

When recorded, return to:

SNELL & WILMER  
111 East Broadway  
Suite 900  
Salt Lake City, Utah 84111  
Attention: Greg R. Nielsen

ENT 121930 BK 5277 PG 449  
RANDALL A. COVINGTON  
UTAH COUNTY RECORDER  
1999 Nov 18 4:53 pm FEE 25.00 BY SS  
RECORDED FOR METRO NATIONAL TITLE

**IRRIGATION EASEMENT**

**GRANTOR:** BUSH PROPERTIES, L.C., a Utah limited liability company  
261 East 1200 South  
Orem, Utah 84097

**GRANTEE:** BUSHMAN FARM & LIVESTOCK CO., a Utah limited partnership  
44 West 300 South  
Lehi, Utah 84043

**DATE:** November 15, 1999

**RECITALS**

- A. Grantor is the owner of the real property situated in Lehi, Utah County, Utah, described on Exhibit A (the "Grantor's Property").
- B. Grantee is the owner of the real property situated in Lehi, Utah County, Utah, described on Exhibit B ("Grantee's Property"). Grantee's Property is currently subject to an Option Agreement, dated as of November 15, 1999 between Grantee and Grantor (the "Option Agreement").
- C. Grantor desires to grant an easement to Grantee upon that portion of Grantor's Property described on Exhibit C (the "Easement Property") as more particularly set forth in this Access Easement (the "Easement").

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor and Grantee agree as follows:

1. Grant of Easement. Grantor hereby grants to Grantee, as an easement appurtenant to the Grantee's Property and every part thereof, for the use and benefit of Grantee, its successors and assigns as to all or any portion of Grantee's Property, and to the agents, tenants, invitees, and licensees of Grantee, its successors and assigns (all such benefitted parties being referred to in this Easement as the "Benefitted Parties") a perpetual, non-exclusive easement across the Easement Property for the purpose of operating and maintaining an irrigation ditch on the Easement Property to provide irrigation water to Grantee's Property, subject, however, to the following:

(a) Grantee shall have the right to use the existing irrigation ditches located on Grantor's Property (the "Existing Ditches") for the purpose of providing irrigation water to Grantee's Property and shall not make use of the easement rights in the Easement Property until such time as Grantor gives Grantee notice that Grantee may no longer use the Existing Ditches, such notice to be given at least 30 days prior to the date that Grantee is required to cease using the Existing Ditches (the

"Cessation Date"). From and after the Cessation Date, Grantee shall have no further right to use the Existing Ditches but shall be entitled to use and enjoy the easement rights on the Easement Property for the purposes set forth in this Easement.

(b) If, prior to such time as the Option Agreement terminates without Grantor exercising the option to acquire Grantee's Property, Grantee becomes entitled to use the easement on the Easement Property, Grantee shall not, prior to such termination, install any permanent irrigation ditch facilities but shall use only portable, temporary, above-grade aluminum or plastic mains to transport irrigation water within the Easement Property.

2. Maintenance; Right of Grantor to Relocate. To the extent that the Benefitted Parties use the Easement Property for the uses permitted pursuant to this Easement, Grantee shall repair and maintain the Easement Property in a good and clean condition and state of repair. Grantor shall have the right, from time to time and at Grantor's sole expense, to relocate the easement created pursuant to this Easement and/or to enclose the irrigation ditch within the Easement in an underground pipeline, so long as any such actions do not interfere with the rights of Grantee to transport irrigation water to Grantee's Property at the location where the Easement Property currently adjoins Grantee's Property, do not diminish the water carrying capacity of the ditch, or do not otherwise materially interfere with the use and enjoyment by Grantee of the easement rights established by this Easement. Grantee agrees to join in any amendment to this Easement reasonably requested by Grantor in order to reflect any relocation or other modification of the Easement made pursuant to this Paragraph.

3. Indemnification. Grantee agrees to indemnify and hold Grantor harmless for, from and against each and every loss, cost, damage and expense, including reasonable attorneys' fees, arising out of or in connection with any accident or other occurrence causing injury to or death of persons or damage to property, by reason of any use of the Easement Property by any of the Benefitted Parties.

4. Public Dedication. The provisions of this Easement are not intended to and do not constitute a dedication for public use of the Easement Property, and the rights herein created are private and for the benefit only of the parties hereto, their successors and assigns, and the Benefitted Parties.

5. Running of Benefits and Burdens. All provisions of this instrument, including the benefits and burdens, run with the land and are binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

6. Attorneys' Fees. In the event of any action to enforce the provisions of this instrument, the prevailing party shall be entitled to receive its costs and attorneys' fees.

7. Termination of Liability. Whenever the transfer of ownership of all or any part of the Easement Property or Grantees' Property takes place, the transferor shall not be liable for the breach, subsequent to such transfer, of any of the covenants contained herein.

8. Construction. This instrument shall be construed in accordance with the laws of the State of Utah. The rule of strict construction shall not apply to this instrument. This instrument shall be given a reasonable construction so that the intention of the parties to confer a usable right of enjoyment upon the Grantee is implemented.

9. Termination. Any other provision of this Easement to the contrary notwithstanding, if Grantor acquires Grantee's Property pursuant to the Option Agreement, then this Easement shall thereupon terminate and be of no further force or effect.

10. Counterparts. This Easement may be executed in one or more counterparts, each of which, when taken together, shall constitute the original.

DATED the day and year first above written.

GRANTOR:

BUSH PROPERTIES, L.C.,  
a Utah limited liability company

By: [Signature]  
Its: Managing Member

GRANTEE:

BUSHMAN FARM & LIVESTOCK CO.,  
a Utah limited partnership

By: [Signature]  
Its: \_\_\_\_\_

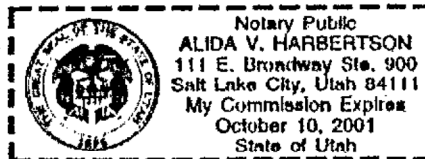
By: [Signature]  
Its: \_\_\_\_\_

STATE OF UTAH )  
 ) ss.  
County of Salt Lake )

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of November, 1999, by R. KENT BUSHMAN, a general partner in BUSHMAN FARM & LIVESTOCK CO., a Utah limited partnership, on behalf of the partnership.

[Signature]  
Notary Public

My commission expires:  
10-10-2001

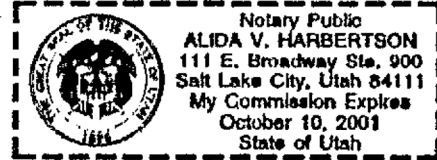


STATE OF UTAH )  
 ) ss.  
County of Salt Lake )

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of November, 1999, by H. KEITH BUSHMAN, a general partner in BUSHMAN FARM & LIVESTOCK CO., a Utah limited partnership, on behalf of the partnership.

Alida Harbertson  
Notary Public

My commission expires:  
10-10-2001

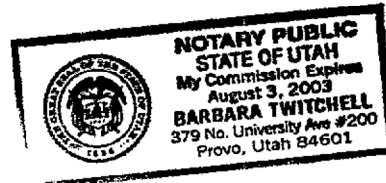


STATE OF UTAH )  
 ) ss.  
County of Utah )

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of November, 1999, by Ralph W. Rasmussen, the Managing Member of BUSH PROPERTIES, L.C., a Utah limited liability company, on behalf of the company.

Barbara Twitchell  
Notary Public

My commission expires:  
08/03/03



## EXHIBIT "A"

## COMMERCIAL PROPERTY PARCEL 1:|

Beginning at a point on the Southeasterly line of that certain property owned by Thanksgiving Point, L.C., said point being North 783.610 feet and East 455.066 feet from the Northwest corner of Section 6, Township 5 South, Range 1 East, Salt Lake Base and Meridian; thence South 40 Deg. 27' 20" East 833.277 feet; thence North 00 Deg. 39' 00" West 519.546 feet; thence North 89 Deg. 55' 00" East 626.431 feet; thence North 41 Deg. 44' 56" West 839.981 feet, more or less, to the Southeasterly line of said Thanksgiving Point, L.C. property; thence South 49 Deg. 33' 20" West 790.894 feet to the point of beginning.

## COMMERCIAL PROPERTY PARCEL 2:|

Beginning at a point East 1123.283 feet from the Northwest corner of Section 6, Township 5 South, Range 1 East, Salt Lake Base and Meridian; thence South 40 Deg. 27' 20" East 125.161 feet; thence South 00 Deg. 01' 31" West 557.272 feet; thence North 90 Deg. 00' 00" East 1455.763 feet; thence South 01 Deg. 32' 49" East 47.671 feet; thence South 0 Deg. 06' 26" East 639.00 feet; thence North 90 Deg. 00' 00" East 247.12 feet; thence North 21 Deg. 57' 46" East 489.11 feet; thence North 44 Deg. 57' 48" West 115.09 feet; thence North 44 Deg. 39' 18" West 159.91 feet; thence South 87 Deg. 37' 27" West 11.64 feet; thence North 44 Deg. 39' 08" West 268.73 feet; thence South 90 Deg. 00' 00" West 38.32 feet; thence North 0 Deg. 00' 00" East 37.29 feet; thence North 44 Deg. 08' 17" West 127.347 feet; thence North 44 Deg. 08' 18" West 474.627 feet; thence North 90 Deg. 00' 00" West 1036.303 feet; thence North 00 Deg. 00' 00" East 30.372 feet; thence South 90 Deg. 00' 00" West 81.215 feet to the point of beginning.

# EXHIBIT B

ENT 121930 BK 5277 PG 454

## OPTION PROPERTY LEGAL DESCRIPTION

Beginning at a point North 783.6095 feet and East 455.066 feet from the Northwest corner of Section 6, Township 5 South, Range 1 East, Salt Lake Base and Meridian; thence South 40 deg. 27' 20" East 833.2769 feet; thence South 00 deg. 39' 00" East 141.1144 feet; thence North 88 deg. 55' 44" West 7.3514 feet; thence South 00 deg. 00' 59" East 8.5946 feet; thence North 90 deg. 00' 00" East 133.2854 feet; thence South 40 deg. 27' 20" East 125.1614 feet; thence South 00 deg. 01' 31" West 557.2723 feet; thence North 90 deg. 00' 00" East 1455.7631 feet; thence South 01 deg. 32' 49" East 47.6714 feet; thence South 00 deg. 06' 26" East 639.0000 feet; thence South 00 deg. 49' 35" East 1.1880 feet; thence North 89 deg. 44' 51" West 1993.1400 feet; thence North 00 deg. 58' 26" West 546.3375 feet; thence South 87 deg. 27' 44" West 193.9645 feet; thence South 01 deg. 47' 20" East 9.5653 feet; thence South 87 deg. 33' 52" West 463.5622 feet; thence South 00 deg. 10' 05" West 3.2929 feet; thence South 89 deg. 10' 40" West 154.9200 feet; thence North 00 deg. 11' 28" East 90.2100 feet; thence North 57 deg. 47' 29" West 130.2500 feet; thence North 01 deg. 41' 41" West 24.1232 feet; thence North 00 deg. 44' 28" West 644.9800 feet; thence North 90 deg. 00' 00" East 4.7858 feet; thence North 33 deg. 47' 32" East 477.6059 feet; thence North 49 deg. 38' 38" East 597.1715 feet to the point of beginning.

Property Address:

VACANT GROUND  
LEHI, UTAH 84043

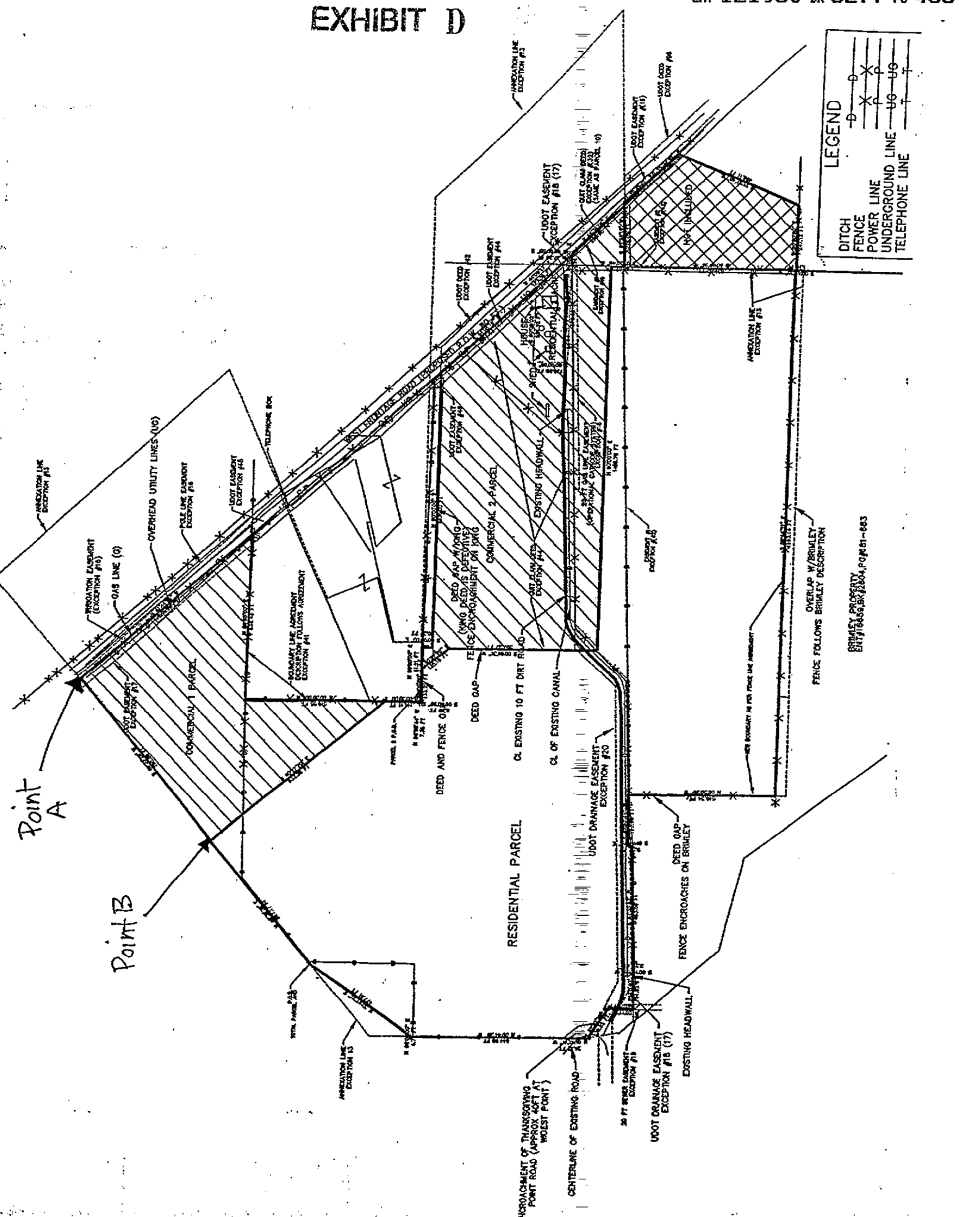
**EXHIBIT C**  
**IRRIGATION EASEMENT PROPERTY**

A parcel of land located within "Parcel 1" described on **Exhibit A**, said easement parcel consisting of a strip of land 20 feet in width, with the exterior boundary of such strip running from Point A on the survey map attached to this Easement as **Exhibit D** (the "Survey Map") along the perimeter of Parcel 1 to Point B. The Survey Map attached as **Exhibit D** is the same as the ALTA Survey, dated November 15, 1999, prepared by Daley & Associates, Drawing No. 99-153, a copy of which is available from Grantor or Grantee.

# EXHIBIT D

Point A

Point B



**LEGEND**

—D—	DITCH
—X—	FENCE
—P—	POWER LINE
—UG—	UNDERGROUND LINE
—T—	TELEPHONE LINE

BRIMLEY & COMPANY  
 BRIMLEY PROPERTY  
 ENT 121930 BK 5277 PG 456