

Loan No. 254-9407502-01-001

ENT 27351:2014 PG 1 of 14  
Jeffery Smith  
Utah County Recorder  
2014 Apr 25 10:36 AM FEE 38.00 BY EO  
RECORDED FOR First American Title Insurance  
ELECTRONICALLY RECORDED

**WHEN RECORDED, RETURN TO:**

Zions First National Bank  
Real Estate Banking Group  
One South Main Street, Suite 470  
Salt Lake City, Utah 84133  
Attn: Real Estate Banking Group Manager

664966 CP

**ASSIGNMENT OF LEASES**

(Borrowing Base Property)  
(Springville, Utah)

This Assignment of Leases (the "Assignment") is made and executed this 23 day of April, 2014 (the "Closing Date"), by Wadsworth Springville, LLC, a Utah limited liability company, and Wadsworth/Moore Springville, LLC, a Utah limited liability company, as their interests may appear (individually and collectively "Assignor") and Zions First National Bank, a national banking association ("Lender").

RECITALS

A. Lender is making a loan to Wadsworth & Sons IV, LLC, a Utah limited liability company ("Borrower"), in the original Principal Amount of Fifteen Million Dollars (\$15,000,000.00) (the "Loan"). The Loan is evidenced by the (i) Promissory Note (Parcel Acquisition) dated the Closing Date in which appears as "Borrower" and Lender appears as "Lender" and which is in the original principal amount of Five Million Dollars (\$5,000,000.00), and (ii) Promissory Note (Construction) dated the Closing Date in which Borrower appears as "Borrower" and Lender appears as "Lender" and which is in the original principal amount of Ten Million Dollars (\$10,000,000.00) (collectively the "Note"). The Loan will be advanced from time to time under a Loan Agreement dated the Closing Date between Borrower and Lender (the "Loan Agreement").

B. Pursuant to the Trust Deed, Assignment of Rents, Security Agreement and Fixture Filing dated the Closing Date (the "Trust Deed") in which Assignor appears as "Trustor" and Lender appears as "Trustee" and "Beneficiary" and which encumbers the real property (the "Property") together with the improvements thereon located in Utah County, State of Utah, and more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Project"), Assignor has granted to Lender a lien on the Project to secure the Note.

C. There have been and/or may be lease agreements entered into by Assignor and tenants of the Project, and other leases affecting the Project, or any building or improvement located on the Property, all subject to the terms and conditions of the Loan Documents.

D. Lender desires and Borrower agrees to further secure the Note and the Loan Agreement with an assignment of the leases.

### AGREEMENT

In exchange for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Assignor and Lender agree as follows:

1. Assignment. Assignor hereby absolutely and unconditionally assigns and transfers unto Lender all right, title, and interest of Assignor in and to all leases of the Project or any portion of the Project, now existing or hereafter created, together with all rents, subrents and other amounts received for the use of all or any portion of the Property or the Improvements, including without limitation, any and all rental agreements and arrangements of any kind for all or any portion of the Project now owned or hereafter acquired, and all proceeds from such leases, rents, subrents and other amounts received for the use of all or any portion of the Property or the Improvements, now or hereafter existing or entered into, together with all right, title and interest of Assignor in and to all other leases or subleases covering the Project or any portion of the Project, now or hereafter existing or entered into, together with all security deposits made by the lessees thereunder (the "Lessee" or "Lessees") and together with all extensions, renewals, modifications or replacements thereof, as well as all guaranties of Lessee's obligations under any provisions thereof and under any and all extensions and renewals thereof (collectively the "Lease").

2. License to Collect. This Assignment shall inure to the benefit of Lender, its successors and assigns for the payment of the principal and interest provided to be paid in or by the Note, the performance of the agreements of Assignor contained in the Trust Deed, and the performance of the agreements of Borrower contained in the Loan Agreement and Loan Documents and any other document evidencing, securing, or relating to the disbursal or administration of the proceeds of the Note (all of which agreements and obligations are collectively referred to as the "Obligation"), reserving to Assignor, however, a revocable, temporary right and license only to collect, except as hereinafter provided, the rents, income, and profits accruing by virtue of the Lease as they respectively become due (the "License"), but not in advance, and to enforce the agreements of the Lease, as long as Borrower or Assignor does not default under the Obligation, or this Assignment.

3. Lender as Creditor of Lessee. Lender, and not Assignor, shall be the creditor of each Lessee in respect of assignments for the benefit of creditors and bankruptcy, reorganization, insolvency, dissolution, or receivership proceedings affecting such Lessee. Lender, however, shall not be the party obligated to make timely filings of claims in such proceedings or to otherwise pursue creditor's rights therein. Lender shall have the option to apply any monies received by

Lender as such creditor towards the reduction of the principal or interest of the Obligation as Lender may elect.

4. Default Remedies of Lender. If Assignor defaults on this Assignment or Borrower defaults on the Obligation, and until such default shall have been fully cured, the License of Assignor to collect rents, income, and profits shall cease and terminate. Lender would thereby be authorized at its option to enter and take possession of all or part of the Project, and to perform all acts necessary for the operation and maintenance of the Project in the same manner and to the same extent that Assignor might reasonably so act. In furtherance thereof, Lender shall be authorized, but shall be under no obligation, to collect the rents, income, and profits arising from the Lease, and to enforce performance of any other terms of the Lease including, but not limited to, Assignor's rights to fix or modify rents, sue for possession of the Project, or any part thereof, relet all or part of the Project, and collect all rents, income, and profits under such new lease. Lender shall, after payment of all proper costs, charges, and any damages, apply the net amount of income to the sums then due to Lender under the Obligation as set forth in the Loan Agreement. Lender shall have sole discretion as to the manner in which such net income is applied, and the items that shall be credited thereby.

5. Termination of Assignment. When Lender has been paid for the full amount of the Obligation and such payment is evidenced by a recorded satisfaction or release of the Trust Deed, this Assignment shall no longer be in effect and shall be void.

6. Notice to Lessees of Default. Assignor shall irrevocably authorize each Lessee, upon demand and notice from Lender of Assignor's or Borrower's default, to pay all rents, income, and profits under the Lease to Lender. In such situation, Lender shall not be liable to Lessee for the determination of the actual existence of any default claimed by Lender. Lessees shall have the right to rely upon any such notices of Lender that Lessees shall pay all rents, income, and profits to Lender, without any obligation or right to inquire as to the actual existence of the default, notwithstanding any claim of Borrower to the contrary. Assignor shall have no claim against Lessees for any rents paid by Lessees to Lender. Upon the curing of all defaults caused by Borrower under the Obligation, the Trust Deed, this Assignment, and any other Loan Document, Lender shall give Lessees written notice of such cure, and thereafter, until further notice from Lender, Lessees shall pay the rents, income, and profits to Assignor.

7. Assignment of Assignor's Interest in Lease. Lender shall have the right to assign Assignor's right, title, and interest in the Lease to any subsequent holder of the Trust Deed and to any person acquiring title to the mortgaged premises through foreclosure or otherwise. After Assignor shall have been barred and foreclosed of all right, title, interest, and equity of redemption in the premises, no assignee of Assignor's interest in the Lease shall be liable to account to Assignor for the rents, income and profits thereafter accruing.

8. Indemnification of Lender. Assignor shall pay, protect, defend, indemnify and hold Lender harmless of and from any and all liability, loss, or damage that Lender may incur under the Lease or by reason of this Assignment other than such liability, loss, or damage as may be occasioned by Lender's gross negligence or willful misconduct. Such indemnification shall also

cover any and all claims that may be asserted against Lender by reason of any alleged obligation to be performed by Lender under the Lease or this Assignment. Nothing in this paragraph shall be construed to bind Lender to the performance of any Lease provisions, or to otherwise impose any liability upon Lender including, without limitation, any liability under the Lease's covenant of quiet enjoyment in the event that any Lessee shall have been joined as party defendant in any action to foreclose the Trust Deed and shall have been barred thereby of all right, title, interest, and equity of redemption in the premises. This Assignment shall not impose liability upon Lender for the operation and maintenance of the premises or for carrying out the Lease terms before Lender has entered and taken possession of the premises. Any loss or liability incurred by Lender by reason of actual entry and taking possession under the Lease or this Assignment or in the defense of any claims shall, at Lender's request, be reimbursed by Assignor. Such reimbursement shall include interest at the default rate set forth in the Note, costs, expenses, and reasonable attorneys' fees. Lender may, upon entry and taking of possession, collect the rents, income, and profits, and apply them toward reimbursement for the loss or liability.

9. Quality of Assignor's Title to Lease. Assignor represents itself to be the absolute owner of the Lease, with absolute right and title to assign it and the rents, income, and profits due or to become due thereunder; that the Lease is valid, in full force and effect, and has not been modified or amended except as stated herein; that there is no outstanding assignment or pledge thereof or of the rents, income, and profits due or to become due thereunder; that there are no existing defaults under the provisions thereof on the part of any party; that Lessees have no defense, setoff or counterclaim against Assignor, that Lessees are in possession and paying rent and other charges under the Lease as provided therein; and that no rents, income, and profits payable thereunder have been or will hereafter be anticipated, discounted, released, waived, compromised, or otherwise discharged except as may be expressly permitted by the Lease. Assignor covenants not to cancel, abridge, surrender, or terminate the Lease or change, alter, or modify it, either to reduce the amount of the rents, income, and profits payable thereunder, or otherwise change, alter, abridge or modify the Lease, or make any subsequent assignment of the Lease, or consent to subordination of the interest of any Lessee in the Lease without the prior written consent of Lender. Any attempt at cancellation, surrender, termination, change, alteration, modification, assignment, or subordination of the Lease without the written consent of Lender shall be null and void. If Lender has failed to respond to Assignor within ten (10) business days of Lender's receipt of a complete, final version of such proposed amended or modified lease, then the same shall be deemed approved by Lender.

10. Delivery of Necessary Instruments to Lender. Assignor shall execute and deliver to Lender and, during an Event of Default, hereby irrevocably appoints Lender, its successors, and assigns as its attorney in fact to execute and deliver during the term of this Assignment, all further instruments as Lender may deem necessary to make this Assignment and any further assignment effective. The power hereby granted is coupled with an interest in the Project and is irrevocable.

11. Transfer of Title to Lessees; Cancellation of Lease. The Lease shall remain in full force and effect despite any merger of Assignor's and any Lessee's interest thereunder. In the event the Lease permits cancellation thereof on payment of consideration and the privilege of cancellation

is exercised, the payments made or to be made by reason thereof are hereby assigned to Lender to be applied, at the election of Lender, to reduce the amount of the principal of the Obligation in the inverse order of maturity or to be held in trust by Lender as further security without interest for the payment of the principal and interest provided to be paid on the Obligation. If Lender has failed to respond to Assignor within ten (10) business days of Lender's receipt of a complete, final version of such proposed amended or modified lease, then the same shall be deemed approved by Lender.

12. Lease Guaranties; Assignment of Lease; Alterations of Premises. Assignor shall not alter, modify, cancel or terminate any guaranties of the Lease without the written consent of Lender. Nor shall Assignor consent to any Lease assignment or subletting, nor agree to a subordination of the Lease to any mortgage or other encumbrance, other than that of Lender, now or hereafter affecting the Project without Lender's prior written consent. Assignor shall not permit a material alteration of or addition to the Project by any Lessee without Lender's prior written consent unless the right to alter or enlarge is expressly reserved by such Lessee in the Lease.

13. Assignor to Ensure Continued Performance under Lease. Assignor shall not execute any other assignment of the Lease, of any interest therein, or of any rents payable thereunder. Assignor shall perform all of its covenants as Lessor under the Lease, and shall not permit to occur any release of liability of any Lessee, or any withholding of rent payments by any Lessee. Lender shall promptly receive from Assignor copies of all notices of default Assignor has sent to any Lessee. Assignor shall, at Lender's request, enforce the Lease and all remedies available to Assignor thereunder upon any Lessee's default thereunder.

14. Changes in Obligation Terms. Notwithstanding any variation of the terms of the Obligation and/or the Trust Deed including increase or decrease in the principal amount thereof or in the rate of interest payable thereunder or any extension of time for payment thereunder or any release of part or parts of the real property subject to the Trust Deed, the Lease and the benefits hereby assigned shall continue as additional security in accordance with the terms of this Assignment.

15. Additions to and Replacement of Obligation. Lender may take security in addition to the security already given Lender for the payment of the principal and interest provided to be paid in or by the Obligation or by the Trust Deed or release such other security, and may release any party primarily or secondarily liable on the Obligation, may grant or make extensions, renewals, modifications, or indulgences with respect to the Obligation or Trust Deed and replacements thereof, which replacement of the Obligation or Trust Deed may be on the same or on terms different from the present terms of the Obligation or Trust Deed, and may apply to any other security thereof held by it to the satisfaction of the Obligation, without prejudice to any of its rights hereunder.

16. Future and Additional Leases. This Assignment shall apply and be effective with respect to any and all leases entered into by Assignor and any lessee which may cover or affect any portion of the Project, which lease(s) may be entered into at any time during the period the Obligation remains outstanding and secured by the Trust Deed, regardless of whether such lease(s) is/are in effect on the date this Assignment is executed. Upon the written request of Lender,

Assignor shall give Lender prompt notice and provide Lender with a copy of any lease covering any portion of the Project it enters into, if the lease is not listed in this Assignment or is not in effect on the date of this Assignment. Upon notice from Lender to that effect, such lease shall be deemed included in this Assignment as though originally listed therein, and shall be subject to this Assignment in all respects.

17. Exercise of Lender's Rights. Lender's failure to avail itself of any of its rights under this Assignment for any period of time, or at any time or times, shall not constitute a waiver thereof. Lender's rights and remedies hereunder are cumulative, and not in lieu of, but in addition to, any other rights and remedies Lender has under the Obligation and Trust Deed. Lender's rights and remedies hereunder may be exercised as often as Lender deems expedient.

18. Amendment, Modification, or Cancellation of Assignment. No amendment, modification, cancellation, or discharge hereof, or of any part hereof, shall be enforceable without Lender's prior written consent.

19. Notices. All notices shall be in writing and shall be deemed to have been sufficiently given or served when personally delivered, deposited in the United States mail, by registered or certified mail, or deposited with a reputable overnight mail carrier which provides delivery of such mail to be traced, addressed as follows:

Lender: Zions First National Bank  
Real Estate Banking Group  
One South Main Street, Suite 470  
Salt Lake City, Utah 84133  
Attn: Allan A. Metos

With copies to: Callister Nebeker & McCullough  
Zions Bank Building  
10 East South Temple, Suite 900  
Salt Lake City, Utah 84133  
Attn: John B. Lindsay

Assignor: Wadsworth Springville, LLC  
166 East 14000 South, Suite 210  
Draper, Utah 84020  
Attn: Kip Wadsworth  
  
Wadsworth/Moore Springville, LLC  
166 East 14000 South, Suite 210  
Draper, Utah 84020  
Attn: Kip Wadsworth



the execution of this Assignment by Assignor will not render Assignor insolvent, and Assignor has received reasonable equivalent value for the execution and delivery of this Assignment. Without limiting the foregoing, Assignor acknowledges that: (1) Lender would have not advanced Loan proceeds to Borrower if Assignor had not executed and delivered this Assignment; (2) Lender accepted this Assignment as partial security for the Loan at the request of both Borrower and Assignor; (3) Lender shall have no obligation to investigate the credit standing or creditworthiness of Borrower, or during the Loan report to Assignor regarding the credit standing or credit worthiness of Borrower; and (4) Assignor has fully investigated the financial standing of Borrower and the adequacy of said collateral and will continue to keep itself fully apprised of the financial standing of Borrower and the adequacy of said collateral through the term of the Loan.

Assignor waives any right to require Lender to: (a) proceed against Borrower; (b) proceed against or exhaust any security pledged to or held by Lender from Borrower; or (c) pursue any other remedy in Lender's power whatsoever. Assignor waives any defense arising by reason of any disability or other defense of Borrower or by reason of the cessation from any cause whatsoever of the liability of Borrower, until the Loan has been paid in full, except for the performance of the Loan under this Assignment or upon the release of this instrument in accordance with the terms hereof. Assignor waives all rights it may now have or later acquires under any statute in derogation of the foregoing waivers.

25. Defined Terms. Unless otherwise defined in this Assignment, capitalized terms used herein have the meanings given them in the Loan Agreement.

***[SIGNATURE PAGE(S) AND EXHIBIT(S),  
IF ANY, FOLLOW THIS PAGE]***




DATED: April 23, 2014.

ASSIGNOR

**WADSWORTH SPRINGVILLE, LLC,**  
a Utah limited liability company

By: Wadsworth & Sons, LLC,  
a Utah limited liability company,  
Manager of Wadsworth Springville, LLC

By: \_\_\_\_\_  
Kip L. Wadsworth, Executive Manager

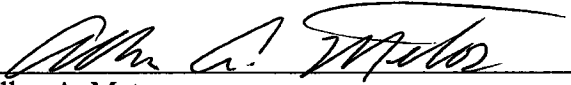
By:   
\_\_\_\_\_   
Con L. Wadsworth, Manager

**WADSWORTH/MOORE SPRINGVILLE, LLC,**  
a Utah limited liability company

By: \_\_\_\_\_  
Kip L. Wadsworth, Manager

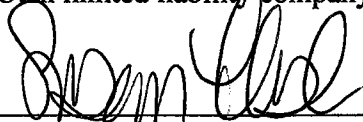
LENDER

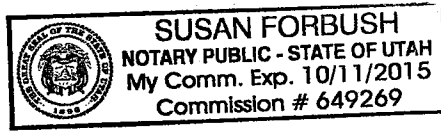
**ZIONS FIRST NATIONAL BANK,**  
a national banking association

By:   
Allan A. Metos  
Senior Vice President

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

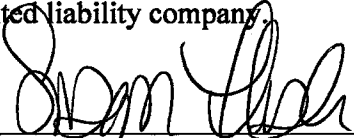
The foregoing instrument was acknowledged before me this 22 day of April, 2014, by Kip L. Wadsworth, Executive Manager of Wadsworth & Sons, LLC, a Utah limited liability company, Manager of Wadsworth Springville, LLC, a Utah limited liability company.

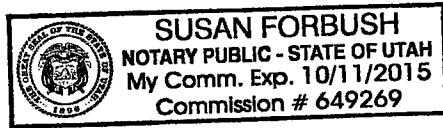
  
\_\_\_\_\_  
NOTARY PUBLIC  
Residing at: Draper, Utah



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

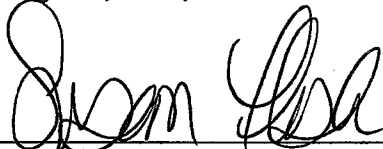
The foregoing instrument was acknowledged before me this 22 day of April, 2014, by Con L. Wadsworth, Manager of Wadsworth & Sons, LLC, a Utah limited liability company, Manager of Wadsworth Springville, LLC, a Utah limited liability company.

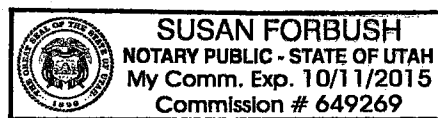
  
\_\_\_\_\_  
NOTARY PUBLIC  
Residing at: Draper, Utah



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

The foregoing instrument was acknowledged before me this 22 day of April, 2014, by Kip L. Wadsworth, Manager of Wadsworth/Moore Springville, LLC, a Utah limited liability company.

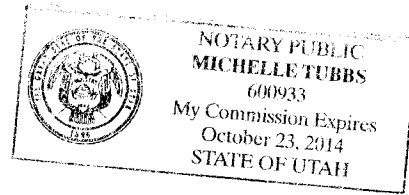
  
\_\_\_\_\_  
NOTARY PUBLIC  
Residing at: Draper, Utah



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

The foregoing instrument was acknowledged before me this 23 day of April, 2014, by Allan A. Metos, Senior Vice President of Zions First National Bank, a national banking association.

Michelle Tubbs  
NOTARY PUBLIC  
Residing at Salt Lake City



**EXHIBIT A**

**REAL PROPERTY DESCRIPTION**

The real property located in Utah County, State of Utah, and more particularly described as follows:

**REAL PROPERTY LOCATED IN THE SOUTHEAST CORNER OF SECTION 31, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SALT LAKE BASE & MERIDIAN, SPRINGVILLE, UTAH SAID PROPERTY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**BEGINNING AT A FOUND REBAR AND CAP BEING NORTH 00°12'17" EAST 271.00 FEET FROM A FENCE CORNER ON THE NORTH LINE OF 400 SOUTH STREET AT THE EAST LINE OF 1800 WEST STREET, SPRINGVILLE, UTAH, SAID FENCE CORNER BEING NORTH 89°38'30" EAST 949.81 FEET ALONG THE SECTION LINE AND NORTH 884.77 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 31, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SALT LAKE BASE & MERIDIAN, SAID POINT OF BEGINNING ALSO BEING THE NORTHWEST CORNER OF THAT CERTAIN PARCEL DESCRIBED IN THAT CERTAIN WARRANTY DEED AS RECORDED IN ENTRY NO. 46589 IN BOOK 5057 AT PAGE 57 OF OFFICIAL RECORDS; AND RUNNING THENCE NORTH 0°12'17" EAST 336.43 FEET ALONG SAID EAST LINE OF 1750 WEST STREET TO A FOUND REBAR & CAP AT AN EXISTING WIRE FENCE LINE, THENCE ALONG SAID WIRE FENCE LINE THE FOLLOWING EIGHT (8) COURSES: 1) SOUTH 89°42'11" EAST 296.11 FEET; 2) SOUTH 89°38'51" EAST 115.37 FEET; 3) NORTH 89°14'06" EAST 198.81 FEET; 4) SOUTH 89°24'36" EAST 331.17 FEET TO A FOUND REBAR & CAP; 5) SOUTH 1°16'38" WEST 225.69 FEET; 6) SOUTH 0°55'08" WEST 250.17 FEET; 7) THENCE SOUTH 0°55'44" EAST 134.53 FEET TO A FOUND REBAR & CAP AT THE NORTH RIGHT OF WAY LINE OF 400 SOUTH STREET; 8) THENCE NORTH 89°38'30" WEST 680.75 FEET ALONG THE SAID NORTH LINE OF 400 SOUTH STREET TO A FOUND REBAR & CAP; SAID POINT BEING THE SOUTHEAST CORNER OF THAT CERTAIN PARCEL AS DESCRIBED IN SAID WARRANTY DEED; THENCE ALONG THE EAST AND NORTH LINE OF SAID PARCEL THE FOLLOWING TWO (2) COURSES: 1) NORTH 00°12'17" EAST 271.00 FEET TO A FOUND REBAR & CAP; 2) NORTH 89°38'30" WEST 256.01 FEET TO A FOUND REBAR & CAP AND THE POINT OF BEGINNING.**

**LESS AND EXCEPTING THEREFROM THAT PORTION LYING WITHIN THE 7-ELEVEN PROPERTY, DESCRIBED AS FOLLOWS:**

BEGINNING AT A POINT ON THE NORTH LINE OF 400 SOUTH STREET AND THE EAST LINE OF 1750 WEST STREET, SPRINGVILLE, UTAH SAID POINT BEING NORTH 89°11'58" EAST 949.81 FEET ALONG THE SECTION LINE AND NORTH 884.77 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 31, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE NORTH 00°12'17" EAST 271.00 FEET ALONG SAID EAST LINE OF 1750 WEST STREET, THENCE SOUTH 89°38'30" EAST 256.00 FEET, THENCE SOUTH 00°12'17" WEST 271.00 FEET TO SAID NORTH LINE OF 400 SOUTH STREET, THENCE NORTH 89°38'30" WEST 256.00 FEET ALONG SAID NORTH LINE OF 400 SOUTH STREET TO THE POINT OF BEGINNING.

ALSO LESS AND EXCEPTING THEREFROM, THAT PORTION CONVEYED TO THE UTAH DEPARTMENT OF TRANSPORTATION BY WARRANTY DEEDS RECORDED SEPTEMBER 18, 2008 AS ENTRY NO.'S 103102:2008 AND 103105:2008, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND IN FEE, BEING PART OF AN ENTIRE TRACT OF PROPERTY, SITUATE IN THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 31, TOWNSHIP 7 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 889.11 FEET NORTH AND 1205.78 FEET EAST FROM THE SOUTH QUARTER CORNER OF SAID SECTION 31: AND RUNNING THENCE N 00°12'17"E 15.45 FEET; THENCE S89°39'43"E 680.44 FEET; THENCE S 00°55'44"E 15.69 FEET; THENCE N89°38'30"W 680.75 FEET TO THE POINT OF BEGINNING.

Tax Parcel No. 23:030:0082