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AGREEMENT FOR THE DEVELOPMENT OF LAND BETWEEN
LAYTON CITY AND IHC HEALTH SERVICES, INC.

JUNE 19, 2008

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**AGREEMENT FOR THE DEVELOPMENT OF LAND BETWEEN
LAYTON CITY AND IHC HEALTH SERVICES, INC.**

This **AGREEMENT FOR THE DEVELOPMENT OF LAND** (hereinafter referred to as this "Agreement") is made and entered into this ^{19th} day of ~~JUNE~~, 2008, between LAYTON CITY, a municipal corporation of the State of Utah (hereinafter referred to as "City"), and IHC HEALTH SERVICES, INC., a Utah nonprofit corporation (hereinafter referred to as "Owner"). City and Owner are collectively referred to as the "Parties" and individually as a "Party."

WHEREAS, Owner has the contractual right to purchase certain real property situated in the City of Layton, Utah, as particularly described and shown in attached Exhibit "A" (the "Subject Property");

WHEREAS, Owner has presented City with a proposal for the rezone of part of the Subject Property, comprised of approximately 44 acres and located at approximately 500 South 200 West, Layton, Utah (as described and shown in attached Exhibit "B," the "Subject Area"), which proposal provides for the development of the Subject Area in a manner consistent with the Layton City General Plan (the "General Plan");

WHEREAS, in connection with the proposal for the rezone of the Subject Area, City has considered an application for an amendment to the General Plan and to the Layton City Official Zoning District Map (the "Zoning Map"), for the rezone of certain of the Subject Area, comprised of approximately 41.80 acres (as described and shown in attached Exhibit "C," the "Rezone Area") as a Business and Research Park Zone (the "B-RP Zone") (the "Rezone");

WHEREAS, Parties desire to enter into this Agreement to provide for the development of the Subject Area in a manner consistent with the overall objectives of the General Plan;

WHEREAS, City is willing to rezone the Rezone Area and, in that connection, allow for Owner's development of the Subject Area, subject to and in accordance with the terms and conditions of this Agreement, provided that Owner agrees to certain development rights and undertakings described herein;

WHEREAS, City believes that entering into this Agreement with Owner is in the vital and best interest of City and the health, safety, and welfare of its residents; and

WHEREAS, in connection with City's review, approval and execution of this Agreement, amendment of the General Plan and the Zoning Map, and approval of the Rezone, and, further, subject to the acquisition of the Subject Property by Owner, City has approved of and vested under, and on the terms and conditions of, this Agreement, the uses approved in this Agreement (as further defined below, the "Approved Uses");

NOW, THEREFORE, each Party hereto, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, covenants and agrees as follows:

**ARTICLE I
DEFINITIONS**

Except as otherwise defined in this Agreement, the following terms have the meaning and content set forth in this Article I, wherever used in this Agreement:

1.1 "City" shall mean Layton City, a body corporate and politic of the State of Utah. The principal office of City is located at 437 North Wasatch Drive, Layton, Utah 84041.

1.2 "City's Undertakings" shall mean the obligations of City set forth in Article III.

1.3 "Owner" shall mean IHC Health Services, Inc. The principal mailing address for Owner is listed in Section 7.2, below.

1.4 "Owner's Undertakings" shall mean the obligations of Owner set forth in Article IV.

1.5 "B-RP Zone" shall mean the business and research park zoning district set forth in Title 19 of the Layton City Municipal Code (the "Code").

1.6 "Rezone Area" shall have the meaning set forth in the Recitals hereto. The Rezone Area is depicted on attached Exhibit "C."

1.7 "Subject Area" shall have the meaning set forth in the Recitals hereto. The Subject Area is depicted on attached Exhibit "B."

1.8 "Subject Property" shall have the meaning set forth in the Recitals hereto. The Subject Property is depicted on attached Exhibit "A."

1.9 "Effective Date" shall mean the date of City Council approval of this Agreement, the General Plan and Zoning Map Amendments, and the Rezone.

1.10 "Mitigation Area" shall have the meaning set forth in Section 4.13 of this Agreement.

1.11 "Landscape open space" shall mean, subject to the terms and conditions of this Agreement, an area of living plant materials, such as lawn, ground cover, annual and perennial flowering plants, vines, shrubs, trees and/or natural materials such as rock or stone.

1.12 "C-TH Zone" shall mean the condominium and townhouse zoning district set forth in Title 19 of the Code.

1.13 "MU-TOD Zone" shall mean the mixed use and transit oriented development zoning district set forth in Title 19 of the Code.

ARTICLE II CONDITIONS PRECEDENT AND APPROVED USES

2.1 **Conditions Precedent.** The following are conditions precedent to Owner's obligations under this Agreement, including without limitation Owner's Undertakings in Article IV: (a) City's approval of this Agreement, the General Plan and Zoning Map amendments, and the Rezone, including approvals of City's Planning Commission and Council, and full execution of this Agreement by City, and (b) Owner's acquisition of the Subject Property (collectively, the "Conditions Precedent").

In the event that the Conditions Precedent have not been satisfied on or before August 30, 2008, Owner or City shall have the right, at such Party's option, to terminate this Agreement. Once these conditions are satisfied, Owner shall notify City thereof and, in such event, City will act promptly to confirm and ratify the amendment of the General Plan and Zoning Map and the Rezone. In that connection, any modification or amendment hereof, including any changes in the number of acres in the B-RP Zone, may be made only by mutual agreement between Owner and City, subject to approvals by City's Planning Commission and Council.

2.2 **Reserved Legislative Powers.** Nothing in this Agreement shall limit the future exercise of police power of City Council in enacting zoning, subdivision, development, growth management, platting, environmental, open space, transportation and other land use plans, policies, ordinances and regulations after the date of this Agreement. Notwithstanding the retained power of City Council to enact such legislation under the police powers, excluding

ordinances or resolutions of City relating to impact, development connection or permit fees, such legislation shall only be applied to modify the vested rights described in this Agreement, based upon policies, facts and circumstances meeting the compelling and countervailing public interest exception to the vested rights doctrine of the State of Utah. Notwithstanding the foregoing, any proposed change affecting the vested rights of Owner under this Agreement shall be of general application to all development activity in City and, unless City declares an emergency, Owner shall be entitled to prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the Approved Uses and the Subject Property under the compelling, countervailing public policy exception to the vested rights doctrine.

2.3 Approved Uses. The land uses approved for the Rezone Area include health care facilities, hospitals, and uses incidental or related thereto (the "Approved Conditional Uses"), and all uses permitted or otherwise allowed in the B-RP Zone (together with the Approved Conditional Uses, the "Approved Uses"). The Approved Uses are approved by City as being conditional or permitted uses consistent with the uses contemplated in the B-RP Zone regulations under the Code. The Approved Uses are vested under, and on the terms and conditions of, this Agreement.

2.4 Phasing of Development. The Subject Area may be developed in phases. Each such phase may consist of one or more buildings and facilities consistent with the Approved Uses or such other uses as may be permitted in the Code or otherwise approved by City. At some time in the future, Owner plans to submit an application for a conditional use permit, together with a site plan application for at least the initial phase, and, then, as necessary, additional site plan applications for each additional phase. Owner shall submit, consistent with the phasing of the development of the Subject Area, initial conditional use permit and site plan applications for the initial phase within three (3) years of the execution of this Agreement. Owner shall have the right, one or more times and upon notice to City, to extend the three (3) year period for a period not to exceed two (2) years from and after the initial three (3) year period.

ARTICLE III CITY'S UNDERTAKINGS

3.1 Approval of Rezone; Vested Rights. Subject to the satisfaction of the Conditions Precedent set forth in subsection 2.1(b), above, City, by the execution hereof, hereby ratifies and confirms the approval of this Agreement, the amendment of the General Plan and Zoning map and, further, the Rezone. By the execution hereof, City further acknowledges and confirms that the Approved Uses are approved by City as being conditional or permitted uses consistent with the uses contemplated in the B-RP Zone regulations under the Code, and that the Approved Uses are vested under, and on the terms and conditions of, this Agreement. City further acknowledges and confirms that, subject to the terms and conditions of this Agreement and compliance with the "Applicable City Ordinances" (as defined below), Developer shall have the vested right to preliminary and final subdivision, conditional use and site plan approval to develop the Subject Area pursuant to this Agreement.

3.2 Other City Approvals. Any conditional use permit or site plan applications for all or part of the Subject Area shall be reviewed by City in accordance with this Agreement and all applicable City rules, regulations and Title 19 of the Code in effect at the time any such application(s) shall be submitted as required thereby; provided that, except as and to the extent required by public health, safety or welfare, any amendment to any such laws, rules and regulations in effect from and after the date of this Agreement shall not adversely affect the Approved Uses and landscaping requirements/percentages vested by and under this Agreement (the "Applicable City Ordinances"). Further, any determination by City Engineer pursuant to this Agreement or with respect to the Subject Area shall be as specified in this Agreement and, further, in accordance with Applicable City Ordinances.

3.3 Payback Agreements. Owner shall not have any liability or obligation, cost or otherwise, for any improvements or facilities which do not serve, in whole or in part, the Subject

Area. In the event, however, Owner shall pay any part or all costs or expenses for any improvements or facilities which do not serve, in whole or in part, the Subject Area, Owner shall be entitled to payment, reimbursement or credit therefor (the "Excess Costs"), consistent with Applicable City Ordinances. Once Owner provides City with evidentiary documentation for any such Excess Costs, City agrees to enter into payback agreements with Owner for the Excess Costs as soon as reasonably practicable; provided that Owner's right to payment, reimbursement or credit shall not be affected by the absence of any such payback agreements; and provided, however, that, in the event (and to the extent) any such payment, reimbursement or credit depends on payment or reimbursement by third parties, City does not guarantee any such payment or reimbursement to Owner.

ARTICLE IV OWNER'S UNDERTAKINGS AND RIGHTS

After the Effective Date, and conditioned upon (a) the satisfaction of the items listed in Section 2.1, above, (b) City's performance of its undertakings set forth in Article III, and (c) provided Owner has not terminated this Agreement pursuant to Section 7.8, below, Owner agrees to the following:

4.1 Zoning and Land Use. Zoning and development of the Subject Area shall comply with Article II. Development of the Subject Area shall comply with all Applicable City Ordinances, including, as applicable, the setback and site plan requirements of the B-RP Zone and C-TH Zone. Owner agrees to abide by the additional setback requirements in the attached "Buffer Map", which is described and depicted on attached Exhibit "D" to guide development of the Subject Area. Owner agrees to submit site plan applications, which conform to the Buffer Map.

4.2 Culinary Water. Development of the Subject Area will require Owner to install, at Owner's expense, a minimum 12-inch water line in Flint Street from approximately 600 South to Gentile Street. This 12-inch minimum water line is required to provide a projected 3,500 gpm fire flow for the Subject Area. This minimum water line size and fire flow requirement are subject to final building design and height and that adequate fire flow can be provided and verified by an actual flow test to the Subject Area. The culinary water system throughout the Subject Area is required to be minimum 14-inch line with connections to the existing water lines connected to the Subject Area at several locations based on conditional use permit and site plan approval and as reasonably determined by City Engineer.

4.3 Sanitary Sewer. Projected flows from the proposed hospital and related facilities developed on the Subject Area are needed to accurately determine the sanitary sewer capacities required for both City and North Davis Sewer District ("NDSD") lines. Sanitary sewer system capacity shall be determined based on Owner's conditional use and site plan application(s) for such buildings and facilities as reasonably determined by City Engineer.

4.4 Storm Drain. Owner is required to complete a storm water study to determine the exact capacity requirement for on-site storm water detention; provided, further, that:

4.4.1 Owner is required to provide an approved plan for the final configuration of on-site detention facilities upon conditional use permit and site plan approval of any part of the Subject Area.

4.4.2 On-site detention facilities also will be required to function as, to the extent reasonably practicable, commercially reasonable, required by reason of the nature of the development of the Subject Area, and set forth in any landscape plan for the Subject Area, landscaped open space for the Subject Area.

4.4.3 Owner will be required to install a storm drain outfall line(s) sized for the service area as reasonably determined by City Engineer.

4.4.4 Storm drain system capacity and detention requirements shall be determined based on conditional use and site plan information submitted by Owner in connection with conditional use permit and site plan approval, as reasonably determined by City Engineer.

4.5 **Land Drain.** Based on recommendations from a geotechnical report, a land drain system may be required throughout the development of the Subject Area, pursuant to conditional use permit and site plan approval and a design reasonably determined by City Engineer. In this connection, a land drain outfall line may be required to be installed from the Subject Area and be sized to service the Subject Area and such other property as reasonably determined by City Engineer.

4.6 **Water Exactions.** Owner shall be responsible for complying with City's water exaction requirements as in effect on the date of conditional use permit issuance and site plan approval, including, as and to the extent necessary, the acquisition and/or dedication of any required water rights.

4.7 **Open Space/Landscaping.** Except as otherwise specified below and in lieu of any landscaping requirements set forth in the Code and as and to the extent reasonably required by City, landscaping shall be installed along all roadways, between buildings, between buildings and parking areas, and within parking areas, in order to create a "park-like" atmosphere; provided that:

4.7.1 The B-RP Zone and the C-TH Zone, as applicable, requires that 25% of the Subject Area be landscaped. It is understood and agreed by Owner that a significant portion of this landscaping is required to provide significant buffers around the perimeter of the Subject Area as depicted on attached Exhibit "D." Owner agrees to comply with all applicable landscaping requirements of the Applicable City Ordinances in connection with the development of the Subject Area, specifically Chapter 19.13, Design and Development Plan Review, and Chapter 19.16, Landscaping and Fencing.

4.7.2 Owner will submit a landscaping plan in accordance with this Section 4.7 for the entirety of the Subject Area as part of conditional use and site plan review for approval by City.

4.7.3 Owner will construct a recreation trail around the perimeter of the Subject Area. The location, configuration, and design of said trail shall conform to the depiction on attached Exhibit "E" and be approved as part of the required landscaping plan required in subsection 4.7.2, above, of this Agreement.

4.7.4 Within thirty (30) days following the later of City's approval of Owner's conditional use permit application and final site plan application or Owner's receipt of a building permit for development on the Subject Property, Owner will dedicate land (not to exceed twenty (20) feet in width), as and to the extent the Kay's Creek Trail Phase One (as defined below) is located on Owner's land, and pay for the design and construction, to City standards set forth in the Applicable City Ordinances, of a paved trail ten (10) feet in width on City's and Owner's land from the intersection of Kay's Creek and Flint Street to Dawson Street (the "Kay's Creek Trail Phase One"). In addition, within thirty (30) days following the final completion of the proposed Fort Lane Interchange at I-15 (the "Proposed I-15 Interchange"), Owner will dedicate land (not to exceed twenty (20) feet in width), as and to the extent the Kay's Creek Trail Phase Two (as defined below) is located on Owner's land, and pay for the design and construction, to City standards set forth in the Applicable City Ordinances, of a paved trail ten (10) feet in width on Owner's land from Dawson Street to the Proposed I-15 Interchange ("Kay's Creek Trail Phase Two"). Kay's Creek Trail Phases One and Two (collectively, the "Kay's Creek Trail") are depicted on attached Exhibit "E." In connection herewith, Owner may elect, in Owner's sole and absolute discretion, to (a) design and construct the Kay's Creek Trail; provided that City grants Owner and its employees, agents and contractors access over, under, across and through City's

land in connection with any such design and construction and, upon completion of Kay's Creek Trail, City shall be responsible for all on-going maintenance and repairs thereof, or (b) require City to design and construct the Kay's Creek Trail upon receipt of payment from Owner and dedication of Owner's land, as applicable.

4.7.5 As part of the overall landscape plan for the Subject Area, Owner shall install and maintain an enhanced streetscape along Flint Street and 750 South, which shall include an improved pedestrian walkway along Flint Street with a buffer of landscaping and trees, all as and to the extent depicted on attached Exhibit "D."

4.7.6 Notwithstanding anything herein to the contrary, the Parties understand, acknowledge and agree that, except as and to the extent improved with buildings or other occupied structures, the entire area zoned as a C-TH Zone within the Subject Area shall count towards Owner's satisfaction of any and all open space and/or landscaping requirements applicable to the Subject Area and/or the Rezone Area.

4.8 Transportation and Circulation. Except as otherwise specified herein, all roadways, parking areas, storm drainage systems, trails, sidewalks, parks and other facilities, street lighting, signage and other similar, privately maintained elements benefiting the Subject Property, the Subject Area and/or the Rezone Area shall remain private. Owner acknowledges, however, that the perimeter of the Subject Area is affected by multiple access points and rights-of-way set forth on the Layton City Master Street Plan, adopted August 2, 2007, and attached Exhibit "H" (collectively, as incorporated herein by this reference, the "Transportation and Circulation Plan"). In this connection:

4.8.1 The parties acknowledge and agree that, in planning and developing the Subject Property, Owner may rely on the road locations, access points and circulation plans contained in the Transportation and Circulation Plan and, further, any road dimensions, traffic data and projections and other standards contained in any Applicable City Ordinances (or, if available, the Transportation and Circulation Plan). Except as otherwise specified in this Agreement specific to the identified section of 750 South (which, if any, may be set forth in a separate written agreement between Owner and the Utah Department of Transportation ["UDOT"]), the connection to Flint Street (which, if any, may be set forth in a separate written agreement between Owner and UDOT), and the existing 25 East, 175 East and 200 East stub streets, Owner shall have no responsibility to construct any transportation or other improvements located outside of the boundaries of the Subject Property, dedicate land or otherwise implement the Transportation and Circulation Plan, as that plan may be modified from time to time.

4.8.2 Owner must provide for at least one north-south street connection/access from the proposed intersection on the 750 South corridor at approximately 400 South and 100 West (the "Proposed Intersection") into the Subject Area as and to the extent approved by City and UDOT. The location and configuration of this access must be reasonably acceptable to City, UDOT and Owner, and shall take into account alignment or offset requirements as reasonably determined by City Engineer and UDOT.

4.8.3 In addition to the matters set forth in subsection 4.8.2, Owner must provide for at least one access from Flint Street to the Subject Area as and to the extent approved by City. The location and configuration of this access must be reasonably acceptable to City and Owner, and shall take into account alignment or offset requirements reasonably determined by City Engineer.

4.8.4 Unless UDOT designs and constructs a signal with the initial construction of 750 South, at such time as it is determined that a signal is warranted at the Proposed Intersection, Owner agrees to complete a signal design that shall be submitted to and approved by City and UDOT. In addition, Owner shall furnish and install the proposed signal with video detection and install the foundation, anchor bolts, mast arms and conduit necessary to accommodate the future traffic signal, all at Owner's expense.

4.8.5 Owner shall construct, at Owner's expense and in accordance with the Applicable City Ordinances, the following along the southern boundary of the Subject Area: (a) an approved fence and/or landscape transition and curbing at the existing 25 East, 175 East and 200 East stub streets, and (b) an approved turn-around on 200 East stub street that meets City Engineering and Fire Department Standards; provided that the 25 East, 175 East and 200 East stub streets shall not be connected to any streets, roads, paths or trails located on the Subject Property, including without limitation the 750 South corridor.

4.8.6 Additional street connection and circulation issues affecting the Subject Area will be based on the traffic study conducted by Owner's consultant. The results and recommendations of said study must be reviewed and reasonably approved by City Engineer and, then, incorporated into conditional use permit issuance and site plan approval by the Planning Commission.

4.8.7 Inasmuch as the Subject Area is in close proximity to the Layton City Front-Runner Commuter Rail Station, Owner shall reasonably cooperate with the Utah Transit Authority ("UTA") and Layton City to insure that a location, agreeable by all parties, is selected for the future rail station parking lot on the west side of the Union Pacific Rail line. Owner agrees to participate in design processes to determine the best arrangement of shared parking that will support future development and the park and ride needs of UTA, as determined by a third-party parking consultant, reasonably acceptable to City, UTA and Owner; provided that Owner shall have no obligation to participate, financially or otherwise, in the development or construction thereof unless otherwise agreed, in writing, by Owner. Further, Owner agrees to reasonably cooperate with UTA in the determination and location of any necessary UTA park-and-ride lot area within the "Mitigation Area" (as defined below), including without limitation any determination of the then current fair market value of the land necessary for the UTA park-and-ride lot; provided that, in the event Owner shall be required to contribute any land therefor, then, based on any such fair market value determination, Owner shall be fairly compensated by UTA, for any such land so contributed, which contribution (and fair value) shall be documented, in writing, to the reasonable satisfaction of Owner and UTA; provided that, except as otherwise specified in this subsection, failure of UTA and Owner to reach any such agreement shall not affect any obligations of Owner or City specified elsewhere in this Agreement.

4.8.8 Inasmuch as the Subject Area has benefited by City's installation of Flint Street project improvements including curb, gutter, sidewalk, sanitary sewer and storm water improvements as approved by Resolution 04-02 Owner shall pay the full amount previously assessed against the Subject Property upon the later of (a) issuance of building permits for vertical improvements within the Subject Area, and (b) approval of this Agreement, completion of the General Plan and Zoning Map Amendments, completion of the Rezone, and issuance of Owner's conditional use permit.

4.8.9 As and to the extent necessary by reason of the development, use and occupancy of the Subject Area, Owner shall cooperate in any necessary at-grade pedestrian routes intended to facilitate pedestrian flow of any school children attending Layton Elementary School; provided that the scope of any such cooperation shall be determined and documented to the reasonable satisfaction of the Parties and, further, any payment required from Owner therefor shall be reasonable in relation to the impact of the development of the Subject Area thereon.

4.9 **Campus Design and Architectural Consistency.** Owner agrees to generally adhere to the following guidelines in Owner's development of the Rezone Area, and, in the event Owner elects to subdivide the Rezone Area and sell the divided parcels to unrelated third parties, as contemplated in Section 7.1, below, Owner shall provide for and record a Declaration of Covenants, Conditions and Restrictions (the "Declaration") providing that any area so transferred shall be developed in accordance with the following guidelines:

4.9.1 As applicable, development of the Rezone Area will integrate all buildings and site development as part of the health care facility campus, with common architectural and landscaping themes, which are carried through all phases of development of the Subject Area. Such development is intended to create similar architectural style and design, common parking and common open space areas.

4.9.2 The development of the Rezone Area is intended to include the use of safe and user-friendly, internal pedestrian ways around the site and between free-standing buildings, and the creation of some central architectural themes, variations of which may provide continuity without creating institutional "sameness."

4.9.3 The Layton City Planning Commission may impose such requirements, restrictions or conditions as are reasonably necessary to ensure that such concepts are incorporated and maintained in the Rezone Area.

4.9.4 The development of the Rezone Area shall incorporate, if applicable, the principles of Green Guide for Healthcare.

4.10 **Lighting.** Owner shall submit a lighting plan as part of the conditional use and site plan review process to mitigate the effects of lights on adjacent properties, while still providing for the security and safety needs of Owner. At a minimum, directional lighting, directed down and away from surrounding neighborhoods, will be required in all parking lots. The extent of building illumination will also be addressed in such plan.

4.11 **Impact Fees and Water Connection Fees.** Owner agrees to be subject to all of City's impact fees and water connection fees, which (a) have been properly imposed under the requirements of generally applicable federal law, state law and the Applicable City Ordinances (including without limitation under City's capital facilities plan) and (b) are generally applicable to other property in City. Any such fees shall be payable in accordance with the Applicable City Ordinances and impact fee or water connection fee schedules. Owner does not hereby waive Owner's right under any applicable law to challenge the legality of the amount of any impact, exaction or connection fees based on generally applicable state and federal laws or to apply for appropriate credits or reimbursements as provided herein or by applicable law.

Owner may apply to City to receive a credit for any impact or connection fees imposed by City against Owner or to be reimbursed from any impact or connection fees imposed by City on any third parties for any system improvements (determined in accordance with applicable impact or connection fee law standards) paid for or constructed by Owner. City agrees to use reasonable engineering and other applicable standards to equitably determine the portion of the costs of any road or any other public improvement that Owner is required to pay for or construct that is a system improvement (determined in accordance with applicable impact or connection fee law standards), a project improvement (determined in accordance with applicable impact or connection fee law standards) or an improvement that benefits another property owner. In addition, Owner shall be entitled to a direct reimbursement of all impact or connection fees paid to City for system improvements of the same type constructed or paid for by Owner to the extent such fees are paid in connection with the development of any portion of the Subject Area by someone other than Owner. Any reimbursement for the construction of a system improvement from third party impact or connection fee payments arising from the development of land outside of the Subject Area shall be subject to the normal and customary practices in allocating collected impact or connection fees among various system improvements identified in City's capital facilities plan and in accordance with any normal and customary priority. Owner shall be entitled to impact or connection fee credits and reimbursements provided above in this Section until the total of all such credits and any impact or connection fee reimbursements for improvements of the same type total the cost of the system improvement component of the total improvements constructed or paid for by Owner; provided that, notwithstanding the foregoing, Owner acknowledges and understands that any such reimbursements shall be limited to the extent third parties pay any such amounts and the amounts of such impact or connection fees budgeted in

City's capital facilities plan (as the same may be amended from time to time) and, further, the amount of any such credits shall be limited by the amounts of such impact or connection fees budgeted in the City's capital facilities plan (as the same may be amended from time to time).

4.12 Conveyance of Property for 750 South Street Corridor. In the event of final approval and funding by the Federal Department of Transportation is granted for the Proposed I-15 Interchange and, further, UDOT is given final approval and funding by the State of Utah, Owner shall and hereby agrees to convey to UDOT that part of the Subject Property required by UDOT for access over and across the Subject Property, which generally shall be 100 feet wide from the Proposed I-15 Interchange near the east/southeast corner of the Subject Property to Flint Street (generally as located and depicted on the attached Exhibit "F," together with, from the Proposed I-15 Interchange to the midpoint of the Proposed Intersection [the "Midpoint of the Proposed Intersection"], such slope and/or retention areas as may be necessary therefor, the "UDOT Land"), which UDOT Land shall be satisfactory to, in their respective discretion, Owner and UDOT, which conveyance shall be documented to the reasonable satisfaction of Owner and UDOT, and which conveyance shall be evidenced by a separate written agreement between Owner and UDOT, acceptable to Owner and UDOT; provided that:

4.12.1 Owner shall be entitled to, and shall receive, an amount equal to the sum of (a) 100% of the fair market value of any such UDOT Land from the Proposed I-15 Interchange to the Midpoint of the Proposed Intersection and (b) from the Midpoint of the Proposed Intersection to Flint Street, forty percent (40%) of the fair market value of the UDOT Land, all as determined by an independent appraiser reasonably acceptable to the Parties at the time of any such conveyance; and

4.12.2 UDOT, at its sole cost and expense, shall install any and all improvements for any such access on the UDOT Land.

Notwithstanding the foregoing, in the event UDOT does not receive final approval and funding by the Federal Department of Transportation and the State of Utah for the Proposed I-15 Interchange, Owner and City shall cooperatively identify such alternative access as may be necessary or appropriate for a roadway over and across the Subject Property from Flint Street to the Mitigation Area. Any such roadway and access shall be documented to the reasonable satisfaction of Owner and City, as evidenced by a separate written agreement between Owner and City.

4.13 Residential Development Mitigation. As a mitigation of the loss of planned residential land, Owner agrees to include a residential component in the mixed-use development on land within the Subject Property, as described and depicted on attached Exhibit "G" (the "Mitigation Area"). The Mitigation Area is currently zoned as an MU-TOD Zone. This requirement is predicated on market feasibility. City may amend this Section of the Agreement upon City Council making findings of compelling evidence that residential development has no market feasibility or that other mixed-use components have a greater priority to City than a residential component.

4.14 Precedence of this Agreement. This Agreement shall take precedence over any contrary provisions of any City staff memorandums.

4.15 Not Considered Approvals. Except as otherwise provided herein, these enumerations are not to be construed as approvals thereof, as any required approval process must be pursued independent hereof.

4.16 Amendments. Owner agrees to limit development of the Subject Area to the uses provided herein unless any of the Subject Area is rezoned. In such event, City and Owner agree to amend this Agreement to reflect such rezoning.

4.17 **Conflicts.** Except as otherwise required by Applicable City Ordinances or otherwise specified in this Agreement, the vesting of the Approved Uses and the landscape requirements/percentages set forth in this Agreement shall govern in the event of any conflict between the provisions of this Agreement and any other City laws, rules or regulations, including without limitation any of City's standards for improvements.

ARTICLE V GENERAL REQUIREMENTS AND RIGHTS OF CITY

5.1 **Issuance of Permits - Owner.** Owner, or its assignee, shall have the sole responsibility for obtaining all necessary building permits in connection with Owner's Undertakings and shall make application for such permits directly to the Layton City Community and Economic Development Department and other appropriate departments and agencies having authority to issue such permits in connection with the performance of Owner's Undertakings. City shall not unreasonably withhold, condition or delay the issuance of any such permits.

5.2 **Completion Date.** Owner shall diligently and to the extent commercially reasonable, pursue to completion the development of the Subject Area. Each phase or completed portion of the Subject Area must independently meet the applicable requirements of this Agreement and City's ordinances and regulations, such that it will stand alone, if no further development takes place in the Subject Area.

5.3 **Access to the Subject Area.** For the purpose of assuring compliance with this Agreement, so long as they comply with all safety and/or security rules of Owner and its agents, representatives and/or contractor(s), representatives of City shall have the right of access to the Subject Area without charges or fees during the period of performance of Owner's Undertakings; provided that reasonable, advance notice of any such exercise of right of access shall be provided to Owner. City shall indemnify, defend and hold Owner harmless from and against all liability, loss, damage, costs or expenses (including without limitation attorneys' fees and court costs) arising from or as a result of the death of a person or any accident, injury, loss or damage caused to any person, property or improvements on the Subject Area arising from the exercise by City, its agents, representatives or employees of its rights granted in this Section.

ARTICLE VI REMEDIES

6.1 **Remedies for Breach.** In the event of any default or breach of this Agreement or any of its terms or conditions, the defaulting Party shall, upon written notice from the other, proceed promptly and in a commercially reasonable and diligent manner to cure or remedy such default or breach, and in any event cure or remedy the breach within thirty (30) days after receipt of such notice; provided that, in the event that such default or breach cannot reasonably be cured within said thirty (30) day period, the Party receiving such notice shall, within such thirty (30) day period, take reasonable steps to commence the cure or remedy of such default or breach, and shall continue diligently thereafter to cure or remedy such default or breach in a timely manner. In case such action is not taken or diligently pursued, the aggrieved Party may institute such proceedings, as may be necessary or appropriate, at law or in equity, to cure or remedy any such default or breach, including, but not limited to, proceedings for damages or to compel specific performance by the Party in default or breach of its obligations. In the event of a default by Owner's assignee, Owner may elect, in its discretion, to cure the default of such assignee; provided, Owner's cure period shall be extended by 30 days beyond any then applicable cure period.

6.2 **Enforced Delay Beyond Parties' Control.** For the purpose of any other provisions of this Agreement, neither City nor Owner, as the case may be, shall be considered in breach or default of its obligations with respect to its construction obligations pursuant to this Agreement, in the event the delay in the performance of such obligations is due to unforeseeable causes beyond its fault or negligence, including, but not restricted to, acts of God or of the public

enemy, acts of the government, acts of the other Party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes or unusually severe weather, or delays of contractors or subcontractors due to such causes or defaults of contractors or subcontractors. Unforeseeable causes shall not include the financial inability of the Parties to perform under the terms of this Agreement.

6.3 **Extension.** Any Party may extend, in writing, the time for the other Party's performance of any term, covenant or condition of this Agreement or permit the curing of any default or breach upon such terms and conditions as may be mutually agreeable to the Parties; provided, however, that any such extension or permissive curing of any particular default shall not operate to eliminate any other obligations and shall not constitute a waiver with respect to any other term, covenant or condition of this Agreement nor any other default or breach of this Agreement.

ARTICLE VII GENERAL PROVISIONS

7.1 **Successors and Assigns of Owner; Rezone and Contest.** This Agreement shall be binding upon Owner and its successors and assigns, and where the term "Owner" is used in this Agreement it shall mean and include the successors and assigns of Owner. Owner shall be entitled to transfer all, or any portion, of the Subject Property without the consent of City. Owner agrees to provide City with notice of a transfer of all, or a portion of the Rezone Area sixty (60) days prior to effecting the transfer. In the event of any transfer of all, or a portion of the Rezone Area, the transferee shall be deemed to be the developer for all purposes with respect to the land so transferred and the rights and obligations directly related to the transferred land, and Owner shall be relieved from further obligation under that portion of the Agreement for which the assignment was made. Owner shall remain responsible for all obligations under this Agreement with respect to the remainder of the Rezone Area. Notwithstanding the foregoing to the contrary, Owner shall be entitled to assign the Subject Property, or any part thereof, and/or any or all of its rights and obligations under this Agreement to wholly-owned subsidiaries or affiliates owned, controlled or under common control by or with Owner upon notice to, but without the consent of, City. Subject to the foregoing, in the event Owner shall transfer part of the Rezone Area to an unaffiliated third party, Owner agrees not to contest any effort by City Council to rezone that part of the Rezone Area, and no more, to the previous zoning for such part of the Rezone Area, *i.e.*, B-RP Zone to C-TH Zone and MU-TOD Zone.

7.2 **Notices.** All notices, demands and requests required or permitted to be given under this Agreement (collectively the "Notices") must be in writing and must be delivered personally or by nationally recognized overnight courier or sent by United States certified mail, return receipt requested, postage prepaid and addressed to the Parties at their respective addresses set forth below, and the same shall be effective upon receipt if delivered personally or on the next business day if sent by overnight courier, or three (3) business days after deposit in the mail if mailed. The initial addresses of the Parties shall be:

To Owner: IHC Health Services, Inc.
36 South State Street, 22nd Floor
Salt Lake City, Utah 84111
Attn: Corporate Real Estate Director
801/442-3987 801/442-3178 (FAX)

To City: LAYTON CITY CORPORATION
437 North Wasatch Drive
Layton, Utah 84041
Attn: Alex R. Jensen, City Manager
801/336-3800 801/336-3811 (FAX)

Upon at least ten (10) days' prior written notice to the other Party, either Party shall have the right to change its address to any other address within the United States of America. If any Notice is transmitted by facsimile or similar means, the same shall be deemed served or delivered upon confirmation of transmission thereof, provided a copy of such Notice is deposited in regular mail on the same day of such transmission.

7.3 Third Party Beneficiaries. Any claims of third party benefits under this Agreement are expressly denied, except with respect to permitted assignees and successors of Owner.

7.4 Governing Law. It is mutually understood and agreed that this Agreement shall be governed by the laws of the State of Utah, both as to interpretation and performance. Any action at law, suit in equity, or other judicial proceeding for the enforcement of this Agreement or any provision thereof shall be instituted only in the courts of the State of Utah.

7.5 Integration Clause. This document constitutes the entire agreement between the Parties and may not be amended except in writing, signed by City and Owner.

7.6 Recitals and Exhibits Incorporated. Each recital set forth above, and each exhibit attached to and referred to in this Agreement is hereby incorporated by reference.

7.7 Attorneys' Fees. In the event of any action or suit by a Party against the other Party for reason of any breach of any of the covenants, conditions, agreements or provisions on the part of the other Party arising out of this Agreement, the prevailing Party in such action or suit shall be entitled to have and recover from the other Party all costs and expenses incurred therein, including reasonable attorneys' fees.

7.8 Termination. Except as otherwise expressly provided herein, the obligation of the Parties shall terminate upon the satisfaction of the following conditions:

7.8.1 With regard to Owner's Undertakings, performance of Owner of Owner's Undertakings as set forth herein.

7.8.2 With regard to City's Undertakings, performance by City of City's Undertakings as set forth herein.

Upon an Owner's request (or the request of Owner's assignee), the other Party agrees to enter into a written acknowledgment of the termination of this Agreement, or part thereof, so long as such termination (or partial termination) has occurred.

7.9 Recordation. Notice of this Agreement will be recorded against the Subject Area in the Davis County Recorder's Office.

7.10 Recording Amendments. Any subsequent amendment to this Agreement may be recorded as agreed by the Parties.

7.11 Exhibits. The following exhibits are attached to and form a part of this Agreement:

- Exhibit "A" - Description of Subject Property
- Exhibit "B" - Description of Subject Area
- Exhibit "C" - Description of Rezone Area
- Exhibit "D" - Buffer Map
- Exhibit "E" - Trail System Map
- Exhibit "F" - UDOT Land
- Exhibit "G" - Mitigation Area
- Exhibit "H" - Transportation and Circulation Plan

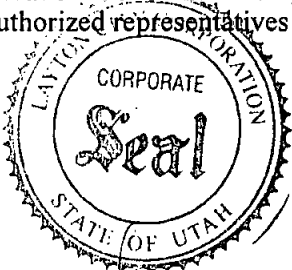
7.12 **Term of Agreement; Continuing Approved Uses.** The term of this Agreement shall commence as of the later of the Effective Date or satisfaction of the Conditions Precedent and, then, shall terminate as of the earlier of the date that is thirty (30) years thereafter or upon the written agreement of the parties; provided that any reimbursement, offset or credit rights shall survive any such termination. Notwithstanding the termination of this agreement for any reason, (a) any rights or obligations for subdivisions or site plans that have been given final approval prior to the end of the term of this Agreement shall survive the termination of this Agreement, (b) the Approved Uses and the vested rights specified in this Agreement shall survive the termination of this Agreement, and (c) any portion of the Subject Area that is improved in accordance with this Agreement shall be entitled to be used and improved, and any improvements located or permitted to be located thereon at the time of termination shall be entitled to be constructed, used, remodeled and reconstructed in accordance with the provisions of this Agreement. In addition, notwithstanding the termination of this Agreement for any reason, any portion of the Subject Area that is the subject of a pending or approved application for preliminary or final site plan, subdivision, or construction approval shall be entitled to be processed, approved or not approved, used and improved, and any improvements located or permitted to be located thereon at the time of termination shall be entitled to be constructed, used, remodeled and reconstructed in accordance with the provisions of this Agreement and the Applicable City Ordinances. Further, subject to Owner's compliance with Section 2.4, above, any uses, structures and/or other improvement allowed, conditionally or otherwise, within the Subject Area under this Agreement shall be permitted following any such termination of this Agreement, regardless of when an application for a building permit is submitted for any such uses, structures and/or other improvements.

[signature page follows]

BEGINNING AT A POINT ON THE EASTERLY RIGHT OF WAY LINE OF FLINT STREET, SAID POINT BEING SOUTH 00°04'16" WEST ALONG THE SECTION LINE 2638.44 FEET AND WEST 722.92 FEET FROM A FOUND DAVIS COUNTY NAIL & WASHER MARKING THE NORTHEAST CORNER OF SECTION 29, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, AND RUNNING THENCE NORTH 69°08'24" EAST 136.59 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY ALONG THE ARC OF A 3717.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 14°43'02" A DISTANCE OF 954.76 FEET (CHORD BEARS NORTH 61°46'53" EAST 952.14 FEET); THENCE NORTH 54°25'22" EAST 66.72 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY ALONG THE ARC OF A 3717.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 14°43'02" A DISTANCE OF 954.76 FEET (CHORD BEARS NORTH 61°46'53" EAST 952.14 FEET); THENCE NORTH 69°08'24" EAST 75.93 FEET, MORE OR LESS, TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD, SAID POINT BEING ON THE ARC OF A 5630.00 FOOT NON-TANGENT RADIUS CURVE TO THE RIGHT (CENTER BEARS SOUTH 52°52'33" WEST); THENCE SOUTHEASTERLY ALONG SAID WESTERLY RIGHT OF WAY LINE AND ALONG THE ARC OF SAID 5630.00 FOOT RADIUS CURVE THROUGH A CENTRAL ANGLE OF 01°07'06" A DISTANCE OF 109.89 FEET (CHORD BEARS SOUTH 36°33'54" EAST 109.88 FEET) TO A POINT ON THE NORTHERLY LINE OF EASTVIEW SUBDIVISION NO.8, AS RECORDED WITH THE OFFICE OF THE DAVIS COUNTY RECORDER: THENCE SOUTH 33°08'42" WEST ALONG SAID NORTHERLY LINE AND LINE EXTENDED 1184.50 FEET TO THE NORTHWESTERLY CORNER OF EASTVIEW SUBDIVISION NO.6, AS RECORDED WITH THE OFFICE OF THE DAVIS COUNTY RECORDER; THENCE SOUTH 36°21'58" EAST ALONG THE WESTERLY LINE OF SAID EASTVIEW NO.6 A DISTANCE OF 333.21 FEET TO A POINT ON THE NORTHERLY LINE OF HERITAGE FIELDS SUBDIVISION, AS RECORDED WITH THE OFFICE OF THE DAVIS COUNTY RECORDER; THENCE SOUTH 50°14'48" WEST ALONG SAID NORTHERLY LINE 1358.99 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SAID FLINT STREET, THENCE NORTH 22°38'07" WEST ALONG SAID EASTERLY RIGHT OF WAY LINE 1302.83 FEET TO THE POINT OF BEGINNING.

CONTAINS 1,820,948 SQ. FT. OR 41.803 ACRES

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives effective as of the day and year first above written.



LAYTON CITY CORPORATION

By: [Signature]
J. STEPHEN CURTIS, Mayor

ATTEST:

By: [Signature]
THIEDA WELLMAN, City Recorder

APPROVED AS TO FORM:

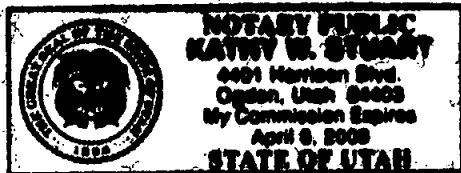
By: [Signature]
GARY CRANE, City Attorney

IHC HEALTH SERVICES, INC.

By: [Signature]
Print Name: Thomas F. Hanrahan
Its: Regional Vice President

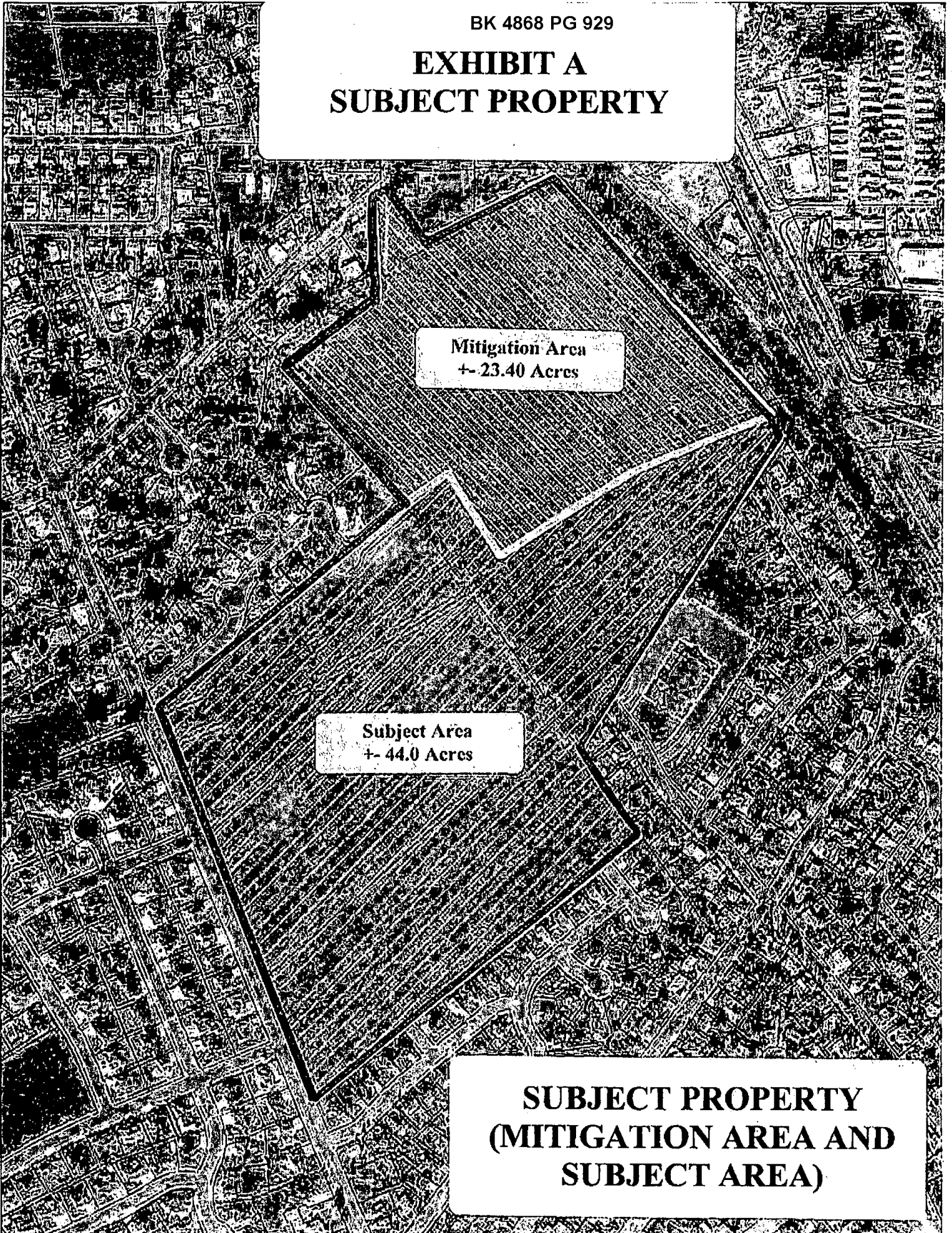
Subscribed and sworn/affirmed to before me on this 23rd day of June, 2008, by Thomas F. Hanrahan.

[Signature]
Notary Public



April 8, 2009
Commission Expires

EXHIBIT A
SUBJECT PROPERTY

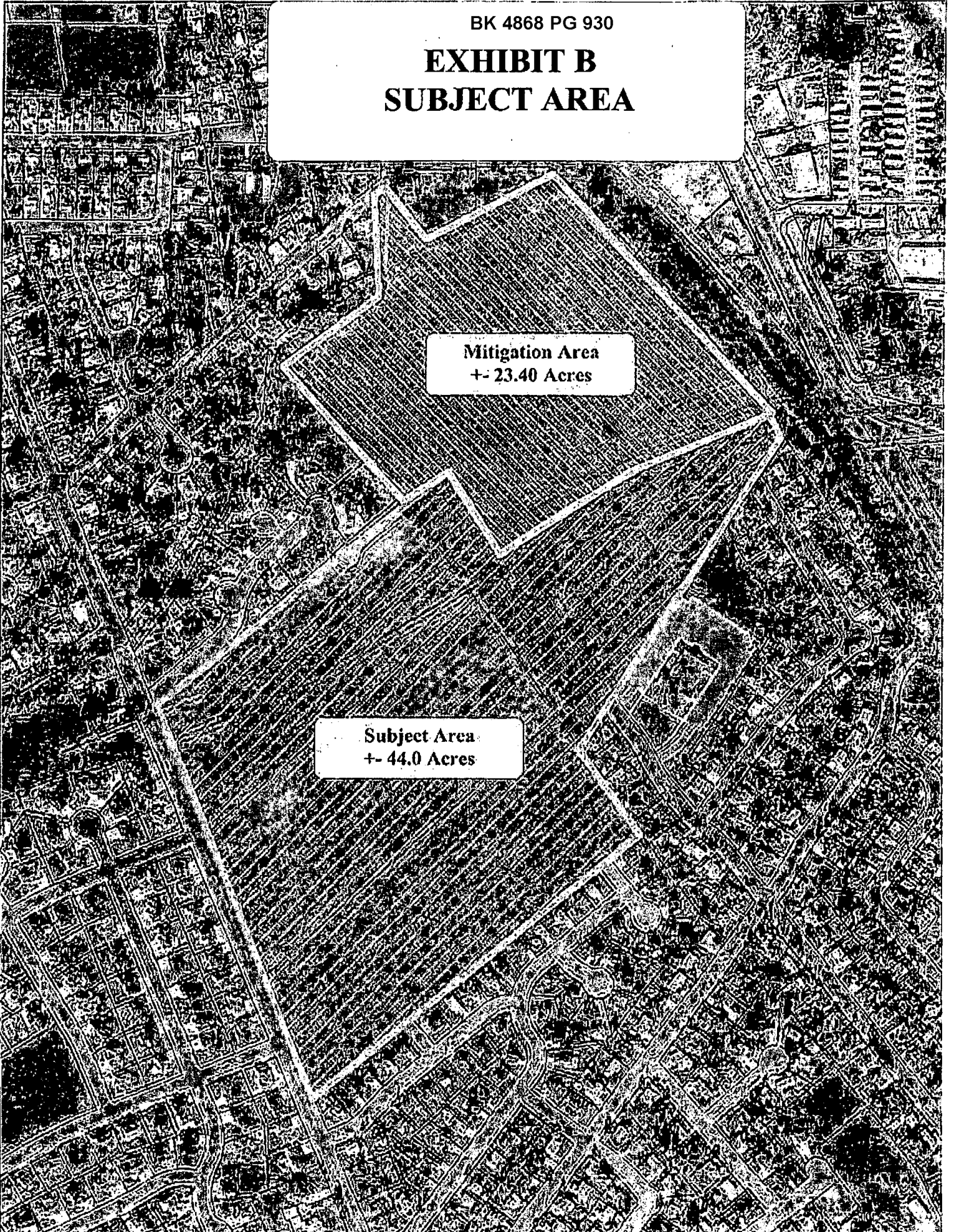


Mitigation Area
+- 23.40 Acres

Subject Area
+- 44.0 Acres

SUBJECT PROPERTY
(MITIGATION AREA AND
SUBJECT AREA)

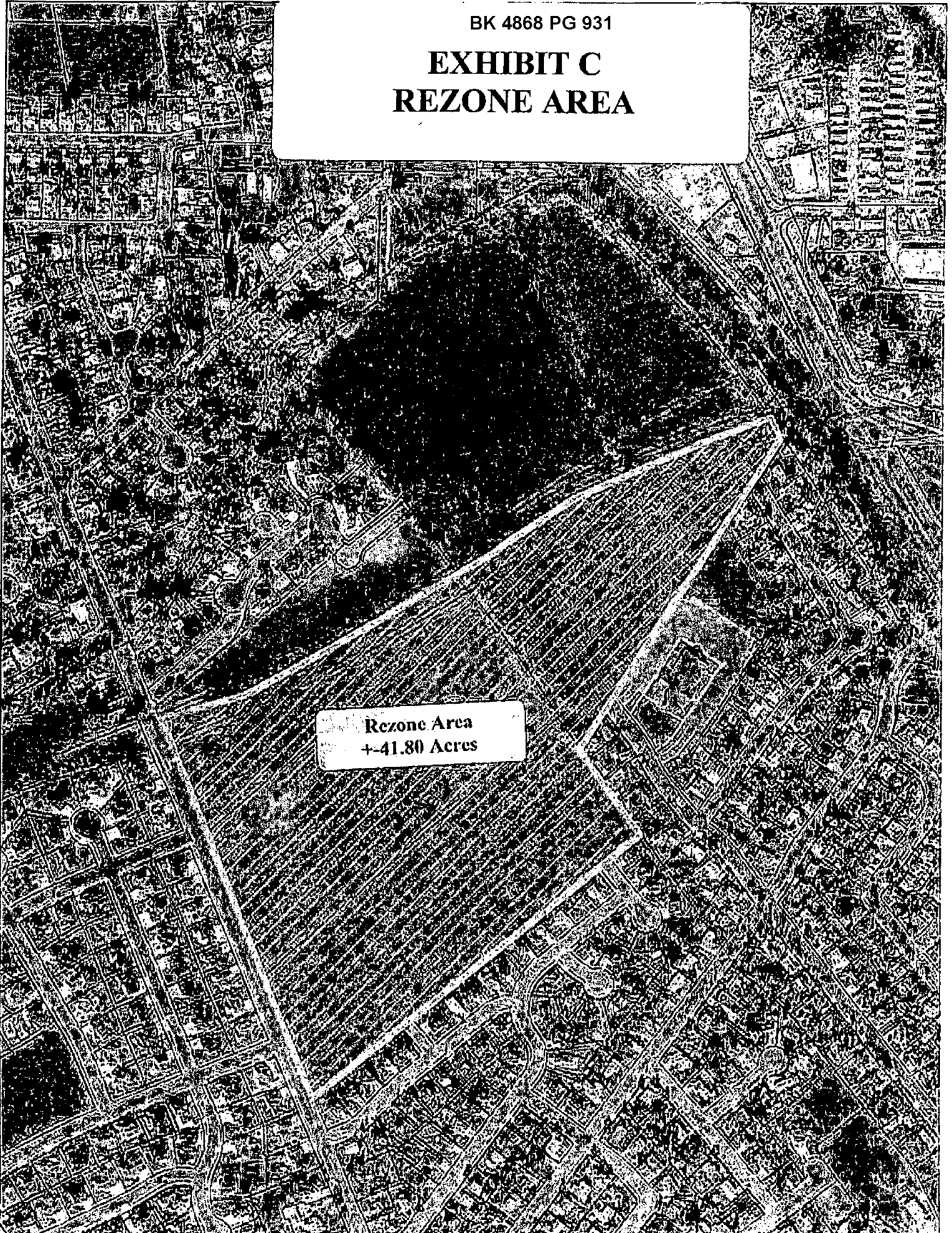
EXHIBIT B
SUBJECT AREA



Mitigation Area
+- 23.40 Acres

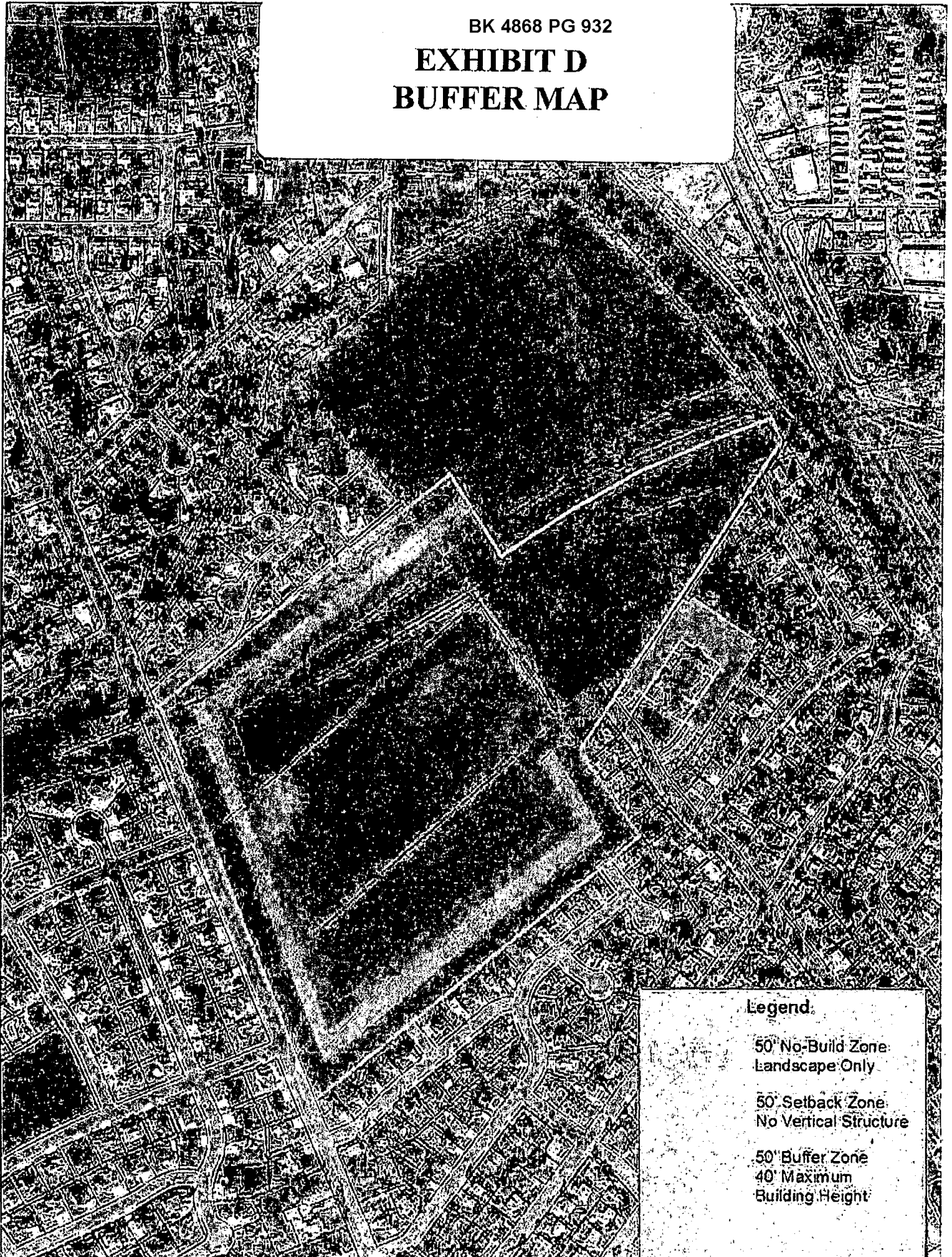
Subject Area
+- 44.0 Acres

**EXHIBIT C
REZONE AREA**



Rezone Area
+-41.80 Acres

EXHIBIT D BUFFER MAP



Legend:

- 50' No-Build Zone:
Landscape Only
- 50' Setback Zone:
No Vertical Structure
- 50' Buffer Zone
40' Maximum
Building Height

EXHIBIT E TRAIL SYSTEM MAP

Proposed Dawson Street Interchange
connection/extension

Proposed Kay's Creek Trail
on Layton City property

Subject Area
+- 44.0 Acres

Legend

 Kays Creek Trail (Phase 1)

 Kays Creek Trail (Phase 2)

EXHIBIT F UDOT LAND

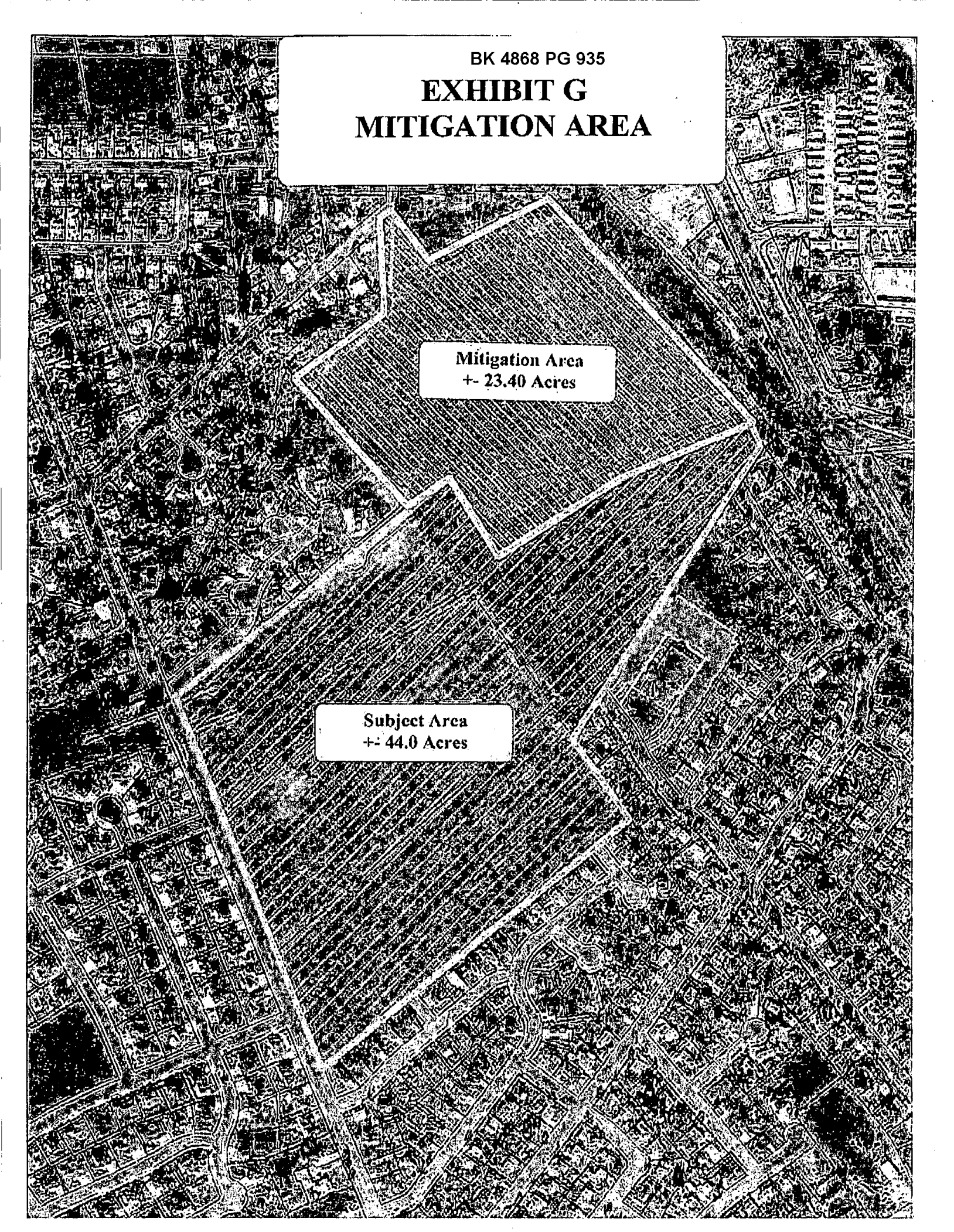
Midpoint of the
Proposed Intersection

Legend



UDOT LAND (100 ft. wide)

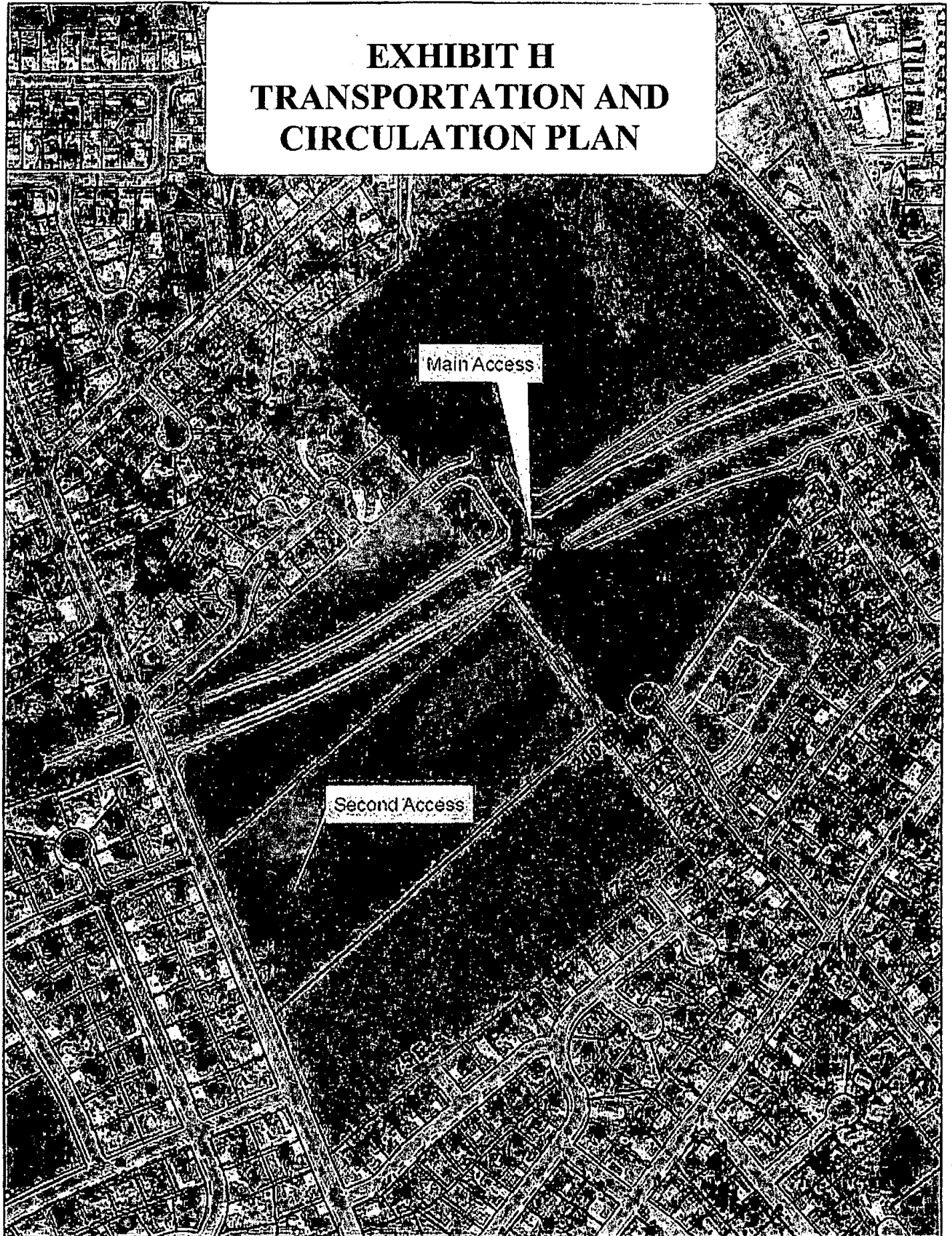
EXHIBIT G MITIGATION AREA



Mitigation Area
+- 23.40 Acres

Subject Area
+- 44.0 Acres

EXHIBIT H TRANSPORTATION AND CIRCULATION PLAN



Main Access

Second Access