its discretion, have a lien for the amount to be reimbursed placed upon Lot 2 by recording a lien claim and notice. Subject to such reimbursement by Airport Road, McDonald's agrees to pay all such construction costs when due and to indemnify and hold harmless Airport Road from any liens which may be filed against Lot 2 or any part thereof as a result of such construction. Airport Road will, at its sole cost and expense, construct the storm sewer line from Lot 2 to the junction box in the line constructed by McDonald's.

### 3. STORM WATER RETENTION BASIN EASEMENTS

Grantors grant to McDonald's a perpetual, non-exclusive easement, appurtenant to Lot 1, and grant to Airport Road a perpetual, non-exclusive easement, appurtenant to Lot 2, for the purpose of installing, operating, maintaining, repairing, replacing and renewing a storm water retention basin and related facilities (collectively the "Basin"), over, above, along, under, in and across Parcel 6.

### 4. CONSTRUCTION OF STORM WATER RETENTION BASIN

McDonald's shall construct the Basin on Parcel 6 in accordance with plans and specifications approved by all applicable governmental authorities. Such construction shall be completed in a good and workmanlike manner and in compliance with all governmental requirements within five (5) months after the date of this Agreement. The sizing of the Basin shall accommodate contemplated construction of improvements on Lot 1 and Lot 2. McDonald's shall provide Airport Road with a schedule of construction costs and such supporting information as Airport Road may reasonably request. Airport Road agrees to reimburse McDonald's for the lesser of: (a) one-half of such construction costs, or (b) \$1,250. Such reimbursement shall be made within thirty (30) days after receipt by Airport Road of an invoice for the amount to be reimbursed. If McDonald's is not reimbursed within such thirty (30) day period, McDonald's may, at its discretion, have a lien for the amount to be reimbursed placed upon Lot 2 by recording a lien claim and notice. Subject to such reimbursement by Airport Road, McDonald's agrees to pay all such construction costs when due and

to indemnify and hold harmless Airport Road from any liens which may be filed against Lot 2 or any part thereof as a result of such construction.

5. **MAINTENANCE OF STORM WATER RETENTION BASIN; INSURANCE AND INDEMNIFICATION**

Until the maintenance termination date hereafter defined (the "McDonald's Maintenance Termination Date"), McDonald's shall operate, maintain, repair, replace and renew the Basin for the benefit of Lot 1 and Lot 2. Until the McDonald's Maintenance Termination Date, McDonald's shall obtain and maintain comprehensive public liability insurance covering injuries to persons and property with respect to the Basin on Parcel 6, such insurance to be with a responsible carrier and in a commercially reasonable amount, but in no event less than \$1,000,000 for a single occurrence. Airport Road (and other parties reasonably requested by it) shall be named as additional insureds on the policy for such insurance, and the policy shall not permit cancellation without thirty (30) days minimum advance written notice to each insured. McDonald's shall provide a current certificate of insurance to each insured. Additionally, McDonald's agrees to indemnify and hold harmless Airport Road and its respective officers, directors, members, employees, agents, successors and assigns, from any and all liability, claims, damages, expenses (including reasonable attorneys' fees), judgments, proceedings and causes of action, for injury to or death of any person or damage to or destruction of any property arising prior to the McDonald's Maintenance Termination Date which relates to the Basin on Parcel 6, unless caused by the negligent or willful act or omission of the indemnified person.

None of the costs incurred by McDonald's in fulfilling its obligations under this Section 5 shall be allocable to or reimbursable by Airport.

The McDonald's Maintenance Termination Date shall be the date on which any building with 50,000 or more square feet of floor space is completed on Lot 3 or any earlier date selected by Grantors. From and after the McDonald's Maintenance Termination Date, Grantors shall operate, maintain, repair, replace and renew the Basin for the benefit of Lot 1, Lot 2, and Lot 3. (Grantors agree, at their sole cost and expense, to construct any expansion or other modifications to the Basin which are required to accommodate Lot 3.) In conjunction therewith, Grantors agree to obtain and maintain comprehensive public liability insurance covering injuries to persons and property with respect to the Basin on Parcel 6, such insurance to be with a responsible carrier and in a commercially reasonable amount, but in no event less than \$1,000,000 for a single occurrence. The owners of Lot 1 and Lot 2 (and other parties reasonably requested by them) shall be named as additional insureds on the policy for such insurance, and the policy shall not permit cancellation without thirty (30) days minimum advance written notice to each insured. Grantors shall provide a current certificate of insurance to each insured. Additionally, Grantors agree to indemnify and hold harmless McDonald's and Airport Road and their respective officers, directors, members, employees, agents, successors and assigns, from any and all liability, claims, damages, expenses (including reasonable attorneys' fees), judgments, proceedings and causes of action, for injury to or death of any person or damage to or destruction of any property arising from and after the

McDonald's Maintenance Termination Date which relates to the Basin on Parcel 6, unless caused by the negligent or willful act or omission of the indemnified person.

The reasonable costs of Grantors incurred in operating, maintaining, repairing, replacing, and renewing the Basin for the benefit of Lot 1, Lot 2, and Lot 3 from and after the McDonald's Maintenance Termination Date (including the cost of insurance to be maintained as set forth above, but excluding the costs associated with Grantors' indemnification and hold harmless obligation set forth above and excluding costs incurred in constructing any expansion or other modifications to the Basin which are required to accommodate Lot 3) shall be allocated among the owners of Lot 1, Lot 2, and Lot 3 in proportion to the square footage in each such lot. The owners of Lot 1 and Lot 2 each agree to reimburse Grantors within thirty (30) days after receipt of an invoice for their proportionate shares as so determined. The owner of Lot 3 agrees to provide all reasonably requested supporting documentation for each invoice.

#### 6. TERMINATION OF STORM WATER RETENTION BASIN EASEMENT

Either prior to or in conjunction with the development of Lot 3, Grantors anticipate that a public storm sewer line will be extended north along the public street known as Airport Road or that an alternate private storm retention basin and related facilities will be constructed by Grantors to accommodate Lot 1, Lot 2, and Lot 3 (the "Alternate Basin"). (The construction of the public storm sewer line extension or the construction of the Alternate Basin shall be at no cost or expense to McDonald's or Airport Road, except for the obligation of McDonald's under Section 7 herein with respect to an extension of the public storm sewer line.) If at any time after the extension of the public storm sewer line or the construction of the Alternate Basin, the Basin is no longer needed for Lot 1 and Lot 2, then McDonald's and Airport Road each agree to execute a recordable termination of the easements granted in Section 3 herein, in a form reasonably requested by Grantors, subject to satisfaction of the following requirements:

(a) The storm sewer lines connecting Lot 1 and Lot 2 to the Basin are connected to the public storm sewer line or to the Alternate Basin and such connection satisfies all storm water requirements for Lot 1 and Lot 2.

(b) The connection (including the construction of necessary storm sewer lines) is completed at no cost or expense to McDonald's or Airport Road; provided, however, notwithstanding the foregoing, McDonald's and Airport Road each agrees to pay any connection fee (excluding construction costs) allocable to it which is imposed by governmental authority in the event of a connection to a public storm sewer line.

(c) The connection (and the Alternate Basin, in the event of connection to an Alternate Basin) is completed in compliance with all governmental requirements and pursuant to engineering and construction plans and specifications which are approved by McDonald's and Airport Road, which approval shall not be unreasonably withheld.

(d) Grantors provide to McDonald's and Airport Road additional easements which are reasonably required to extend the easements granted in Section 2 herein to the public storm sewer line or to the Alternate Basin.

(e) In the event of a connection to an Alternate Basin, Grantors also provide to McDonald's and Airport Road an easement in the Alternate Basin, such easement to be subject to the approval of McDonald's and Airport Road, which approval shall not be unreasonably withheld.

(f) In the event of a connection to an Alternate Basin, McDonald's and Airport Road receive assurance (including remedies) reasonably requested by them that they will incur no costs or expenses in connection with the maintenance of the Alternate Basin and that commercial general liability insurance in a commercially reasonable amount, but in no event less than \$1,000,000, will be maintained at no cost or expense to them to protect them, as additional insureds, from injury to or death of any person or damage to or destruction of any property in connection with the Alternate Basin.

(g) Grantors, at their cost and expense, provide to McDonald's and Airport Road title insurance policies, each policy to be in the amount of \$100,000, insuring title to the additional easements described in (d) and (e) above in McDonald's and Airport Road, as the case may be, free and clear of any liens, encumbrances, restrictions, or defects except those approved by McDonald's and Airport Road, which approval shall not be unreasonably withheld.

#### 7. PAYMENT OF FEE IN CONNECTION WITH EXTENSION.

At such time as the public storm sewer line is extended <sup>by Grantor at Grantor's cost</sup> and is used for the benefit of Lot 1 and Lot 2, McDonald's agrees to pay Grantors \$10,000 as compensation for such extension. Airport Road shall have no such payment obligation in connection with such extension.

#### 8. USE OF EASEMENT AREAS

McDonald's and Airport Road will have the right of ingress and egress across the parcels in which they are granted easements pursuant to this Agreement and such ingress and egress will be exercised in a reasonable manner. Grantors shall not construct any improvements of any kind on Parcel 6 as long as the easement provided for in Section 3 herein is in existence. With respect to Parcels 4 and 5, Grantors shall not allow any trees, permanent buildings or other structures or improvements (except as hereinafter provided) to be located on such parcels and no change of grade elevation or any excavation shall be performed on such parcels without the prior written approval of McDonald's and Airport Road, which approval shall not be unreasonably withheld. However, Parcels 4 and 5 may be used for landscaping (except for trees) or other purposes that do not then or later interfere with the granted easement uses.

## 9. COVENANTS RUNNING WITH THE LAND

The easements, rights, and obligations contained within this Agreement shall run with the land and inure to the benefit of and be binding upon the parties, their heirs, personal representatives, successors and assigns. No party nor any heir, personal representative, successor or assign shall have any liability under this Agreement for any liabilities accruing after the date on which such party no longer has an interest in the parcel with respect to which such liability accrues, except this sentence shall not apply to the obligation of McDonald's to construct the Basin.

## 10. NATURE OF LIABILITY

The obligations of McDonald's and of Airport Road under this Agreement are separate and neither of such parties shall have any liability to Grantors for failure of the other such party to perform its obligations under this Agreement. The obligations of the Grantors under this Agreement are joint and several.

## 11. DEFAULTS

If there is a failure or default by any party to perform, fulfill or observe any agreement contained within this Agreement to be performed, fulfilled or observed by it, continuing for thirty (30) days, or in situations involving potential danger to the health or safety of persons in, on or about or substantial deterioration of Parcels 4, 5, or 6, in each case after written notice, any other party may, at its election, cure such failure or default on behalf of the defaulting party. Any amount which the party so electing shall expend for such purpose, or which shall otherwise be due by any party to another party, shall be paid to the party to whom due on demand, without contest, upon delivery of its invoice, together with interest at the lower of (a) the rate of twelve percent (12%) per annum, or (b) the maximum rate permissible from time to time under applicable law, from the date of the expenditure or the date when it shall have become due to the date of payment in full. The provisions of this Section 11 shall be in all respects subject and subordinate to the lien of any mortgages or deeds of trust at any time or from time to time on the land of the defaulting party and the rights of the holder or holders of any mortgages or deeds of trust.

## 12. CONSTRUCTION

The rule of strict construction does not apply to this Agreement. This Agreement shall be given a reasonable construction so that the intention of the parties to grant and convey a commercially useable right of enjoyment is carried out.

## 13. NOTICE

Airport Road's address is: c/o Johansen Thackeray & Company, Inc.  
2157 South Highland Drive, Suite 200  
Salt Lake City, Utah 84106

McDonald's address is:

McDonald's Corporation  
One McDonald's Plaza  
Oak Brook, Illinois 60521

Grantors' addresses are:

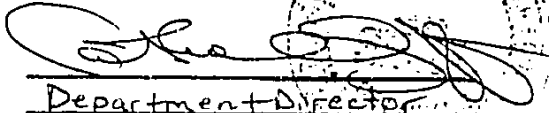
David Johnson, etal  
251 East 7500 South  
Midvale, Utah 84047  
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\_\_\_\_\_

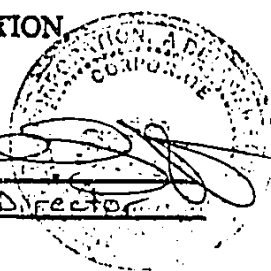
Any party may lodge written notice of a change of address with the other. All notices shall be sent by certified mail, return receipt requested, to the addresses provided for in this section and shall be deemed given upon delivery or attempted delivery.

To indicate their consent to this Agreement, Grantors and Grantees have signed this Agreement.

Grantors: [to be completed]

Grantees: McDONALD'S CORPORATION  
a Delaware corporation

By:   
Its: Department Director



6200 AIRPORT ROAD L.C.,  
a Utah limited liability company

By: 

(ATTACH ACKNOWLEDGMENTS AND EXHIBITS A, B, C, AND D)

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ATTACHMENT FOR SIGNATURES AND NOTARY

*David P. Johnson*

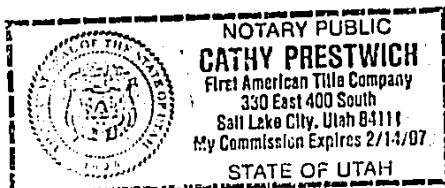
DAVID P. JOHNSON

*Kathleen E. Johnson*

KATHLEEN E. JOHNSON

FRAMPTON PROPERTIES

BY: *Paul J. Frampton*  
Its: *General Partner*



STATE OF UTAH }  
:  
COUNTY OF SALT LAKE }

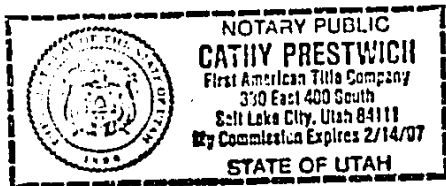
On this 7th day of February, 1997, personally appeared before me, DAVID P. JOHNSON and KATHLEEN E. JOHNSON, the signers of the within instrument who duly acknowledged to me that they executed the above instrument.

*Cathy Prestwich*  
NOTARY PUBLIC

STATE OF UTAH }  
:  
COUNTY OF SALT LAKE }

On this 7th day of February, 1997, personally appeared before me PAUL J. FRAMPTON, personally known to me to (or proved to me on the basis of satisfactory evidence) to be the person that executed the within instrument as General Partner on behalf of FRAMPTON PROPERTIES, the partnership named and acknowledged to me that the partnership executed it.

*Cathy Prestwich*  
NOTARY PUBLIC



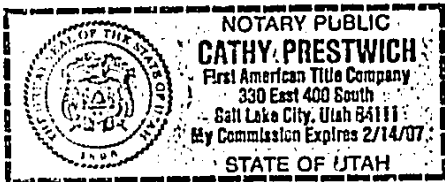
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STATE OF UTAH            }  
                                  :  
COUNTY OF SALT LAKE }  
                                  :

On this 7th day of February, 1997 personally appeared before me DAVID WINNIE who being duly sworn did say, for himself that he is the member/manager of 6200 AIRPORT ROAD, L.C., a Utah Limited Liability Company and the within and foregoing instrument was signed on behalf of said Limited Liability Company by authority of its Articles of Organization and duly acknowledged to me that said Limited Liability Company executed the same.

*Cathy Prestwich*  
\_\_\_\_\_  
NOTARY PUBLIC



BK7595P82283

**ACKNOWLEDGMENT - McDONALD'S**  
**(No attestation required)**

STATE OF ILLINOIS )  
                              ) SS:  
COUNTY OF DUPAGE )

I, **Rosemary Flanigan**, a Notary Public in and for the county and state aforesaid, DO HEREBY CERTIFY that **Catherine A. Griffin, Department Director** of McDonald's Corporation, a Delaware corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such authorized party appeared before me this day in person and acknowledged that she signed, sealed and delivered the said instrument as her free and voluntary act as such authorized party and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 6th day of February, 1997.

*Rosemary Flanigan* My commission expires November 3, 1998.  
Notary Public  
**Rosemary Flanigan**



**ACKNOWLEDGMENT - CORPORATE**

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

I, \_\_\_\_\_, a Notary Public in and for the county and state aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_ of \_\_\_\_\_, a(n) \_\_\_\_\_ corporation, who is personally known to me to be the person whose name is subscribed to the foregoing instrument as such officer appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act as such officer and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Notary Public My commission expires \_\_\_\_\_.

6K7595P02284

WEST JORDAN, UTAH

Lot 1

Beginning on the new South line of 6200 South Street at a point that is  $N89^{\circ}55'30''W$  along the section line (basis of bearing) 1360.83 feet and South 40.00 feet from the County monument at the North Quarter corner of Section 19, Township 2 South, Range 1 West, Salt Lake Base and Meridian, said point of beginning to be known as the Northwest corner of Lot 1, Airport Road Commercial Subdivision (when the same is recorded); thence South 280.00 feet to the Southwest corner of said Lot 1; thence  $S89^{\circ}55'30''E$  255.00 feet to the Southeast corner of said Lot 1 at a point on the new West line of Airport Road; thence along said West line of street North 245.05 feet; thence Northwesterly 54.93 feet along the arc of a 35.00 foot radius curve to the left through a central angle of  $89^{\circ}55'30''$  (chord bears  $N44^{\circ}57'45''W$  49.47 feet) to a point on said South line of 6200 South Street; thence along said South line of street  $N89^{\circ}55'30''W$  220.05 feet to the point of beginning. Contains 71,138 square feet or 1.6331 acres.

EXHIBIT A

EX 7595 PG 2285

WEST JORDAN, UTAH

Lot 2

Beginning on the new South line of 6200 South Street at a point that is N89°55'30"W along the section line (basis of bearing) 1360.83 feet and South 40.00 feet from the County monument at the North Quarter corner of Section 19, Township 2 South, Range 1 West, Salt Lake Base and Meridian; thence along said South line of street N89°55'30"W 268.00 feet; thence South 200.00 feet; thence S89°55'30"E 265.00 feet; thence North 200.00 feet to the point of beginning. Contains 53,000 square feet or 1.2167 acres.

EXHIBIT B

BK 7595 PG 2286

WEST JORDAN, UTAH

LOT 3

Parcel 4: (Sicpe Easment)

Beginning on the new South line of 6200 South Street at a point that is  $N89^{\circ}55'30''W$  along the section line (basis of bearing) 1623.83 feet and South 40.00 feet from the County monument at the North Quarter corner of Section 19, Township 2 South, Range 1 West, Salt Lake Base and Meridian; thence South 200.00 feet; thence  $S89^{\circ}55'30''E$  265.00 feet; thence South 80.00 feet; thence  $S89^{\circ}55'30''E$  265.00 feet to a point on the new West line of Airport Road; thence along said West line of street South 5.00 feet; thence  $N89^{\circ}55'30''W$  260.00 feet; thence North 80.00 feet; thence  $N89^{\circ}55'30''W$  265.00 feet; thence North 205.00 feet to a point on said South line of 6200 South Street; thence along said South line of street  $S89^{\circ}55'30''E$  5.00 feet to the point of beginning. Contains 4,025 square feet or 0.0924 acre.

WEST JORDAN, UTAH

Parcel 5: (Storm Drain Easement)

Beginning on the new South line of 6200 South Street at a point that is N89°55'30"W along the section line (basis of bearing) 1625.83 feet and South 40.00 feet from the County monument at the North Quarter corner of Section 19, Township 2 South, Range 1 West, Salt Lake Base and Meridian; thence South 200.00 feet; thence S89°55'30"E 265.00 feet; thence South 80.00 feet; thence S89°55'30"E 255.00 feet to a point on the new West line of Airport Road; thence along said West line of street South 20.00 feet; thence N89°55'30"W 19.22 feet; thence S7°55'00"E 16.46 feet; thence S0°04'30"W 33.70 feet; thence N89°55'30"W 20.00 feet; thence N0°04'30"E 32.30 feet; thence N7°55'00"W 17.87 feet; thence N89°55'30"W 235.58 feet; thence North 80.00 feet; thence N89°55'30"W 265.00 feet; thence North 220.00 feet to a point on said South line of 6200 South Street; thence along said South line of street S89°55'30"E 20.00 feet to the point of beginning. Contains 17,403 square feet or 0.3995 acre.

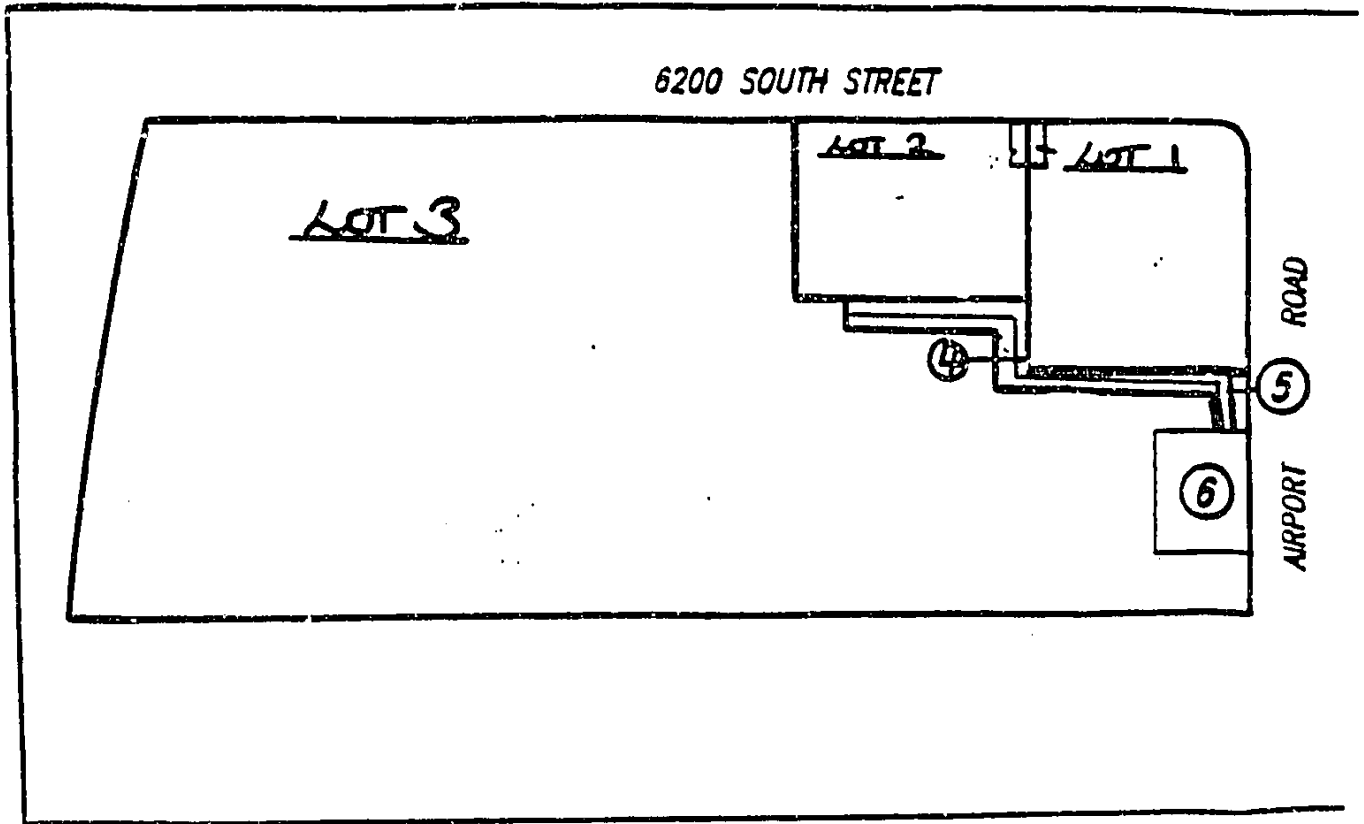
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WEST JORDAN, UTAH

LOT 3

Parcel 6: (Storm Water Retention Easement)

Beginning on the new West line of Airport Road at a point that is  $N89^{\circ}55'30''W$  along the section line (basis of bearing) 1105.83 feet and South 390.00 feet from the County monument at the North Quarter corner of Section 19, Township 2 South, Range 1 West, Salt Lake Base and Meridian, said point of beginning being South 70.00 feet from a point to be known as the Southeast corner of Lot 1, Airport Road Commercial Subdivision (when the same is recorded); thence along said West line of street South 140.00 feet; thence  $N89^{\circ}55'30''W$  110.00 feet; thence North 140.00 feet; thence  $S89^{\circ}55'30''E$  110.00 feet to the point of beginning. Contains 15,400 square feet or 0.3535 acre.



6200 SOUTH STREET

LOT 3

LOT 2

LOT 1

ROAD

AIRPORT

VICINITY MAP

EXHIBIT D

EW 7 5 9 5 1 6 2 2 9 0