

When recorded return to:  
H. Lewis Swain  
The Boyer Company  
127 S. 900 E. Suite 100  
Salt Lake City, UT 84102-1906

**CONSTRUCTION, OPERATION AND EASEMENT AGREEMENT**

This Construction, Operation and Easement Agreement ("COE Agreement") is entered into by and among O'Brien-Kiernan Investment Company, Inc., a California corporation ("OKIC"), Smith's Food & Drug Centers, Inc., a Delaware corporation ("SFDC"), and Boyer Spring Creek, L.C., a Utah limited liability company ("Boyer"). This COE Agreement may also be consented to by certain other persons or entities, as hereinafter provided.

00625328 Bk01460 Pg01324-01357

ALAN SPRIGGS, SUMMIT CO RECORDER  
2002 JUL 17 15:26 PM FEE \$83.00 BY DMG  
REQUEST: PARK CITY TITLE

**RECITALS**

- A. Lot 1. OKIC is the owner of the parcel of real property located in Summit County, State of Utah, more particularly described in **Exhibit "A"** attached hereto (herein referred to as "Lot 1").
- B. Lot 2. SFDC is the owner of the parcel of real property located in Summit County, State of Utah, more particularly described in **Exhibit "B"** attached hereto (herein referred to as "Lot 2").
- C. Lot 7. Boyer is the owner of the parcel of real property located in Summit County, State of Utah, more particularly described in **Exhibit "C"** attached hereto (herein referred to as "Lot 7").
- D. Parcels A, B, C, D and E and the South Entry Road Parcel. Boyer holds legal title to those parcels of real property located in Summit County, State of Utah, more particularly described in **Exhibit "D"** attached hereto (herein referred to as "Parcel A," "Parcel B," "Parcel C," "Parcel D," "Parcel E," and "South Entry Road Parcel"); provided further, that said Parcel A, Parcel B, Parcel C, Parcel D, Parcel E, and the South Entry Road Parcel (known as "Common

33  
83

Area Parcels”) were all dedicated as “Common Areas” for the exclusive use and benefit of the Owners of the Shopping Center known as the “Village at Kimball Junction,” as provided in that certain Declaration of Covenants, Conditions and Restrictions, Grant of Easements (“CC&Rs”), dated December 31, 1991, and recorded March 11, 1992 as Entry No. 355433 in Book 650 at Page 418 of the official records of the Summit County Recorder, Utah, as properly amended from time to time. The South Entry Road Parcel and a portion of Parcel C have been dedicated as a Summit County road, as outlined on the dedication plat attached hereto as **Exhibit “E”**.

E. Purposes of Boyer. Boyer is developing Lot 7 into a combination of commercial and residential uses as depicted on the Site Plan attached hereto as **Exhibit “F”** (herein referred to as the “Boyer Site Plan”), the principal planned access for ingress and egress thereto being what is commonly referred to as the South Entry Road. In connection with its development of Lot 7, Boyer desires to lengthen or extend the South Entry Road to the east boundary of the Shopping Center, to have all of Parcel B and a portion of Parcel C released from the CC&Rs, and to modify the storm drainage system as it presently exists on Parcel B, Parcel C and the South Entry Road Parcel.

F. Purposes of OKIC and SFDC. OKIC and SFDC desire to protect and enhance the integrity, appeal and commercial viability of the Village at Kimball Junction for its Owners, tenants and customers, without substantial additional costs beyond current investment and maintenance expense, and to obtain legal and equitable ownership and control of Common Area Parcels A, D and E.

## AGREEMENT

Now, therefore, in consideration of the payment by Boyer of One Dollar (\$1.00), the receipt of which is hereby acknowledged, and other good and valuable consideration, including the mutual covenants and promises contained herein, it is agreed as follows:

1. Recitals. Each of the Recitals A through F and **Exhibits "A" through "F"** referenced therein are hereby incorporated in and made an integral part of this COE Agreement.
2. Consents. It is specifically understood by the parties hereto that, unless and only to the extent waived by the parties, a condition to the effectiveness and enforceability of this COE Agreement and a proposed restatement of the CC&Rs contemplated hereby is the consent of Kmart, certain Lenders and any others whose consent OKIC and SFDC desire to obtain.
3. South Entry Road Parcel Access. It is understood and agreed by the parties that although Lot 7 is not a part of the Shopping Center and is not subject to the CC&Rs, section 7.05(b) of the CC&Rs contemplated that at some future date the owner of Lot 7 would gain access to the South Entry Road and become responsible to share in the maintenance and repair thereof. OKIC and SFDC agree to prepare a restatement of the CC&Rs ("Restatement") providing, among other things, that although Lot 7 shall not be a part of the Shopping Center, as owner of Lot 7, Boyer, its successors and assigns, shall have access from Lot 7 to the South Entry Road in up to four (4) locations, as shown on the Boyer Site Plan attached as **Exhibit "F"**. A draft of the proposed Restatement has been prepared, delivered to each of the parties hereto and is expected to be recorded in the near future. The restriction to four (4) access points at the locations provided for on the Boyer Site Plan shall be enforceable by the Responsible Owners of the Shopping Center without regard to the public dedication of the South Entry Road, as

extended, or the release of part or all of Parcels B and C from the Common Areas of the Shopping Center.

4. South Entry Road Parcel Maintenance. As partial consideration for this Agreement and pursuant to a private maintenance agreement with Summit County, Boyer agrees to immediately assume all responsibility to maintain and repair the roadway and curbs (including snow removal), landscaping to the South of the Roadway, and utilities located on or under the South Entry Road Parcel; provided, however, that maintenance and repair of utilities and landscaping located north of the north curb line of the South Entry Road's asphalt surface shall continue to be the responsibility of the Shopping Center Owners. Boyer's obligation to maintain and repair the indicated portion of the South Entry Road Parcel shall comply with the requirements of Summit County under Boyer's Maintenance Agreement with Summit County and any other requirements of Summit County relating to the Boyer development or the Shopping Center. All maintenance and repair to be undertaken by Boyer pursuant hereto shall be at no cost or expense to the Owners of the Shopping Center, nor shall there be any right of reimbursement from the Owners of the Shopping Center. In the event Boyer fails to properly maintain the South Entry Road Parcel, after thirty (30) days written notice to do so, OKIC shall be entitled to perform such maintenance or repair as is deemed necessary and to be reimbursed by Boyer for all costs and expenses, together with interest at the rate of twelve percent (12%) per annum from the date of any invoice not paid within ten (10) days of its receipt.

5. Road Dedication and Extension of South Entry Road. As referred to in Recital D and as shown on **Exhibit "E"** hereto, the South Entry Road Parcel and a portion of Parcel C have been dedicated as a public road (Summit County), said dedication also including the private

maintenance agreement referenced in Paragraph 4 above. As the public road dedication requires the extension of the South Entry Road through the existing Kmart service drive to the east boundary of the Shopping Center, as shown on **Exhibit "F"**, Boyer hereby agrees to cause said extension of the South Entry Road to be constructed at no cost or expense to the Shopping Center Owners. To accommodate the public dedication and extension of the South Entry Road OKIC and SFDC hereby agree to include in the Restatement language enlarging the South Entry Road Parcel to include a portion of Parcel C and to allow Boyer to extend the South Entry Road through the present Kmart service drive located on Parcel C to the east boundary of Parcel C, all as more particularly set forth and shown in the copy of the Boyer Site Plan attached hereto as **Exhibit "F."** The construction work necessary to extend the South Entry Road shall comply strictly with plans and specifications approved by OKIC's and SFDC's engineer and by Summit County. A copy of Summit County's letter of approval is attached hereto as **Exhibit "G"** and made a part hereof. The South Entry Road extension shall be the same width as, and the road and right of way associated therewith shall be otherwise compatible with the existing South Entry Road. During construction, Boyer shall continuously maintain access to the service drive for Kmart's and other vendors' service vehicles in a manner to be reasonably approved by OKIC's and SFDC's engineer. All costs incurred by OKIC and SFDC in connection with overseeing and approving the work contemplated by this Paragraph and any other Paragraph of this COE Agreement shall be fully reimbursed by Boyer within thirty (30) days of receipt of invoices therefore.

6. Traffic Signal and Entry Modification. Installation of a traffic signal being a requirement of the public road dedication, the parties hereto and other Owners in the Shopping

Center have been and will continue to work jointly with the Utah Department of Transportation (“UDOT”) and local government agencies regarding installation of said traffic signal at the intersection of the South Entry Road and Utah State Highway U-224. In conjunction with the traffic signal project, it is understood that certain modifications are being required by UDOT to the west end of the South Entry Road which are not within the control of the parties hereto, including the future placement of a raised median at the west end of the South Entry Road. The modifications to the west end of the South Entry Road, as currently proposed by UDOT are more specifically shown on **Exhibit “H”** attached hereto and made a part hereof. Although the installation of a raised median on the South Entry Road as proposed by UDOT may impose some restrictions on traffic entering the Shopping Center and the Lot 7 development, it is agreed that signalization is important for the public dedication, the safety and long range benefit of the Shopping Center, Lot 7 and their patrons. Installation of the traffic signal and construction of the modifications to the South Entry Road, as shown on **Exhibit “H,”** shall be without cost or expense to the Owners or Tenants of the Shopping Center.

7. Parcel B and Parcel C Removal from Common Areas. The Restatement will include the removal of Parcel B and the remainder of Parcel C from the Common Areas of the Shopping Center, releasing these areas to the restricted control of Boyer. OKIC and SFDC hereby agree to the release of these properties to the control of Boyer. In consideration of said agreement, Boyer agrees that the following restrictions, in addition to any others contained in this COE Agreement, shall be enforceable by the Responsible Owners of the Shopping Center by injunction or otherwise, and shall be applicable against the portions of Parcels B and C not included within the extended South Entry Road Parcel:

- a. Except for a covered loading dock 400 feet square, not exceeding 8.0 feet in height above the adjacent landscaped area on the west side of the loading dock, and being attached to the building to be constructed on Building Area A as shown on the Boyer Site Plan, no other buildings of any nature shall be placed or constructed on the remainder of Parcels B and C not included within the extended South Entry Road Parcel.
- b. The parking areas located on Parcels B and C, as shown on the Boyer Site Plan, shall not be expanded to the north from the locations shown on the Boyer Site Plan.
- c. Easements are hereby reserved to OKIC and the Shopping Center through those portions of Parcels B and C and Lot 7, as are shown on **Exhibit "I"** attached hereto and made a part hereof, for storm water drainage infrastructure (to accept up to the amount of storm water flow as has historically been directed to Parcels B and C) and other utilities serving the Shopping Center, some or all of which drainage infrastructure and other utilities, together with associated easements, may be relocated from time to time upon mutual agreement of the parties and as necessity may dictate. These easements include the new storm drainage facilities being installed by Boyer in accordance with plans and specifications which have been approved by OKIC's and SFDC's engineer, by Summit County and any other governing authorities.

d. Boyer has the responsibility to arrange for the transportation of the storm water referred to in subsection c. above across Lot 7 and land located to the east of Lot 7, as more specifically shown on **Exhibit "I"** hereto.

e. Any water rights or Summit Water shares which previously may have been reserved for use on any portion of the Shopping Center (including Parcels B and C) will be retained by the Shopping Center for use on the Common Area Parcels to be released to OKIC or otherwise for the benefit of the Shopping Center. Boyer shall not obtain any interest therein.

8. Conveyance of Common Area Parcels. Boyer hereby agrees to convey by Special Warranty Deed to OKIC as Manager of the Shopping Center, Common Area Parcels A, D and E, together with the right to receive any water rights or Summit Water Distribution Water Shares which are appurtenant thereto (although it is acknowledged that currently no water shares pertaining to these Parcels are held by Boyer or an affiliate). Boyer agrees to cooperate with the Owners of the Shopping Center to cause any such water rights or shares to be conveyed to OKIC for use on these Parcels.

9. Parcel A Landscaping. As further or additional consideration for this COE Agreement, Boyer hereby agrees to plant 15 conifers of good quality and 6-8 feet in height at locations on Parcel A reasonably designated by OKIC. OKIC, or its designee, as Manager of the Shopping Center, shall be responsible to install and maintain the irrigation system required to support these trees and any other landscaping on Parcel A, as well as performing ongoing maintenance and replacement of the trees.



10. Compliance with Law, etc. Boyer agrees to obtain all necessary approvals and otherwise comply with all local, state and federal government laws, statutes, rules, and regulations appertaining to the Shopping Center property affected by this COE Agreement and the development of Lot 7. OKIC and SFDC agree to make all reasonable efforts to effect the Restatement and obtain such consents as are desired to implement and carry out the purposes and intent of this COE Agreement and the Restatement.

11. No Parking Rights. There are no reciprocal parking rights granted under this COE Agreement. Except as customers or invitees, Boyer shall have no right to park automobiles or other vehicles on the Shopping Center properties (not including Parcels B and C), and OKIC or SFDC shall have no right to park automobiles or other vehicles on Lot 7.

12. Bonding. Boyer shall obtain appropriate performance bonds and labor and materials bonds in such amounts and form as reasonably required by OKIC's and SFDC's engineer prior to commencing any work on the South Entry Road Parcel or the extension thereof.

13. Indemnification and Insurance. Boyer hereby agrees to protect, indemnify and hold harmless OKIC and SFDC from and against any and all losses, costs (including, without limitation, the costs of litigation and attorney's fees), claims, causes of action, damages and liabilities that are attributable to the negligence or breach by Boyer of any of the provisions of this COE Agreement. Boyer shall carry not less than \$1 million per occurrence of all risk liability insurance, naming OKIC and SFDC as additional insureds thereon.

14. Taxes and Assessments. From and after the effective date of this COE Agreement Boyer shall become solely liable for and commence payment of all taxes and assessments levied against Parcels B and C, while OKIC, on behalf of the Shopping Center Owners, shall become

solely liable for and commence payment of any and all taxes and assessments levied against  
Parcels A, D and E.

15. Failure to Perform. If any party hereto shall fail to substantially commence or complete performance, as the circumstances may require, according to the terms of this COE Agreement, another party or parties may give thirty (30) days' notice to perform in accordance with the terms hereof, said notice to identify the area of non-performance. Upon failure of the delinquent party to remedy the inadequate performance or non-performance within the thirty (30) day period, in addition to any other remedy provided herein or otherwise available at law or in equity, the non-delinquent party shall be entitled to bring an action for specific performance. As stated elsewhere herein, the prevailing party in any such action shall be entitled to an award of all attorney's fees, legal assistant's fees and other costs.

16. Notices. Any notice required or permitted hereunder shall be in writing and shall be deemed received when personally delivered or three (3) business days after deposit in the U.S. Mail, first class postage prepaid, certified or registered with return receipt requested, addressed to the parties as follows (courtesy copies shall also be faxed when possible):

**OKIC:**

Jana K. Sperring  
O'Brien-Kiernan Investment Company, Inc.  
1255 Post Street, Suite 1040  
San Francisco, CA 94109  
Telephone: (415) 775-3556  
Fax: (415) 775-6364

**with copies to:**

Ross Varner  
Rosco Real Estate  
370 East 500 South, Suite 100  
Salt Lake City, UT 84102  
Telephone: (801) 595-6600  
Fax: (801) 596-2219

**and:**

Jerry W. Dearing, Esq.  
KIRTON & McCONKIE  
1800 Eagle Gate Tower  
60 East South Temple  
P.O. Box 45120  
Salt Lake City, UT 84145-0120  
Telephone: (801) 328-3600  
Fax: (801) 321-4893

**SFDC:**

Smith's Food & Drug Centers, Inc.  
1550 South Redwood Road  
Salt Lake City, UT 84104  
Attention: Kyle S. McKay  
Telephone: (801) 974-1400  
Fax: (801) 974-1243

**BOYER:**

H. Lewis Swain  
The Boyer Company  
127 South 500 East, Suite 100  
Salt Lake City, UT 84102-1906  
Telephone: (801) 521-4781  
Fax: (801) 521-4793

**with a copy to:**

Thomas A. Ellison  
STOEL RIVES LLP  
One Utah Center  
201 S. Main Street, Suite 1100  
Salt Lake City, UT 84111-4904  
Telephone: (801) 328-3131  
Fax: (801) 578-6999

Any party may change its address by notifying the other parties in writing as provided in this paragraph.

17. Severability. If any provision of this COE Agreement is hereafter expressly declared by a court of proper jurisdiction to be invalid or unenforceable, then such provision shall be canceled and severed from this COE Agreement and the other provisions hereof shall continue in full force and effect.

18. No Joint Venture or Agency. It is expressly understood and agreed that the provisions of this COE Agreement shall never be deemed or construed to cause OKIC, SFDC or Boyer to be considered partners or joint venturers with each other. Each party to this COE Agreement shall be considered a separate owning entity, and no party shall have the right to act as agent for another party unless expressly authorized to do so by written instrument signed by the authorizing party.

19. Binding Effect. The terms of this Agreement shall run with the land and shall be binding upon and inure to the benefit of the parties hereto, those consenting hereto, successors and assigns who become the owners of Lot 7 or portions thereof, and the Owners within the Shopping Center, as defined in the Restatement.

20. Amendment. This COE Agreement may be amended by, and only by, a written agreement executed by the party, or its successor, against whom enforcement is sought, and duly recorded in the office of the Summit County Recorder, State of Utah.

21. Governing Law and Jurisdiction. This COE Agreement shall be governed by and interpreted under the laws of the State of Utah. Any litigation arising hereunder shall take place in Summit County, Utah.

22. Counterparts. This COE Agreement may be signed in counterparts, each of which shall be deemed a binding agreement and all of which, when taken together, shall constitute one instrument.

23. Attorney Fees. In the event of any action by or among the parties, or their successors, for breach of or to enforce any provision or right under this COE Agreement, the unsuccessful party(ies) in such action shall pay to the successful party(ies) all costs and expenses including, but not limited to, reasonable attorney fees and legal assistant's fees incurred by the

successful party(ies) in connection with such action, whether through alternative dispute proceedings, at trial or on appeal.

24. No Waiver. Until and unless this Agreement and the Restatement become legally effective and binding instruments, neither OKIC nor SFDC waive any right to fully enforce the CC&Rs as they presently exist.

25. Force Majeure. Notwithstanding any other provision of this COE Agreement, in the event that any party shall be delayed or hindered in or prevented from the performance of any act required under this COE Agreement to be performed by such party, and such delay or hindrance is due to causes entirely beyond its control such as riots, insurrections, marshal law, civil commotion, war, fire, flood, earthquake, or other casualty or acts of God, the performance of such act shall be excused for the period of delay and the time period for performance shall be extended by the same number of days in the period of delay.

26. Entire Agreement. This COE Agreement embodies and constitutes the entire understanding between the parties hereto with respect to the transactions contemplated herein, and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this COE Agreement.

27. Memorandum of Agreement. The parties hereto agree that an appropriate Memorandum of this Agreement may be prepared, executed by the parties and recorded in Summit County.

IN WITNESS WHEREOF, the parties hereto have executed this COE Agreement to be effective as of the 14 day of MARCH, 2002.

**OKIC:**

O'brien-Kiernan Investment Company, Inc., a  
California corporation

3-14-02

By: Jana K. Sperring  
Its: Vice President

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

On the \_\_\_\_\_ day of \_\_\_\_\_, 2002, personally appeared before me Jana K. Sperring, who being by me duly sworn, did say that she is General Counsel for O'brien-Kiernan Investment Company, Inc., a California corporation, and that the foregoing instrument was signed by her on behalf of said corporation by authority of its Bylaws or a resolution of its Board of Directors, and said Jana K. Sperring acknowledged to me that said corporation executed the same.

*See attached*

\_\_\_\_\_  
NOTARY PUBLIC  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

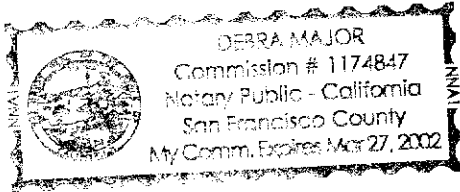
**SFDC:**

Smith's Food & Drug Centers, Inc., a  
Delaware corporation

By: [Signature]  
Its: Sa Vice President

**JURAT**

State of California }  
County of San Francisco } ss.



Subscribed and sworn to (or affirmed) before me

this 14th day of March, 2002, by  
Date Month Year

(1) Jana Sperring  
Name of Signer(s)

(2) \_\_\_\_\_  
Name of Signer(s)

Debra Major  
Signature of Notary Public

**OPTIONAL**

*Though the information in this section is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: Construction, Operation & Easement

Document Date: March 14, 2002 <sup>Agreement</sup> Number of Pages: 16 +

Signer(s) Other Than Named Above: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER #1**  
Top of thumb here

**RIGHT THUMBPRINT OF SIGNER #2**  
Top of thumb here

**00625328**

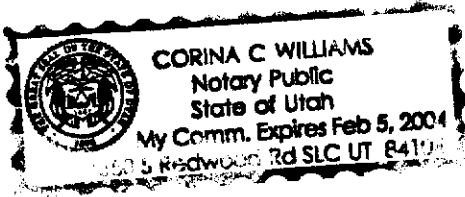
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STATE OF UTAH )

:SS.

COUNTY OF SALT LAKE )

On the 18<sup>th</sup> day of FEBRUARY, 2002, personally appeared before me Wade S. Williams who being by me duly sworn, did say that he/she is the President of Smith's Food & Drug Centers, Inc., a Delaware corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Bylaws or a resolution of its Board of Directors, and said Wade S. Williams acknowledged to me that said corporation executed the same.



[Signature]  
NOTARY PUBLIC  
Residing at: Salt Lake County  
My Commission Expires: 2/5/04

BOYER:

Boyer Spring Creek, L.C., a Utah limited liability company, by its Manager

The Boyer Company, L.C., a Utah limited liability company

By: \_\_\_\_\_  
H. Roger Boyer  
Its: Chairman and Manager

STATE OF UTAH )

:SS.

COUNTY OF SALT LAKE )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2002, personally appeared before me H. Roger Boyer, who being by me duly sworn, acknowledged the foregoing instrument as Chairman and Manager of the Boyer Company, L.C., the Manager of Boyer Spring Creek L.C., a Utah limited liability company, and that the foregoing instrument was signed by him on behalf of said limited liability company.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



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

On the \_\_\_\_\_ day of \_\_\_\_\_, 2002, personally appeared before me \_\_\_\_\_, who being by me duly sworn, did say that he/she is the President of Smith's Food & Drug Centers, Inc., a Delaware corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Bylaws or a resolution of its Board of Directors, and said \_\_\_\_\_ acknowledged to me that said corporation executed the same.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**BOYER:**

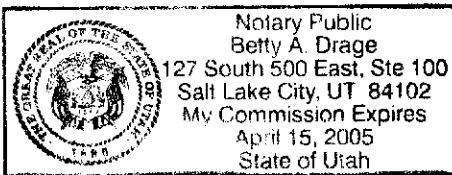
Boyer Spring Creek, L.C., a Utah limited liability company, by its Manager

The Boyer Company, L.C., a Utah limited liability company

By: *[Signature]*  
H. Roger Boyer  
Its: Chairman and Manager

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

On the 11<sup>th</sup> day of February, 2002, personally appeared before me H. Roger Boyer, who being by me duly sworn, acknowledged the foregoing instrument as Chairman and Manager of the Boyer Company, L.C., the Manager of Boyer Spring Creek L.C., a Utah limited liability company, and that the foregoing instrument was signed by him on behalf of said limited liability company.



*Betty A. Drage*  
NOTARY PUBLIC  
Residing at: *Salt Lake County*  
My Commission Expires: *4-15-2005*

LEGAL DESCRIPTION

**"KIMART PARCEL"**

ALL OF "LOT 1" OF THE VILLAGE AT KIMBALL JUNCTION according to the official plat thereof on file and of record with the Recorder of Summit County, State of Utah, and also described as follows:

Beginning at the Northwest Corner of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah; thence South  $89^{\circ}46'57''$  East 2667.41 feet, said point being North Quarter Corner of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah; thence South  $00^{\circ}16'14''$  East 1173.67 feet along center section line of Section 19 to the 'true point of beginning.

Thence commencing from said true point of beginning; thence South  $00^{\circ}16'14''$  East 683.38 feet; thence South  $89^{\circ}43'46''$  West 676.33 feet; thence North  $00^{\circ}16'14''$  West 556.00 feet; thence North  $89^{\circ}43'46''$  East 336.50 feet; thence South  $00^{\circ}16'14''$  East 49.58 feet; thence North  $89^{\circ}43'46''$  East 162.77 feet; thence North  $00^{\circ}16'14''$  West 176.96 feet; thence North  $89^{\circ}43'46''$  East 177.06 feet to said true point of beginning, containing 8.96 acres, more or less.

VKJ-1

EXHIBIT "A"

BOOK 699 PAGE 223

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EXHIBIT B

ALL OF "LOT 2" OF THE VILLAGE AT KIMBALL JUNCTION according to the official plat thereof on file and of record with the Recorder of Summit County, State of Utah, and also described as follows:

Beginning at the Northwest Corner of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah; thence South 89°46'57" East 2667.41 feet, said point being North Quarter Corner of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah; thence South 00°16'14" East 1857.05 feet along center section line of Section 19; thence South 89°43'46" West 676.33 feet to the true point of beginning.

Commencing at the true point of beginning, thence South 89°43'46" West 342.08 feet; thence North 00°16'14" West 941.57 feet to a point on the southerly right-of-way of the so-called East Frontage Road; thence South 89°17'51" East 254.16 feet to the beginning of a radial curve, concave to the north, having a radius of 555.87 feet; thence easterly along said curve 79.62 feet through a central angle of 08°12'25"; thence South 07°30'00" East 67.70 feet; thence South 00°16'14" East 133.92 feet; thence North 89°43'46" East 111.50 feet; thence South 00°16'14" East 184.53 feet; thence South 89°43'46" West 111.50 feet; thence South 00°16'14" East 556.00 feet to said true point of beginning, containing 7.84 acres, more or less.

VKS-2

050-454

# EXHIBIT

## (LEGAL DESCRIPTION OF BOYER + EQUIMARK)

Lot 7A description (Boyer Spring Creek): *REVISED TO EXCLUDE 40'x70' JOG ALONG UINTA BLVD*

Beginning at a point on the East line of Lot 7, The Village at Kimball Junction, a subdivision in the West half of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, said point being N 0°16'14"W 1238.18 feet from the Southeast Corner of said Lot 7; thence N 0°16'14"W 826.33 feet; thence S 89°43'46"W 1115.17 feet; thence S 0°27'00"W 15.00 feet; thence N 89°33'00"W 165.00 feet; thence S 0°27'00"W 232.83 feet; thence S 89°33'00"E 186.82 feet; thence S 31°25'02"W 187.41 feet; thence S 58°34'58"E 191.33 feet; thence S 31°25'02"W 33.35 feet; thence S 58°34'58"E 21.15 feet; thence S 31°25'02"W 17.61 feet; thence S 58°34'58"E 81.60 feet; thence N 31°25'02"E 79.23 feet; thence N 76°25'02"E 55.53 feet; thence S 58°34'58"E 45.91 feet; thence N 31°25'02"E 48.44 feet; thence S 58°34'58"E 80.94 feet; thence S 31°25'02"W 21.00 feet; thence S 58°34'58"E 44.00 feet; thence S 31°25'02"W 17.50 feet; thence S 58°34'58"E 206.00 feet; thence N 31°25'02"E 31.50 feet; thence S 58°34'58"E 44.00 feet; thence N 31°25'02"E 13.55 feet; thence S 58°34'58"E 215.00 feet; thence S 31°25'02"W 5.00 feet; thence S 58°34'58"E 88.00 feet; thence N 31°25'02"E 5.00 feet; thence S 58°34'58"E 44.00 feet; thence N 31°25'02"E 88.90 feet; thence S 58°34'58"E 38.54 feet; thence N 89°43'46"E 114.04 feet to the point of beginning.

Contains 18.554 acres

*VKJ-7A*

Lot 7B description (Equimark):

Beginning at a point on the East line of Lot 7, The Village at Kimball Junction, a subdivision in the West half of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, said point being N 0°16'14"W 906.94 feet from the Southeast Corner of said Lot 7; thence S 60°10'50"W 379.24 feet; thence N 58°34'58"W 467.70 feet; thence S 31°25'15"W 323.60 feet; thence S 67°09'15"W 154.43 feet; thence N 89°23'22"W 90.22 feet; thence N 38°02'57"W 42.24 feet; thence N 0°56'38"E 108.13 feet; thence N 58°34'58"W 153.33 feet; thence S 0°27'00"E 105.79 feet; thence N 31°25'02"E 136.12 feet; thence N 0°26'38"E 332.59 feet; thence N 58°34'58"W 64.59 feet; thence N 0°27'00"E 105.72 feet; thence N 31°25'02"E 127.31 feet; thence S 58°34'58"E 191.33 feet; thence S 31°25'02"W 33.35 feet; thence S 58°34'58"E 21.15 feet; thence S 31°25'02"W 17.61 feet; thence S 58°34'58"E 81.60 feet; thence N 31°25'02"E 79.23 feet; thence N 76°25'02"E 55.53 feet; thence S 58°34'58"E 45.91 feet; thence N 31°25'02"E 48.44 feet; thence S 58°34'58"E 80.94 feet; thence S 31°25'02"W 21.00 feet; thence S 58°34'58"E 44.00 feet; thence S 31°25'02"W 17.50 feet; thence S 58°34'58"E 206.00 feet; thence N 31°25'02"E 31.50 feet; thence S 58°34'58"E 44.00 feet; thence N 31°25'02"E 13.55 feet; thence S 58°34'58"E 215.00 feet; thence S 31°25'02"W 5.00 feet; thence S 58°34'58"E 88.00 feet; thence N 31°25'02"E 5.00 feet; thence S 58°34'58"E 44.00 feet; thence N 31°25'02"E 88.90 feet; thence S 58°34'58"E 38.54 feet; thence N 89°43'46"E 114.04 feet; thence S 0°16'14"E 331.24 feet to the point of beginning.

Contains 17.514 acres or 762,901 sq. ft.

*VKJ-7B*

# EXHIBIT D

ALL OF PARCEL "A" OF THE VILLAGE AT KIMBALL JUNCTION according to the official plat thereof on file and of record with the Recorder of Summit County, State of Utah, and also described as follows:

Beginning at the Northwest Corner of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah; thence South 89°46'57" East 2667.41 feet, said point being North Quarter Corner of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah; thence South 00°16'14" East 1173.67 feet along center section line of Section 19; thence South 89°43'46" West 1114.29 feet; thence North 00°27'00" East 15.00 feet; thence North 89°33'00" West 82.91 feet to the true point of beginning.

Commencing at the true point of beginning, thence North 89°33'00" West 82.09 feet to a point on the easterly right-of-way of Utah Highway 224; thence North 00°27'00" East 517.64 feet; thence North 04°57'15" East 250.47 feet; thence North 07°04'10" West 151.37 feet; thence North 00°07'59" East 11.39 feet to the intersection of the U-224 right-of-way and the southerly right-of-way of the so-called East Frontage Road; thence South 89°17'51" East 59.15 feet; thence South 07°04'10" East 160.62 feet; thence South 04°57'15" West 254.43 feet; thence South 00°27'00" West 468.70 feet; thence South 89°33'00" East 22.10 feet; thence South 00°27'00" West 46.95 feet to said true point of beginning, containing 1.31 acres, more or less.

VKJ-A

00625328 Br01460 Pg01345

EXHIBIT "D" CONTINUED

ALL OF PARCEL "B" OF THE VILLAGE AT KIMBALL JUNCTION according to the official plat thereof on file and of record with the Recorder of Summit County, State of Utah, and also described as follows:

Beginning at the Northwest Corner of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah; thence South 89°46'57" East 2667.41 feet, said point being North Quarter Corner of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah; thence South 00°16'14" East 1930.80 feet along center section line of Section 19; thence South 68°00'00" West 328.15 feet; thence North 00°16'14" West 85.24 feet; thence South 89°43'46" West 70.00 feet to the true point of beginning.

Commencing at the true point of beginning, thence South 00°16'14" East 45.00 feet; thence South 89°43'46" West 150.00 feet; thence North 00°16'14" West 45.00 feet; thence South 89°43'46" West 755.85 feet; thence North 00°27'00" East 27.08 feet; thence South 89°33'00" 165.00 feet; thence North 00°27'00" East 15.00 feet; thence North 89°43'46" East 740.34 feet; thence South 00°16'14" East 40.00 feet to said true point of beginning, containing 0.93 acres, more or less.

VKS-B

EXHIBIT "D" CONTINUED

BOOK 699 PAGE 211

00625328 BR01460 Pg01346

ALL OF PARCEL "C" OF THE VILLAGE AT KIMBALL JUNCTION according to the official plat thereof on file and of record with the Recorder of Summit County, State of Utah, and also described as follows:

Beginning at the Northwest Corner of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah; thence South  $89^{\circ}46'57''$  East 2667.41 feet, said point being North Quarter Corner of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah; thence South  $00^{\circ}16'14''$  East 1173.67 feet along center section line of Section 19 to the true point of beginning.

Commencing at the true point of beginning, thence South  $00^{\circ}16'14''$  East 73.75 feet; thence South  $68^{\circ}00'00''$  West 328.15 feet; thence North  $00^{\circ}16'14''$  West 195.24 feet; thence North  $89^{\circ}43'46''$  East 304.83 feet to said true point of beginning, containing 0.94 acres, more or less.

VKJ-C

00625328 Bk01460 Pg01347

EXHIBIT "D" CONTINUED

300M 699-232



ALL OF PARCEL "D" OF THE VILLAGE AT KIMBALL JUNCTION according to the official plat thereof on file and of record with the Recorder of Summit County, State of Utah, and also described as follows:

Beginning at the Northwest Corner of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah; thence South  $89^{\circ}46'57''$  East 2667.41 feet, said point being North Quarter Corner of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah; thence South  $00^{\circ}16'14''$  East 971.08 feet along center section line of Section 19 to the true point of beginning.

Commencing at the true point of beginning, thence South  $00^{\circ}16'14''$  East 202.59 feet; thence South  $89^{\circ}43'46''$  West 177.06 feet; thence North  $30^{\circ}16'14''$  West 233.93 feet; thence North  $89^{\circ}43'46''$  East 294.03 feet to said true point of beginning, containing 1.09 acres, more or less.

VKJ-D

EXHIBIT "D" CONTINUED

BOOK 699 PAGE 233

00625328 Bk01460 Pg01348

ALL OF PARCEL "E" OF THE VILLAGE AT KIMBALL JUNCTION according to the official plat thereof on file and of record with the Recorder of Summit County, State of Utah, and also described as follows:

Beginning at the Northwest Corner of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah; thence South  $89^{\circ}46'57''$  East 2667.41 feet, said point being North Quarter Corner of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah; thence South  $00^{\circ}16'14''$  East 1173.67 feet along center section line of Section 19; thence South  $89^{\circ}43'46''$  West 676.33 feet; thence North  $00^{\circ}16'14''$  West 740.53 feet to the true point of beginning.

Thence commencing from said true point of beginning, thence North  $00^{\circ}16'14''$  West 133.92 feet; thence North  $07^{\circ}30'00''$  West 67.70 feet to a point on a radial curve along the southerly right-of-way line of the so-called East Frontage Road, said curve being concave to the north and having a radius of 555.87 feet; thence easterly along said curve 133.88 feet through a central angle of  $13^{\circ}48'00''$  thence South  $18^{\circ}15'57''$  East 61.05 feet; thence South  $00^{\circ}16'14''$  East 175.63 feet; thence South  $89^{\circ}43'46''$  West 139.86 feet to said true point of beginning, containing 0.69 acres, more or less.

VKS-E

00625328 BK01460 Pg01349

EXHIBIT "D" CONTINUED

699-234

ALL OF "SOUTH ENTRY ROAD PARCEL" OF THE VILLAGE AT KIMBALL JUNCTION according to the official plat thereof on file and of record with the Recorder of Summit County, State of Utah, and also described as follows:

Beginning at the Northwest Corner of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah; thence South  $89^{\circ}46'57''$  East 2667.41 feet; said point being North Quarter Corner of Section 19, Township 1 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah; thence South  $00^{\circ}16'14''$  East 1857.05 feet along center section line of Section 19; thence South  $89^{\circ}43'46''$  West 304.83 feet to the true point of beginning.

Commencing at the true point of beginning, thence South  $00^{\circ}16'14''$  East 110.00 feet; thence South  $89^{\circ}43'46''$  West 70.00 feet; thence North  $00^{\circ}16'14''$  West 40.00 feet; thence South  $89^{\circ}43'46''$  West 740.34 feet; thence South  $00^{\circ}27'00''$  West 15.00 feet; thence North  $89^{\circ}33'00''$  West 165.00 feet; thence North  $00^{\circ}27'00''$  East 100.00 feet; thence South  $89^{\circ}33'00''$  East 165.00 feet; thence South  $00^{\circ}27'00''$  West 15.00 feet; thence North  $89^{\circ}43'46''$  East 809.46 feet to said true point of beginning, containing 1.74 acres, more or less.

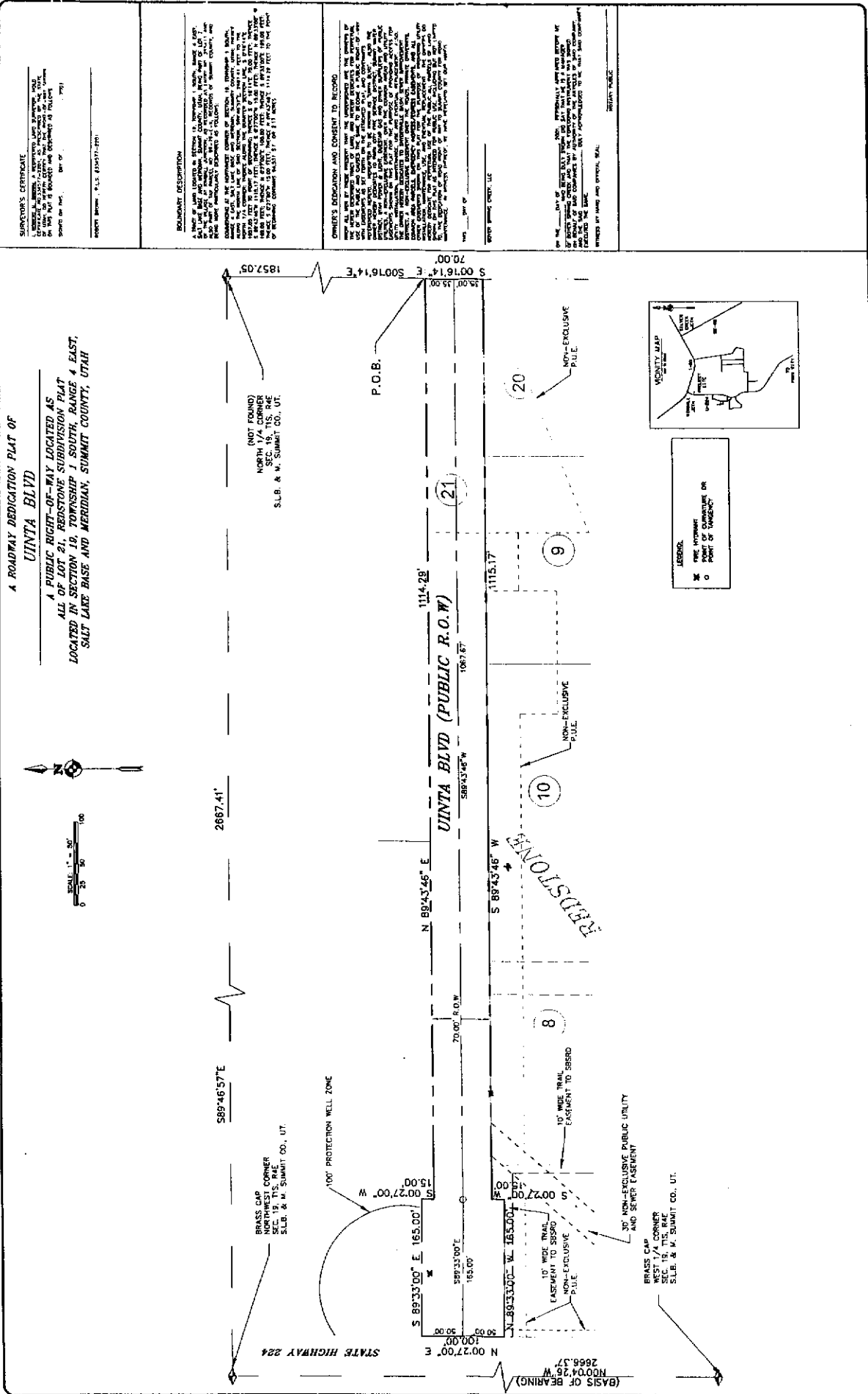
VKJ-SE

EXHIBIT "D" CONTINUED

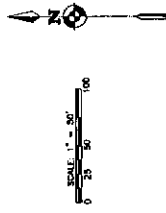
INC 699 229

00625328 Bk01460 Pg01350

EXHIBIT E



A ROADWAY DEDICATION PLAT OF  
**UINTA BLVD**  
 A PUBLIC RIGHT-OF-WAY LOCATED AS  
 ALL OF LOT 21, REDSTONE SUBDIVISION PLAT  
 LOCATED IN SECTION 19, TOWNSHIP 1 SOUTH, RANGE 4 EAST,  
 SALT LAKE BASE AND MERIDIAN, SUMMIT COUNTY, UTAH

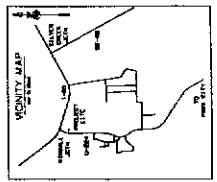


**SURVEYOR'S CERTIFICATE**  
 I, the undersigned, a duly licensed and qualified Surveyor under the laws of the State of Utah, do hereby certify that the foregoing plat is a true and correct copy of the original as recorded in the office of the County Clerk of Summit County, Utah, on this 14th day of August, 1957.

**BOUNDARY DESCRIPTION**  
 The boundary of the UINTA BLVD (PUBLIC R.O.W) is described as follows: Beginning at the Northwest Corner of Section 19, T1S, R4E, S.L.B. & M. Summit Co., UT, and running North 89°33'00\"/>

**OWNER'S DECLARATION AND CONSENT TO RECORD**  
 We, the undersigned, the owners of the land shown on the foregoing plat, do hereby declare that we own the land shown on the foregoing plat, and we do hereby consent to the recording of the foregoing plat, and we do hereby authorize the Surveyor to execute the foregoing plat, and we do hereby authorize the Surveyor to execute the foregoing plat, and we do hereby authorize the Surveyor to execute the foregoing plat.

**WITNESSES**  
 I, the undersigned, a duly licensed and qualified Surveyor under the laws of the State of Utah, do hereby certify that the foregoing plat is a true and correct copy of the original as recorded in the office of the County Clerk of Summit County, Utah, on this 14th day of August, 1957.



**LEGEND**  
 \* ONE WAYWAY  
 \* POINT OF COMMENCEMENT ON POINT OF COMMENCEMENT

<p>DATE RECORDED: <u>Aug 14, 1957</u>                  PLAT NO.: <u>14937</u>                  PROJECT NO.: <u>14937</u>                  SHEET NO.: <u>1</u> OF <u>1</u>                  COUNTY: <u>UINTA</u></p>	<p>RECORDED # _____                  APPROVAL AS TO FORM _____                  APPROVED AS TO FORM BY NAME _____                  DATE OF APPROVAL _____ A.D. 19__</p>	<p>COUNTY ENGINEER                  COUNTY ENGINEER'S OFFICE                  COUNTY ENGINEER</p>	<p>COUNTY COMMISSIONER'S APPROVAL                  APPROVED BY BOARD OF COUNTY COMMISSIONERS                  DATE _____ A.D. 19__</p>	<p>PUBLIC WORKS DEPARTMENT                  PUBLIC WORKS DEPARTMENT                  DATE _____ A.D. 19__</p>
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First page of multi page plans included for recording purposes.

# REDSTONE TRAFFIC SIGNAL

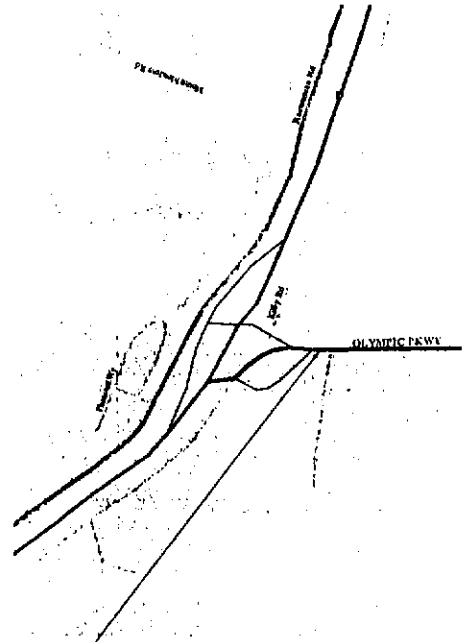
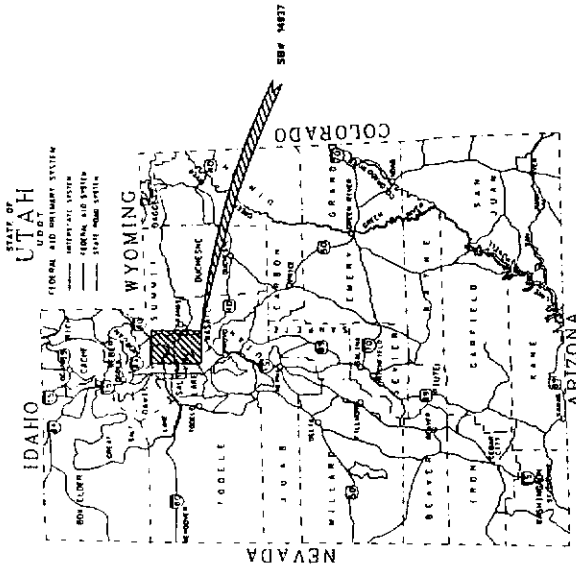
## PLANS OF PROPOSED TRAFFIC SIGNAL

TRAFFIC SIGNAL INSTALLATION IN  
SUMMIT COUNTY  
UTAH BLVD AND SR-224

SEAR-BROWN PROJECT No. 14937

FINAL PLANS  
JULY 2001

# ENGLISH



STATE	PROJECT NUMBER	SHEET NO.
UTAH	SR 14937	1

SHEET	DESCRIPTION
8-1	COVER SHEET
8-2	ROADS TO STATIONARIES
8-3	ROADS TO STATIONARIES
8-4	LEADING SHEET
8-5	LEADING SHEET
8-6	LEADING SHEET
8-7	UTAH BLVD AND SR-224
8-8	TOWNSHIP PLANS
8-9	ORIENTING LA FROIT PLAN
8-10	STATIONARY LAYOUT (MOUNTAIN STREET)
8-11	STATIONARY LAYOUT
8-12	STATIONARY LAYOUT
8-13	STATIONARY LAYOUT
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8-15	STATIONARY LAYOUT
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8-99	STATIONARY LAYOUT
8-100	STATIONARY LAYOUT

*Exhibit H*

PROFESSIONAL ENGINEER'S STAMP AND SIGNATURE
--

County Engineer



Derrick A. Radke, P.E.

October 11, 2001

Mr. Jerry Dearing  
Curton and McConkie  
1800 Eagle Gate Towers  
60 East South Temple  
Salt Lake City, Utah 84145-0120

Re: Redstone Project

Dear Mr. Dearing:

Per the request of Mr. Lewis Swain of the Boyer Company, this letter is written to verify that the Construction Drawings for the above referenced project on file with Summit County have been officially approved by Summit County.

If you need additional information or have any questions, please contact me.

Sincerely,

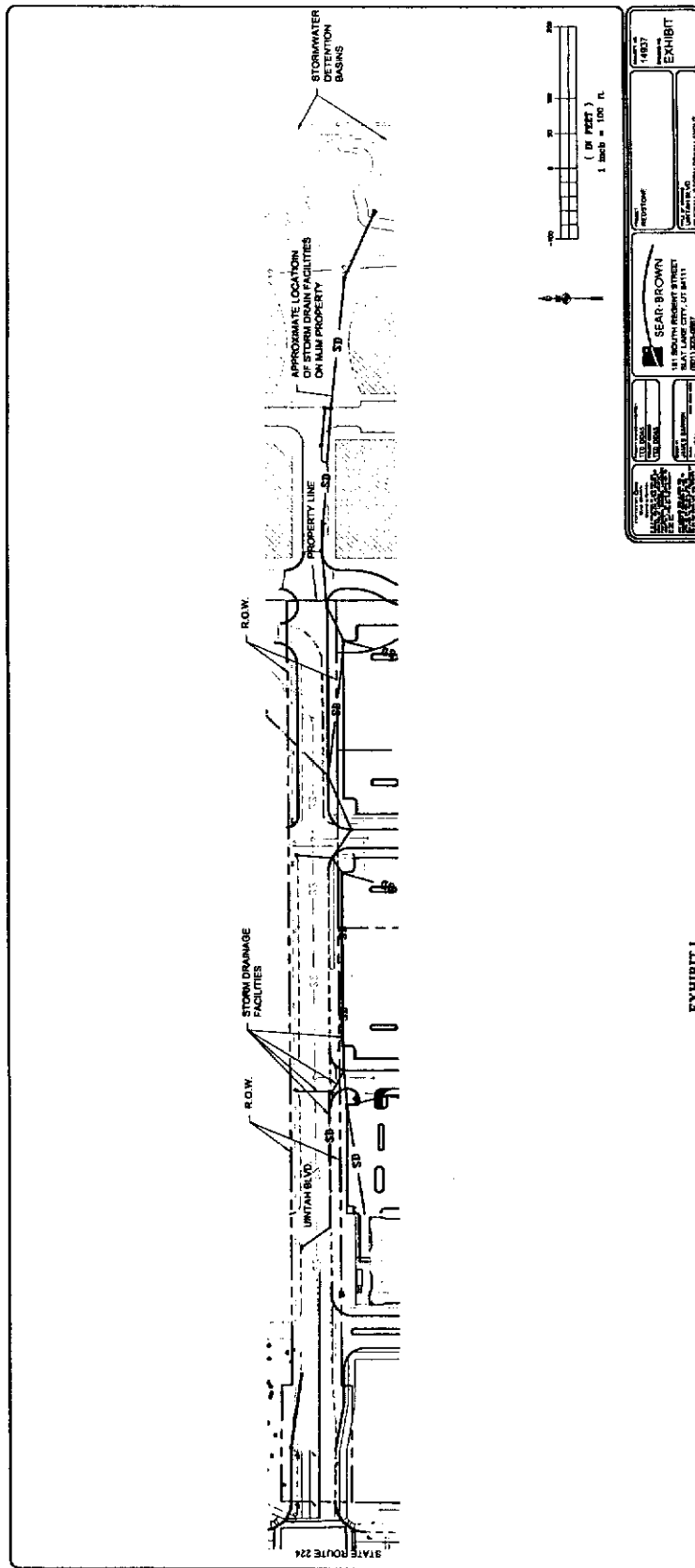


Derrick A. Radke, PE  
Summit County Engineer

cc: Lewis Swain, The Boyer Company (faxed to: 801-521-4793)  
file (projects\2000\cd00\redstone\dearinger1.dar)

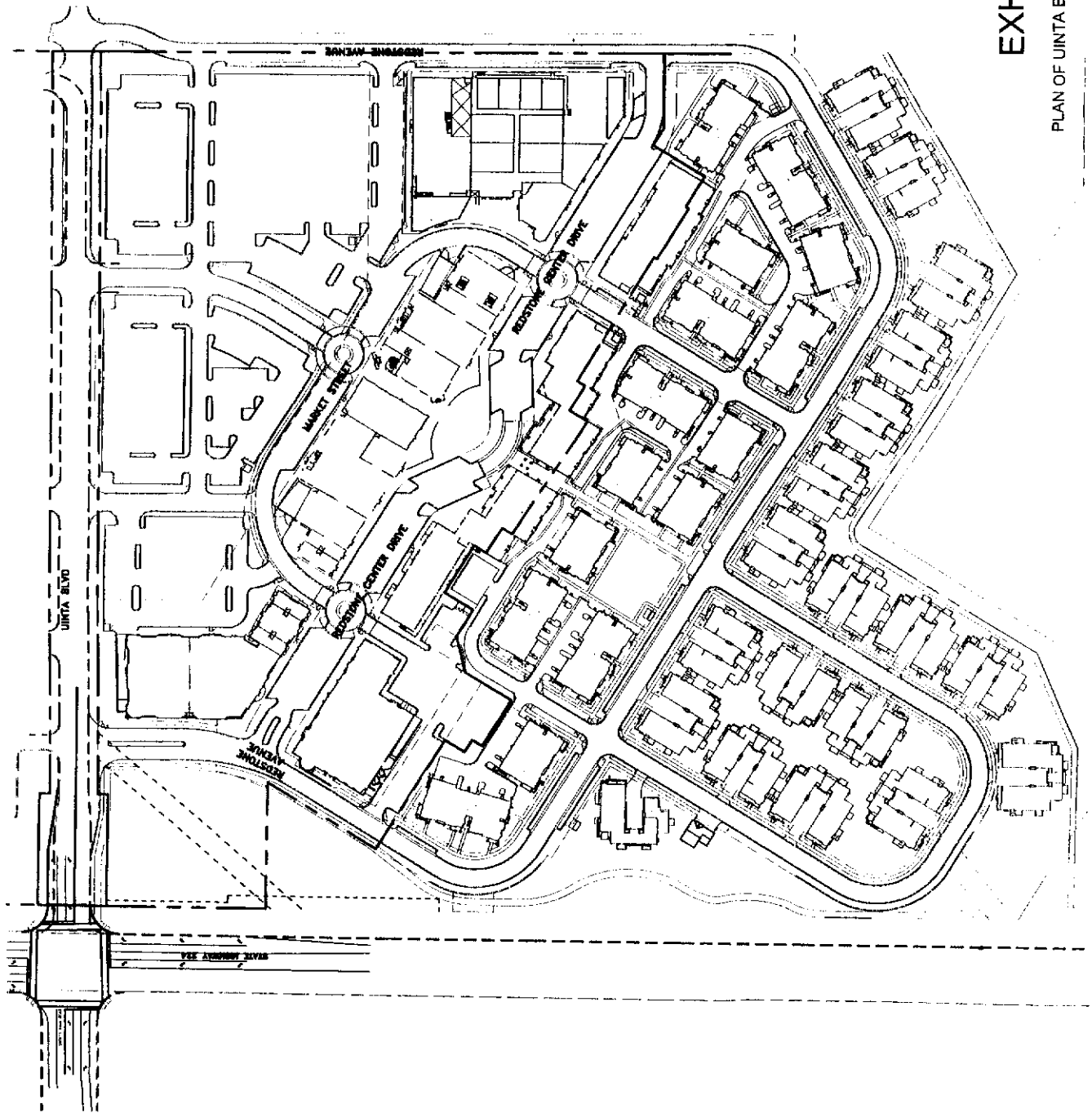
EXHIBIT G

00625328 Bk01460 Pg01353



PROJECT NO. 151 SOUTH PINEBENT STREET BEAT 1460 CITY, ST. LOUIS (803) 222-2222	SHEET NO. 151	EXHIBIT 151
DESIGNER SEAR, BROWN 151 SOUTH PINEBENT STREET BEAT 1460 CITY, ST. LOUIS (803) 222-2222	DATE 11/15/15	DRAWN BY J. BROWN
CHECKED BY J. BROWN	SCALE 1" = 100'	PROJECT TITLE STORMWATER DETENTION BASINS

EXHIBIT 1



**EXHIBIT "F"**

PLAN OF JUNTA BLVD & BOYER PROPERTY



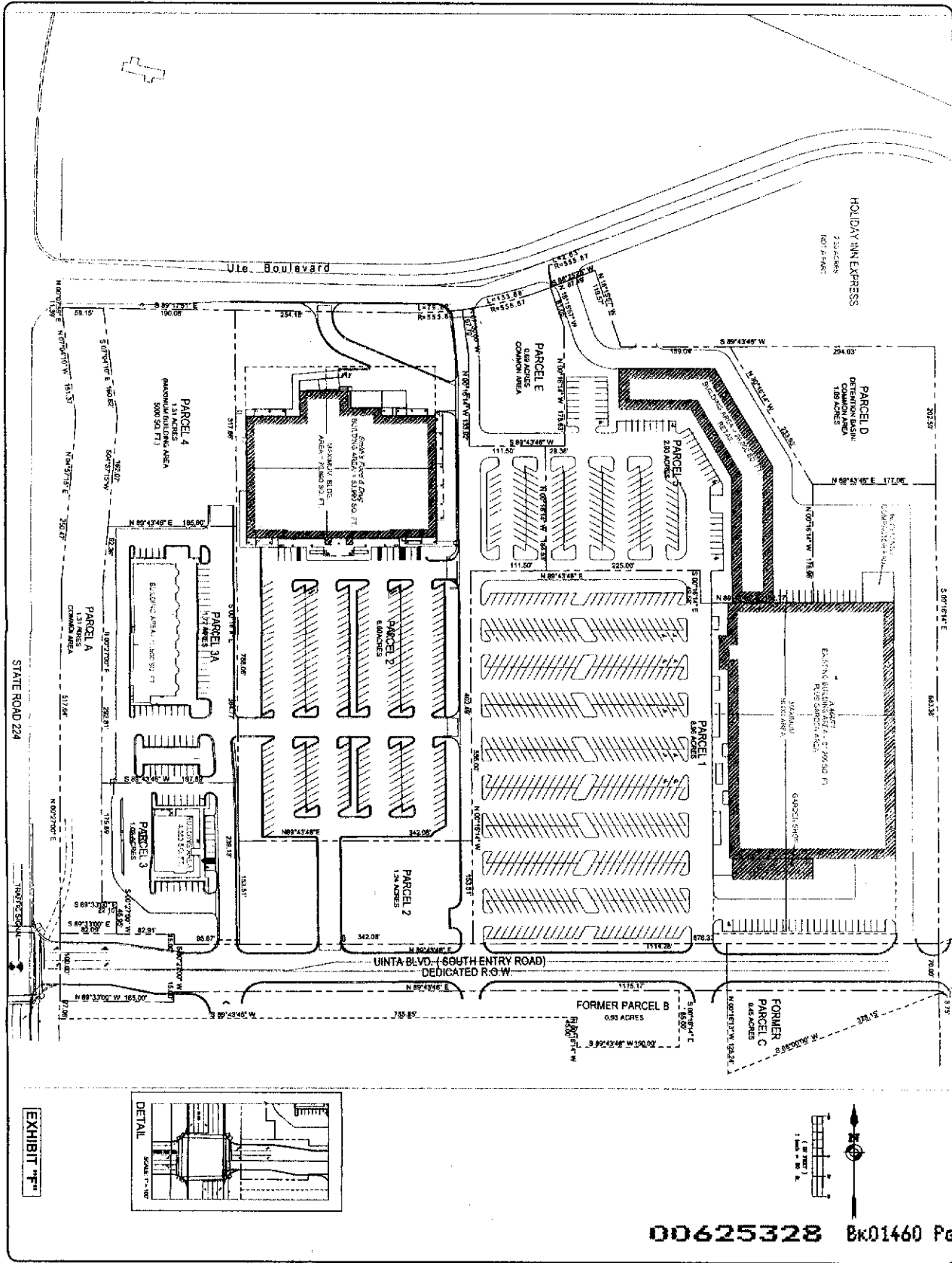
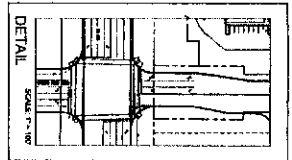


EXHIBIT "F"



00625328 BR01460 PG01356

PROJECT: VILLAGE AT KIMBALL JUNCTION  
 PROJECT NO.: 14937  
 DATE: 02/21/08  
 TITLE OF DRAWING: EXHIBIT

**SEAR-BROWN**  
 151 South Regent Street  
 Salt Lake City, UT 84111-1903  
 (801) 322-0887  
 www.searbrown.com

PROJECT ENGINEER/ARCHITECT: T. DEAS  
 PROJECT MANAGER: T. DEAS  
 DRAWN BY: J. BARRON  
 SCALE: 1" = 60'  
 FIRST ISSUE DATE:

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REVISIONS	DATE	BY
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4		
3		
2		
1		
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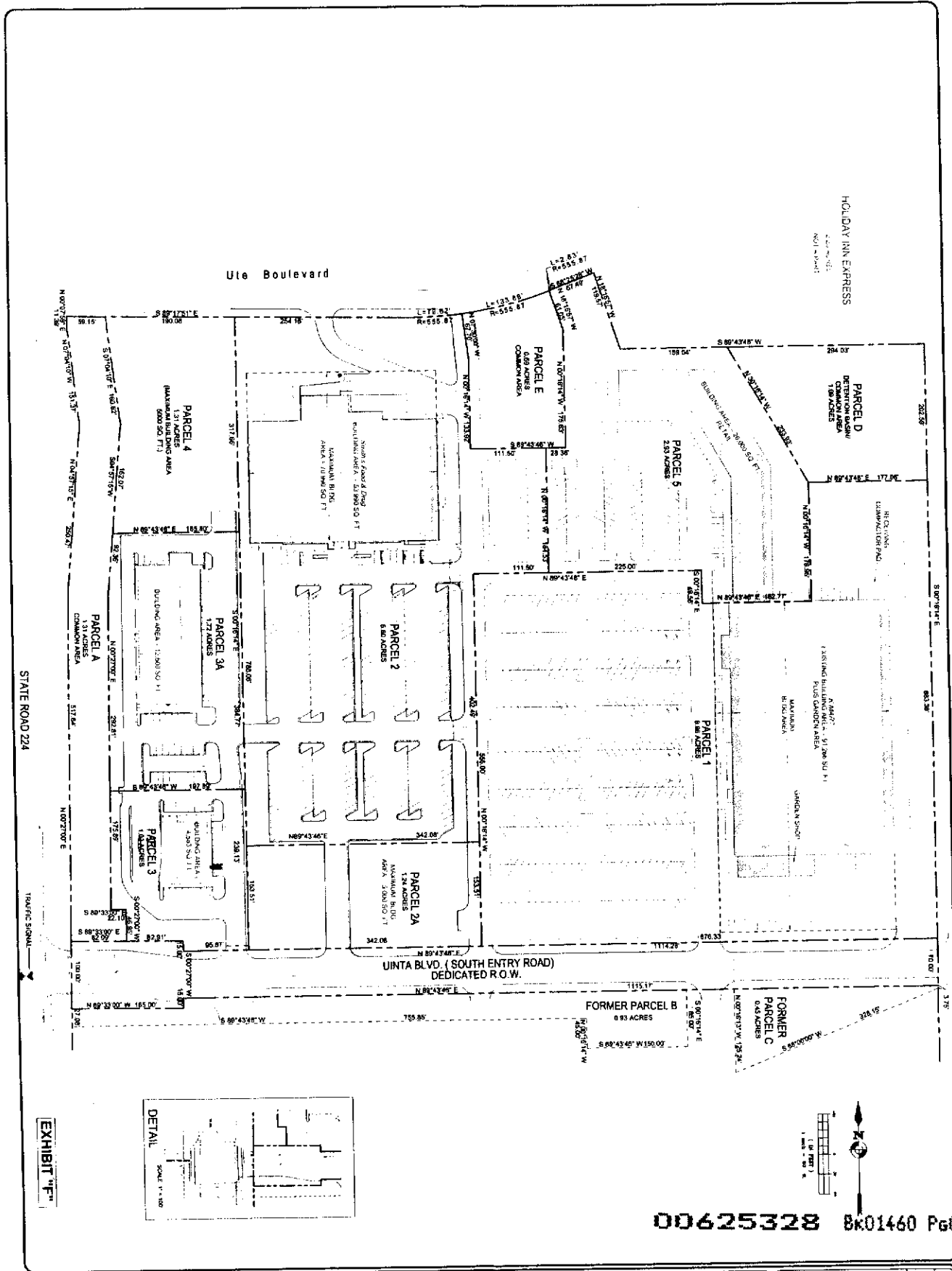
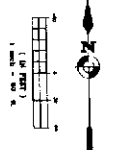
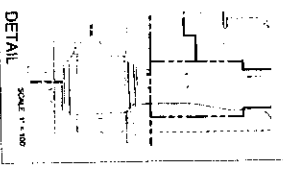


EXHIBIT "F"



00625328 BR01460 Pg01357

PROJECT: VILLAGE AT KIMBALL JUNCTION  
 PROJECT NO: 14937  
 DATE: [Date]  
 EXHIBIT: EX - "F"

**SEAR-BROWN**  
 151 South Republic Street  
 Salt Lake City, UT 84111-1903  
 (801) 322-8881  
 www.searbrown.com

PROJECT ENGINEER/ARCHITECT:  
 PROJECT MANAGER:  
 T. DODAS  
 DRAFTSMAN:  
 J. BARRON  
 DATE: 10/11/2008  
 SCALE: 1" = 100'

CONVEYANCE DOCUMENT:  
 PREPARED BY:  
 DATE: 10/11/2008  
 SCALE: 1" = 100'

NO.	REVISIONS	DATE
1		
2		
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4		
5		