

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Law Offices of Steven W. Farnsworth  
180 N University Ave, Suite 260  
Provo, UT 84601  
MAIL TAX NOTICE TO:  
PEG Development  
180 N University Ave, Suite 200  
Provo, UT 84601

ENT 73923:2014 PG 1 of 52  
Jeffery Smith  
Utah County Recorder  
2014 Oct 15 03:52 PM FEE 117.00 BY SS  
RECORDED FOR First American Title Insurance  
ELECTRONICALLY RECORDED

*Utah County Agreement 2014-696(A)*

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

**SPECIAL WARRANTY DEED**

FIRST AMERICAN TITLE  
# 627575-21

UTAH COUNTY, a separate body politic with an address of 100 East Center, Provo, Utah 84606, Grantor, hereby **CONVEYS** and **WARRANTS** against all who claim by, through, or under the Grantor, to HALLADAY PT INVESTORS, LLC, a Utah limited liability company, Grantee, of 180 North University Avenue, Suite 200, Provo, Utah 84601, for the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the following described tract of land (for taxing purposes designated Tax Parcel Serial Nos. 05:013:0010, 05:013:0019, 05:013:0008 and 05:013:0011) in Utah County, State of Utah, to wit:

PARCEL 1:  
COMMENCING AT NORTHWEST CORNER OF BLOCK 13, PLAT "B", PROVO CITY SURVEY;  
THENCE EAST 92 FEET; THENCE SOUTH 102 FEET; THENCE WEST 92 FEET; THENCE NORTH 102 FEET TO BEGINNING.

PARCEL 2:  
COMMENCING 92 FEET EAST OF NORTHWEST CORNER OF BLOCK 13, PLAT "B", PROVO CITY SURVEY;  
THENCE EAST 49.50 FEET; THENCE SOUTH 189.52 FEET; THENCE WEST 25 FEET; THENCE NORTH 45° EAST 17 FEET; THENCE NORTH 57.85 FEET; THENCE NORTH 45 ° WEST 1.41 FEET; THENCE WEST 35.50 FEET; THENCE NORTH 119.02 FEET TO BEGINNING.

PARCEL 3:  
COMMENCING 141.5 FEET EAST FROM NORTHWEST CORNER OF BLOCK 13, PLAT "B", PROVO CITY SURVEY; THENCE EAST 58.34 FEET; THENCE SOUTH ALONG THE EAST LINE OF LOT 5, 199.52 FEET TO SOUTH LINE OF LOT 4; THENCE WEST 58.34 FEET; THENCE NORTH 199.52 FEET TO BEGINNING.

PARCEL 4:  
COMMENCING AT NORTHWEST CORNER OF LOT 6, BLOCK 13, PLAT "B", PROVO CITY SURVEY; THENCE EAST 3 RODS; THENCE SOUTH 12 RODS; THENCE WEST 3 RODS; THENCE NORTH 12 RODS TO BEGINNING.

LESS AND EXCEPTING FROM PARCELS 1, 2, 3, AND 4, AS DESCRIBED ABOVE, ALL OF THOSE PORTIONS CONTAINED IN THE QUIT CLAIM DEED RECORDED FEBRUARY 28, 2005 AS ENTRY NO. 20172:2005 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF A PARCEL, DESCRIBED IN A SPECIAL WARRANTY DEED RECORDED UNDER ENTRY #6432-92, SAID CORNER BEING MORE SPECIFICALLY DESCRIBED AS BEING LOCATED SOUTH 102.00 FEET FROM THE NORTHWEST CORNER OF BLOCK #13 IN PLAT "B" OF PROVO CITY SURVEY OF BUILDING LOTS, SAID POINT ALSO BEING ON THE WESTERLY BOUNDARY OF SAID BLOCK #13, THENCE THE FOLLOWING

ALONG SAID PARCELS: EAST 92.00 FEET; SOUTH 17.02 FEET; EAST 35.50 FEET; SOUTH 45° EAST 1.41 FEET; SOUTH 57.50 FEET; THENCE DEPARTING FROM SAID DEED, SOUTH 42° 03' 41" WEST 14.84 FEET TO A GATE POST; THENCE SOUTH 00°38'18" EAST 10.98 FEET TO ANOTHER GATE POST; THENCE WEST 118.67 FEET ALONG THE SOUTHERLY BOUNDARY OF LOT #4 OF BLOCK #13 TO THE SOUTHWEST CORNER OF SAID LOT #4; THENCE NORTH 97.52 FEET ALONG THE WESTERLY BOUNDARY OF SAID BLOCK #13 TO THE POINT OF BEGINNING.

The above described parcels are conveyed subject to interests, easements, and rights of way of record or of use and subject to all items listed in Schedule B, Section 2 of the Commitment for Title Insurance issued by First American Title Company dated February 20, 2014, Order No. NCS-657565-SLC1, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference.

Subject to and reserving unto the Grantor the right to approve or disapprove all uses of the above described parcels and the right to approve or disapprove the design of all structures to be built on the above described parcels; and further reserving unto the Grantor the Option to Re-purchase the above described parcels, all as set forth in that certain Agreement of Purchase and Sale dated the 19<sup>th</sup> day of May, 2014, a copy of which is attached hereto as Exhibit "B" and incorporated herein by this reference.

WITNESS the hand of said Grantor, this 14<sup>th</sup> day of October, 2014.

UTAH COUNTY

Bryan E. Thompson  
Bryan E. Thompson  
Utah County Clerk/Auditor

STATE OF UTAH                    )  
  : ss  
COUNTY OF UTAH                )

On the 14<sup>th</sup> day of October, 2014, personally appeared before me Bryan E. Thompson, who, being by me duly sworn, did say that he is the Clerk/Auditor of Utah County, that said instrument was signed in behalf of Utah County as authorized pursuant to a motion by the Board of County Commissioners of Utah County, and said Bryan E. Thompson acknowledged to me that Utah County executed the same.



Karen Fairbanks  
Notary Public

# EXHIBIT A

to Special Warranty Deed

*(Commitment for Title Insurance)*

**COMMITMENT FOR TITLE INSURANCE**

**ISSUED BY**

**First American Title Insurance Company National Commercial Services  
215 South State Street, Ste. 380, Salt Lake City, UT 84111  
Phone: (801)536-3100 | Fax: (866)344-5051**

PEG Development  
Attn: Soren Halladay  
180 North University Avenue , Suite 200  
  
Provo , UT 84601

March 07, 2014  
Order Number: NCS-657575-SLC1  
Ref No. APN 05-013-0010, 05-013-0019, 05-013-0008, 05-013

\*\*\*

RE: Proposed Owner/Applicant:

We agree to issue a policy to you according to the terms of this Commitment. When we show the policy amount and your name as the proposed insured in Schedule A, this Commitment becomes effective as of the Commitment Date shown in Schedule A.

If the Requirements shown in this Commitment have not been met within six months after the Commitment Date, our obligation under this Commitment will end. Also, our obligation under this Commitment will end when the Policy is issued and then our obligation to you will be under the Policy.

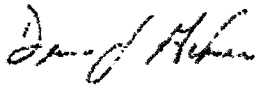
Our obligation under this commitment is limited by the following:

- The Provisions in Schedule A.
- The Requirements in Schedule B-1.
- The Exceptions in Schedule B-2.
- The Conditions on the inside cover page.

The Commitment is not valid with out SCHEDULE A and Sections 1 and 2 of SCHEDULE B.

Underwritten by:

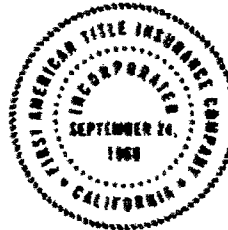
First American Title Insurance Company



Dennis J. Gilmore  
President



Timothy Kemp  
Secretary



**SCHEDULE A**

**ESCROW/CLOSING INQUIRIES** should be directed to your Escrow Officer: Anna Irons at (801)536-3100 located at 215 South State Street, Ste. 380, Salt Lake City, UT 84111.

Effective Date: February 20, 2014 at 7:30 a.m.

- 1. Policy or (Policies) to be issued:

ALTA 2006 Standard Owner's for \$0.00 PREMIUM \$

Proposed Insured:

Endorsements PREMIUM \$

- 2. The estate or interest in the land described or referred to in this commitment and covered herein is fee simple and title thereto is at the effective date hereof vested in:

Utah County, a body corporate and politic

- 3. The land referred to in this Commitment is located in Utah County, UT and is described as:

**PARCEL 1:**

COMMENCING AT NORTHWEST CORNER OF BLOCK 13, PLAT "B", PROVO CITY SURVEY; THENCE EAST 92 FEET; THENCE SOUTH 102 FEET; THENCE WEST 92 FEET; THENCE NORTH 102 FEET TO BEGINNING.

**PARCEL 2:**

COMMENCING 92 FEET EAST OF NORTHWEST CORNER OF BLOCK 13, PLAT "B", PROVO CITY SURVEY; THENCE EAST 49.50 FEET; THENCE SOUTH 189.52 FEET; THENCE WEST 25 FEET; THENCE NORTH 45? EAST 17 FEET; THENCE NORTH 57.85 FEET; THENCE NORTH 45? WEST 1.41 FEET; THENCE WEST 35.50 FEET; THENCE NORTH 119.02 FEET TO BEGINNING.

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LESS AND EXCEPTING ALL THAT PORTION CONTAINED IN THE QUIT CLAIM DEED RECORDED FEBRUARY 28, 2005 AS ENTRY NO. 20172:2005 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

No. NCS-657575-SLC1

COMMENCING AT THE NORTHWEST CORNER OF A PARCEL, DESCRIBED IN A SPECIAL WARRANTY DEED RECORDED UNDER ENTRY #6432-92, SAID CORNER BEING MORE SPECIFICALLY DESCRIBED AS BEING LOCATED SOUTH 102.00 FEET FROM THE NORTHWEST CORNER OF BLOCK #13 IN PLAT "B" OF PROVO CITY SURVEY OF BUILDING LOTS, SAID POINT ALSO BEING ON THE WESTERLY BOUNDARY OF SAID BLOCK #13, THENCE THE FOLLOWING ALONG SAID PARCELS: EAST 92.00 FEET; SOUTH 17.02 FEET; EAST 35.50 FEET; SOUTH 45° EAST 1.41 FEET; SOUTH 57.50 FEET; THENCE DEPARTING FROM SAID DEED, SOUTH 42° 03' 41" WEST 14.84 FEET TO A GATE POST; THENCE SOUTH 00°38'18" EAST 10.98 FEET TO ANOTHER GATE POST; THENCE WEST 118.67 FEET ALONG THE SOUTHERLY BOUNDARY OF LOT #4 OF BLOCK #13 TO THE SOUTHWEST CORNER OF SAID LOT #4; THENCE NORTH 97.52 FEET ALONG THE WESTERLY BOUNDARY OF SAID BLOCK #13 TO THE POINT OF BEGINNING.

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COMMENCING AT NORTHWEST CORNER OF LOT 6, BLOCK 13, PLAT "B", PROVO CITY SURVEY; THENCE EAST 3 RODS; THENCE SOUTH 12 RODS; THENCE WEST 3 RODS; THENCE NORTH 12 RODS TO BEGINNING.

**SCHEDULE B - Section 1  
Requirements**

The following are the requirements to be complied with:

1. Pay the agreed amounts for interest in the land and/or the mortgage or deed of trust to be insured.
2. Pay us the premiums, fees and charges for the policy. In the event the transaction for which this commitment is furnished cancels, a cancellation fee will be imposed.
3. Provide us with releases, reconveyances or other instruments, acceptable to us, including payment of any amounts due, removing the encumbrances shown in Schedule B-2 that are objectionable to the proposed insured.
4. Provide us with copies of appropriate agreements, resolutions, certificates, or other evidence needed to identify the parties authorized to execute the documents creating the interest to be insured.
5. The documents creating the interest to be insured must be signed, delivered and recorded.
6. You must tell us, in writing, the name of anyone not referred to in this Commitment who will receive an interest in, or who will make a loan secured by a deed of trust or mortgage secured by, the land described in this Commitment.
7. After we have received the information requested in these requirements, together with any other information about the transaction, we will have the right to add requirements to this Schedule B-1 or special exceptions to Schedule B-2.

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**SCHEDULE B - Section 2  
Exceptions**

Any policy we issue will have the following exceptions unless they are taken care of to our satisfaction.

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interest or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easements or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments and any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof, water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
7. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this commitment.
8. General property taxes for the year 2014 now a lien, not yet due.  
  
(Affects Parcel 1)  
Taxes for the year 2013 were exempt. Tax ID No. 05-013-0010.  
  
(Affects Parcel 2)  
Taxes for the year 2013 were exempt. Tax ID No. 05-013-0019.  
  
(Affects Parcel 3)  
Taxes for the year 2013 were exempt. Tax ID No. 05-013-0008.  
  
(Affects Parcel 4)  
Taxes for the year 2013 were exempt. Tax ID No. 05-013-0011.



No. NCS-657575-SLC1

- 9. General property taxes were not assessed against the land because of ownership by a tax exempt entity. The land may be subject to a possible Appendix Roll Tax from the time of transfer into a non-exempt entity for the remainder of the taxing year.
- 10. The land is included within the boundaries of Provo City, and is subject to charges and assessments made thereby.
- 11. Ordinance Number 0-89-011 Recorded by the City of Provo January 13, 1989 as Entry No. 1091 In Book 2570 at Page 861 of Official Records. *RDA*
- 12. Resolution No. 1994-81 Recorded by the City of Provo on September 30, 1994 as Entry No. 77193 in Book 3541 at Page 841 of Official Records. *Business Development District*

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The name(s) NONE, has/have been checked for judgments, State and Federal tax liens, and bankruptcies and if any were found, are disclosed herein.

The name Utah County, a governmental agency exempt from execution pursuant to Utah Code Annotated \_63-30-22, has NOT been checked for judgments, State and Federal tax liens, or bankruptcies.

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**Title inquiries should be directed to Steve Nielsen @ (801)578-8826.**

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**NOTE:** The policy(ies) to be issued as a result of this Commitment contain an Arbitration Clause set forth in the Conditions/Conditions and Stipulations Section. The following is included for the information of the proposed insured(s):

**Any matter in dispute between you and the company may be subject to arbitration as an alternative to court action pursuant to the rules of the American Arbitration Association or other recognized arbitrator, a copy of which is available on request from the company. Any decision reached by arbitration shall be binding upon both you and the company. The arbitration award may include attorney's fees if allowed by state law and may be entered as a judgment in any court of proper jurisdiction.**

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**In the event the transaction for which this commitment was ordered "cancels", please refer to Paragraph B under Schedule B, Section 1 for required cancellation fee.**

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**CONDITIONS**

**1. DEFINITIONS**

- (a) "Mortgage" means mortgage, deed of trust or other security instrument.
- (b) "Public Records" means title records that give constructive notice of matters affecting the title according to the state law where the land is located.

**2. LATER DEFECTS**

The Exceptions in Schedule B may be amended to show any defects, liens or encumbrances that appear for the first time in the public records or are created or attached between the Commitment Date and the date on which all of the Requirements are met. We shall have no liability to you because of this amendment.

**3. EXISTING DEFECTS**

If any defects, liens or encumbrances existing at Commitment Date are not shown in Schedule B, we may amend Schedule B to show them. If we do amend Schedule B to show these defects, liens or encumbrances, we shall be liable to you according to Paragraph 4 below unless you knew of this information and did not tell us about it in writing.

**4. LIMITATION OF OUR LIABILITY**

Our only obligation is to issue to you the Policy referred to in this Commitment, when you have met its Requirements. If we have any liability to you for any loss you incur because of an error in this Commitment, our liability will be limited to your actual loss caused by your relying this Commitment when you acted in good faith to:

- comply with the Requirements
- or
- eliminate with our written consent any Exceptions shown in Schedule B

We shall not be liable for more than the Amount shown in Schedule A of this Commitment and our liability is subject to the terms of the Policy form to be issued to you.

**5. CLAIMS MUST BE BASED ON THIS COMMITMENT**

Any claims, whether or not based on negligence, which you may have against us concerning the title to the land must be based on this Commitment and is subject to its terms



## PRIVACY POLICY

### We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our parent company, The First American Corporation, we have adopted this Privacy Policy to govern the use and handling of your personal information.

### Applicability

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from public records or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its *Fair Information Values*, a copy of which can be found on our web site at [www.firstam.com](http://www.firstam.com).

### Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

### Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial services providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

### Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply.

### Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products and services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's *Fair Information Values*. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

# EXHIBIT B

to Special Warranty Deed  
*(Agreement of Purchase and Sale)*

## AGREEMENT OF PURCHASE AND SALE

This AGREEMENT OF PURCHASE AND SALE ("Agreement") is made and entered into as of this 17<sup>th</sup> day of May, 2014 by and between the Utah County (collectively, "Seller"), and PEG DEVELOPMENT, LLC, a Utah limited liability company ("Buyer"), with respect to the following:

### RECITALS

A. Seller is the owner of that certain real property consisting of four parcels of land (Parcel numbers 05:013:0010, 05:013:0019, 05:013:0008, and 05:013:0011) totaling approximately 0.867 acres located at approximately 211 South University Avenue in the city of Provo ("City"), County of Utah, State of Utah, defined below as the Property.

B. Seller desires to sell the Property to Buyer and Buyer desires to purchase the Property from Seller upon the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer hereby agree that the terms and conditions of this Agreement and the instructions to First American Title Company attn: Anna Irons ("Escrow Holder") with regard to the escrow ("Escrow") created pursuant hereto are as follows:

### AGREEMENT

1. Purchase and Sale. Upon all the terms and conditions contained herein, Buyer hereby agrees to purchase from Seller and Seller agrees to sell to Buyer the following:

(a) Land. That certain real property consisting of approximately 0.867 acres of land now owned by Seller and situated in Utah County, Utah as shown and described on Exhibit "A" attached hereto, together with all rights, privileges, licenses and easements appurtenant thereto (the "Land"); and

(b) Improvements. All improvements, structures and fixtures now existing on the Land (the "Improvements"). The Land and the Improvements are collectively hereinafter sometimes referred to as the "Real Property".

The Real Property is hereinafter referred to as the "Property".

2. Purchase Price. The purchase price ("Purchase Price") for the Property shall be Nine Hundred Fifty Thousand and No/100 Dollars (\$950,000.00).

3. Payment of Purchase Price. The Purchase Price for the Property shall be paid by Buyer as follows:

(a) Initial Deposit and Non-Refundable Deposit. Within five (5) business days after the Opening of Escrow (as defined in Paragraph 4(a) below), Buyer shall deposit with Escrow Holder, in cash, by certified or bank cashier's check made payable to Escrow Holder, or by a confirmed wire transfer of funds (hereinafter referred to as "**Immediately Available Funds**"), the sum of Twenty Thousand and No/100 Dollars (\$20,000.00) (the "**Initial Deposit**"), which Initial Deposit shall be applied towards the payment of the Purchase Price upon the Close of Escrow. Within five (5) business days after the Opening of Escrow (as defined in Paragraph 4(a) below), Buyer shall deposit with Seller, in cash, by certified or bank cashier's check made payable to Seller, or by a confirmed wire transfer of funds, the sum of Five Thousand and No/100 Dollars (\$5,000.00) (the "**Non-Refundable Deposit**"), which Non-Refundable Deposit shall be applied towards the payment of the Purchase Price upon the Close of Escrow. The Initial Deposit shall be refundable to Buyer in the event Buyer terminates this Agreement prior to the expiration of the Feasibility Period (as defined below) in accordance with Paragraph 7(i) below. The Non-Refundable Deposit shall be non-refundable to Buyer. The Initial Deposit shall be invested by Escrow Holder in an interest-bearing account acceptable to Buyer, with all interest accruing thereon credited to the Purchase Price upon the Close of Escrow. Upon the expiration of the Feasibility Period, the entire Initial Deposit shall become non-refundable to Buyer, unless Buyer shall have previously terminated this Agreement pursuant to its right to terminate contained herein. Upon the expiration of the Feasibility Period, Escrow Holder may release to Seller any and all Deposits made under this paragraph and paragraph 3(c).

(b) Closing Funds. Buyer shall deposit or cause to be deposited with Escrow Holder funds which are to be applied to the Purchase Price in the amount and at the time designated in Paragraph 10 below.

(c) Extension Deposit(s). If Buyer elects to extend this Agreement as designated in Paragraph 8 below, Buyer shall deposit, or cause to be deposited with Escrow Holder in Immediately Available Funds, the additional sum of Twenty Thousand Dollars and No/100 (\$20,000.00) per Extension. The Extension Deposit(s) shall be applied to the Purchase Price upon the Close of Escrow, shall be non-refundable to Buyer when placed into Escrow, and shall be immediately released to Seller by Escrow Holder without the need for further instructions to do so.

#### 4. Escrow.

(a) Opening of Escrow. For purposes of this Agreement, the Escrow shall be deemed opened on the date Escrow Holder shall have received a fully executed original or originally executed counterparts of this Agreement from Seller and Buyer (the "**Opening of Escrow**"), and Escrow Holder shall notify Buyer and Seller, in writing, of the date Escrow is opened. Buyer and Seller agree to execute, deliver and be bound by any reasonable or customary supplemental escrow instructions of Escrow Holder or other instruments as may reasonably be required by Escrow Holder in order to consummate the transaction contemplated by this Agreement. Any such supplemental instructions shall not conflict with, amend or supersede any portions of this Agreement. To the extent of any inconsistency between the provisions of such supplemental instructions and the provisions of this Agreement, the provisions of this Agreement shall control.

(b) Close of Escrow. For purposes of this Agreement, the “**Close of Escrow**” shall be defined as the date that the special warranty deed (“**Deed**”), the form of which is attached hereto as Exhibit “**C**”, conveying the Property to Buyer, is recorded in the Records of the Recorder’s Office for Utah County, Utah (the “**Official Records**”). This Escrow shall close within 30 business days of the end of the Feasibility Period as defined below (“**Closing Date**”), unless extended under the provisions provided by this Agreement. The period commencing with the Opening of Escrow and continuing through the Close of Escrow shall hereinafter be referred to as the “**Escrow Period.**” In the event Escrow has not closed by the Closing Date due to no fault of Seller, Seller may terminate this Agreement by written notice to Buyer and Escrow Holder, whereupon Buyer and Seller shall have no further liability to each other hereunder, except as otherwise provided for in this Agreement, including Seller’s right to liquidated damages in the event of Buyer’s breach as provided under Paragraph 17 below.

5. Condition of Title. Buyer shall have until the end of the Feasibility Period, as defined herein, to investigate any title issues. At the end of the Feasibility Period, all title issues shall be deemed resolved to the complete satisfaction of Buyer. Buyer shall take title subject to, the following condition of title (“**Condition of Title**”):

(a) a lien to secure payment of general and special real property taxes and assessments, a lien not yet due and payable;

(b) matters affecting the Condition of Title created by or with the written consent of Buyer;

(c) all matters which would be disclosed by an inspection or a survey of the Property;

(d) all exceptions which are disclosed by the “**Commitment**” described in Paragraph 6 below;

(e) all applicable laws, ordinances, rules and governmental regulations (including, but not limited to, those relative to building, zoning and land use) affecting the development, use, occupancy or enjoyment of the Property; and

(f) all interests, restrictions, easements, and rights of way, of record or of use.

6. Title Policy. Buyer shall cause the Title Company to issue a title insurance commitment (“**Commitment**”) with respect to the Property and deliver the same to Seller and to Buyer along with legible copies of all documents referred to on Schedule B, Section 2 of the Commitment (the “**Underlying Documents**”) within five (5) days following the Opening of Escrow. Title shall be evidenced by the willingness of Escrow Holder in its capacity as title insurer (“**Title Company**”) to issue its ALTA Owner’s Form Policy of Title Insurance (“**Title Policy**”) in the amount of the Purchase Price showing fee title to the Property vested in Buyer subject only to the Condition of Title.

7. Conditions to Close of Escrow.

(a) Conditions to Buyer's Obligations. Buyer's obligation to consummate the transaction contemplated by this Agreement is subject to the satisfaction of the following conditions for Buyer's benefit or Buyer's waiver thereof, it being agreed that Buyer may waive any or all of such conditions on or prior to the dates designated below for the satisfaction of such conditions.

(i) Buyer's Review of the Property, and Title. Buyer shall have until 5:00 p.m. Mountain Time on the date which is sixty days (60) following the Opening of Escrow (such period of time shall be referred to herein as the "Feasibility Period") to satisfy itself as to the following matters:

(A) Buyer's Review of the Property and Related Matters. Buyer shall be satisfied with certain aspects of the Property and its condition and suitability for Buyer's intended use thereof, including, without limitation, title to the Property, the condition of the soil, environmental matters, engineering matters, the feasibility of obtaining all developmental approvals for Buyer's intended use of the Property ("**Developmental Approvals**") from the City and any other governmental authority having jurisdiction over the Property, and the zoning of the Property. During the Feasibility Period, Buyer, its agents, employees, contractors and subcontractors shall have the right to enter upon the Property, at reasonable times during ordinary business hours following not less than twenty-four (24) hours' prior notice to Seller, to conduct such inspections, surveys and tests as may be necessary in Buyer's reasonable discretion, including, without limitation, soils tests, environmental analysis, geological and/or engineering studies and land use or related studies; provided, however, if Buyer proposes to conduct any tests in connection with any Phase II environmental report or any other tests which involve drilling, boring or other similar intrusive or invasive action on or under the Property, then Buyer shall provide Seller with at least twenty-four (24) hours' notice prior to conducting any such tests and Seller shall have the right to reasonably approve same. Buyer shall use care and consideration in connection with any of its inspections or tests and Seller shall have the right to be present during any inspection of the Property by Buyer or its agents. Buyer shall restore the Property to its original condition after any and all tests and/or inspections. If Buyer chooses to terminate the Agreement for any reason, all surveys, engineering, and studies shall be passed to Seller without obligation to Seller.

Buyer shall have until the expiration of the Feasibility Period to deliver written notice to Seller of Buyer's election to waive all conditions described in this Paragraph 7(a)(i). If Buyer fails to provide such written notice of its election to waive such conditions on or before the expiration of the Feasibility Period, such conditions described in this Paragraph 7(a)(i) shall be deemed waived. If, however, during the Feasibility Period, Buyer determines that it is dissatisfied with any aspects of the Property or its condition or suitability for Buyer's intended use, then Buyer may terminate this Agreement and the Escrow created pursuant hereto, by delivering written notice to Seller and Escrow Holder on or before the expiration of the Feasibility Period of Buyer's election to terminate. In the event of such written notice of Buyer's election to terminate, the refundable portion of the Deposit, together with any interest accrued thereon, shall be returned to Buyer within three (3) business days of such written notification. The Non-Refundable Deposit shall be retained by Seller. If this Agreement is



terminated pursuant to the provisions of this Paragraph 7(a)(i), neither party shall have any further rights or obligations hereunder.

(ii) Seller's Obligations. As of the Close of Escrow, Seller shall have performed all of the obligations required to be performed by Seller under this Agreement and Seller's representations and warranties contained in this Agreement shall still be correct.

(iii) Buyer's Obligations. As of the Close of Escrow, Buyer shall have timely performed all of the obligations required by the terms of this Agreement to be performed by Buyer and Buyer's representations and warranties contained in this Agreement shall still be correct.

8. Extension(s). Buyer may, at its sole option, extend up to two (2) times the Feasibility Period in thirty (30) day increments, provided Buyer shall notify Seller in writing at least fifteen (15) days prior to the end of the Feasibility Period and Buyer shall deposit into Escrow an additional amount as described in paragraph 3(c), for each such extension.

9. Deposits by Seller. At least one (1) business day prior to the Close of Escrow, Seller shall deposit or cause to be deposited with Escrow Holder the following documents or instruments:

- (a) Deed. The Deed duly executed by Seller and properly acknowledged; and
- (b) FIRPTA Certificate. A certificate of non-foreign status (the "FIRPTA Certificate"), duly executed by Seller, in the form attached hereto as Exhibit "D".

10. Deposits by Buyer. At least one (1) business day prior to the Close of Escrow, Buyer shall deposit or cause to be deposited with Escrow Holder, in Immediately Available Funds, the balance of the Purchase Price, and other sums due from Buyer hereunder in the amounts and at the times set forth herein as certified by Escrow Holder.

11. Costs and Expenses. The cost of the Title Policy shall be paid by Buyer, provided that Buyer shall also pay and be solely responsible for any additional premiums or other costs additional to the premium for standard coverage if Buyer elects to obtain ALTA extended coverage and/or any title endorsements to the Title Policy. The cost of any survey prepared with respect to the Property in connection with this transaction shall be paid by Buyer. The escrow fee of Escrow Holder and related costs (including, without limitation, Escrow Holder's customary charges to buyers and sellers for document drafting and miscellaneous charges) shall be paid by Buyer. Documentary and transfer taxes, recording fees and other costs not specifically allocated herein shall be paid by Buyer. If as a result of no fault of Buyer or Seller (i.e., a condition to the Close of Escrow is not satisfied or waived), Escrow fails to close, Seller shall pay all of Escrow Holder's fees and charges. Buyer and Seller shall pay their respective legal fees and costs in connection with the transaction described herein, except as expressly provided to the contrary in Paragraph 22 herein.

12. Prorations. The following prorations shall be made between Seller and Buyer on the Close of Escrow, computed as of the Close of Escrow:

- (a) None.

13. Disbursements and Other Actions by Escrow Holder. Upon the Close of Escrow, Escrow Holder shall promptly undertake all of the following in the manner indicated:

- (a) Prorations. Prorate all matters referenced in Paragraph 12 based upon the estimated closing statement approved by the parties prior to the Closing Date.

- (b) Recording. Cause the Deed and any other documents which the parties hereto may mutually direct, to be recorded in the Official Records.

- (c) Funds. Disburse from funds deposited by Buyer with Escrow Holder towards payment of all items chargeable to the account of Buyer pursuant hereto in payment of such costs, including, without limitation, the payment of the Purchase Price to Seller, and disburse the balance of such funds, if any, to Buyer.

- (c) Title Policy. Direct the Title Company to issue the Title Policy to Buyer.

- (d) Documents to Seller. Deliver to Seller a conformed copy of the recorded Deed.

- (e) Documents to Buyer. Deliver to Buyer the FIRPTA Certificate and a conformed copy of the recorded Deed.

14. Seller's Representations and Warranties. In consideration of Buyer entering into this Agreement and as an inducement to Buyer to purchase the Property from Seller, Seller makes the following representations and warranties to Buyer, each of which is material and being relied on by Buyer:

- (a) Authority. Seller has the legal right, power and authority to enter into this Agreement and to consummate the transactions contemplated hereby, and the execution, delivery and performance of this Agreement have been duly authorized and no other action by Seller is requisite to the valid and binding execution, delivery and performance of this Agreement, except as otherwise expressly set forth herein.

- (b) Material Information. Seller agrees to promptly provide copies to Buyer of (i) any written notice that Seller receives from any governmental authority that asserts any violation of law or regulation with regard to the Property; and (ii) any written notice that Seller receives from any third party that asserts any claim to or in the Property.

- (c) Material Contracts. To Seller's actual knowledge, there are no leases affecting the Property, other than as disclosed to Buyer.

- (d) Conveyance. During the term of the Agreement, Seller will not convey any interest in the Property to any other person without Buyer's consent.

(e) Actions. To Seller's actual knowledge, there are no lawsuits, governmental or administrative actions, notices of violation, or pending eminent domain proceedings affecting the Property, other than as disclosed to Buyer.

(f) Maintenance of Real Property. During the term of this Agreement, Seller will maintain the Real Property, including all of the Improvements, in substantially the same condition as of the date of this Agreement, ordinary wear and tear excepted, and shall not demolish or remove any of the existing Improvements, or erect new improvements on the Real Property or any portion thereof, without the prior written consent of Buyer.

(g) Leases. During the term of this Agreement, Seller will not amend, modify, extend, renew or terminate, nor shall Seller enter into any new lease, sublease, license or other agreement for the use or occupancy of the Real Property, without the prior written consent of Buyer.

15. Buyer's Covenants, Representations, Acknowledgments and Warranties. In consideration of Seller entering into this Agreement and as an inducement to Seller to sell the Property to Buyer, Buyer makes the following covenants, representations, acknowledgments and warranties, each of which is material and is being relied upon by Seller:

(a) Authority. Buyer has the legal right, power and authority to enter into this Agreement and to consummate the transactions contemplated hereby, and the execution, delivery and performance of this Agreement have been duly authorized and no other action by Buyer is requisite to the valid and binding execution, delivery and performance of this Agreement, except as otherwise expressly set forth herein.

(b) As Is. Buyer understands, acknowledges and agrees that it is acquiring the Property "AS IS" without any representation or warranty of Seller, express, implied or statutory, as to (i) the nature or condition of the Property (including, without limitation, utility placement and any design or natural defect of any kind or nature whatsoever), (ii) the condition of title to the Property, (iii) the Property's fitness for Buyer's intended use of same (including, without limitation, Buyer's ability to construct or otherwise develop the Property), or (iv) any other matter related to the Property, or the use of the Property, directly or indirectly. Buyer is, or as of the expiration of the Feasibility Period will be, familiar with the Property. Buyer is relying solely upon, and as of the expiration of the Feasibility Period will have conducted, its own, independent inspection, investigation and analysis of the Property as it deems necessary or appropriate in so acquiring the Property from Seller, including, without limitation, an analysis of any and all matters concerning the condition of the Property and its suitability for Buyer's intended purposes, and a review of all applicable laws, ordinances, rules and governmental regulations (including, but not limited to, those relative to building, zoning and land use) affecting the development, use, occupancy or enjoyment of the Property. The waivers and releases by Buyer herein contained shall survive the Close of Escrow and the recordation of the Deed and shall not be deemed merged into the Deed upon recordation.

(c) Limitation on Seller's Liability. Buyer represents and covenants that Seller shall not have any liability, obligation or responsibility of any kind with respect to the following:

(i) The content or accuracy of any report, study, opinion or conclusion of any soils, toxic, environmental or other engineer or other person or entity who has examined the Property or any aspect thereof;

(ii) The content or accuracy of any information released to Buyer by an engineer or planner in connection with the development of the Property;

(iii) The availability of building or other permits or approvals for the Property by any state or local governmental bodies with jurisdiction over the Property;

(iv) The availability, capacity, or placement of sewer, water or other utility connections to the Property;

(v) Any of the items delivered to Buyer pursuant to Buyer's review of the condition of the Property, including any reports or other documents which may be provided by Seller; and

(vi) The content or accuracy of any other development or construction cost, projection, financial or marketing analysis or other information given to Buyer by Seller or reviewed by Buyer with respect to the Property.

16. Hazardous Substances.

(a) Definitions. For the purposes of this Agreement, the following terms have the following meanings:

(i) **"Environmental Law"** means any law, statute, ordinance or regulation pertaining to health, industrial hygiene or the environment including, without limitation, CERCLA (Comprehensive Environmental Response, Compensation and Liability Act of 1980) and RCRA (Resources Conservation and Recovery Act of 1976).

(ii) **"Hazardous Substance"** means any substance, material or waste which is or becomes designated, classified or regulated as being "toxic" or "hazardous" or a "pollutant" or which is or becomes similarly designated, classified or regulated, under any Environmental Law, including asbestos, petroleum and petroleum products.

(iii) **"Environmental Assessment"** means an environmental assessment, review or testing of the Property performed by Buyer or any third party or consultant engaged by Buyer to conduct such study.

(b) Seller's Representations and Warranties. Seller makes no representations or warranties with regard to any Hazardous Substance or any Environmental Law, related to the Property.

(c) Indemnifications.

(i) If there are any third party claims against Seller which arise out of any release of any Hazardous Substances which became located in, on or under the Property

after the Closing, Buyer will indemnify, defend (by counsel reasonably acceptable to Seller), protect and hold Seller harmless for, from and against any and all claims, liabilities, penalties, forfeitures, losses or expenses (including attorneys' fees) arising therefrom.

(ii) As used in this Section 16(c), "third party claims" are defined as any claims or rights of recovery by any person or entity (including governmental agencies):

(A) which result from injury, damage or loss to or of any person or property; or

(B) for cost recovery, removal or remedial action.

(iii) Third party claims will also include any costs paid or payable by Seller for damage, loss, injury, investigation, removal, remediation or other liability in response to any third party claim or in anticipation of any enforcement or remedial action undertaken or threatened by any government agency or private party.

(iv) Nothing in this Section 16(c) is meant to diminish any party's rights or obligations under any federal, state or local law pertaining to or concerning Hazardous Substances; but Seller will not be liable to Buyer under this Agreement, and Buyer hereby (i) releases Seller from any and all liability under any such law, and (ii) indemnifies Seller from and against any third party claims which are attributable to any environmental condition which:

(A) was specifically described in any Phase I Report or in any Environmental Assessment obtained by Buyer;

(B) was reasonably discoverable by prudent investigation during the Feasibility Period; or

(C) was otherwise disclosed by Seller to Buyer or discovered by Buyer at any time prior to the Closing.

(v) The provisions of this Section 16(c) will survive the Close of Escrow.

(d) Environmental Assessment. If during the Feasibility Period Buyer elects to perform an Environmental Assessment:

(i) The Environmental Assessment shall be conducted pursuant to standard quality control/quality assurance procedures and in accordance with Article 16(e) Buyer shall give Seller at least two (2) business days' prior notice of any on-site testing of soil or subsurface conditions.

(ii) If any report is prepared as the result of the Environmental Assessment, such report shall be conspicuously labeled as a draft, and Buyer shall promptly give Seller a copy of the draft report for Seller's review and comments before the report is finalized. Prior to the Closing, Buyer shall keep the draft or final report and the information contained

therein confidential and shall not disclose it to any person or entity without Seller's prior written consent; provided, however, that Buyer may furnish a copy of said draft or final report to any proposed lender in connection with prosecution of an application for a mortgage loan and to any person or entity contemplating an investment in the Property as a partner or permitted assignee of Buyer, or to any consultant engaged in, or commenting upon the results of, said draft or final report.

(iii) If Buyer elects during the Feasibility Period not to acquire the Property or if the Closing fails to occur for any reason other than a default by Seller, then Buyer shall deliver all copies of the draft and final report to and they shall become the property of, Seller, and Buyer shall not disclose to any party the contents of the draft or final report except pursuant to valid legal process or with the written consent of Seller.

(iv) Any ground water, soil or other samples taken from the Property by or on behalf of Buyer will be properly disposed of by Buyer, as the generator of the material, at Buyer's sole cost and in accordance with all applicable laws including Environmental Laws.

(e) Entry. Buyer and Buyer's representatives, agents and designees will have the right, at reasonable times and upon reasonable notice to Seller (which notice must describe the scope of the planned testing and investigations) to enter upon the Property, in connection with its purchase of the Property. However, Buyer agrees that:

(i) all tests will be at Buyer's sole cost and expense;

(ii) the persons or entities performing such tests will be properly licensed and qualified and will have obtained all appropriate permits for performing such tests;

(iii) Seller will have the right, in its reasonable discretion, to approve Buyer's work plan for any proposed physical testing or drilling on or beneath the Property ("**Phase II Testing Plan**"). For purposes of this Section 16(e)(iii) the term "reasonable discretion" shall include, but not be limited to, Seller's right to withhold approval due to the potential liability of Seller or the cost or inconvenience to Seller or its tenants as a result of the proposed work performed under Phase II Testing Plan. If Seller disapproves of Buyer's Phase II Testing Plan, Buyer shall have the right to revise its Phase II Testing Plan once and submit such a revised plan to Seller for Seller's approval thereof in accordance with this Section 16. Seller's disapproval of the Phase II Testing Plan or the revised version of such plan, if any, shall not be deemed a default of Seller under this Agreement. If Seller disapproves of the Phase II Testing Plan or the revised version of such plan, if any, Buyer will have the option to cancel the Escrow by providing written notice to Seller, in which case Buyer shall be entitled to a return of the Deposit together with all interest earned thereon in Escrow, but not the Non-Refundable Deposit, and Buyer shall pay any cancellation costs incurred as a result of the cancellation of this Agreement. Seller shall be deemed to have disapproved Buyer's Phase II Testing Plan if Seller does not respond or approve such plan within four (4) business days after submission thereof to Seller;

(iv) Buyer will advise Seller in advance of the dates of all tests and will schedule all tests during normal business hours whenever feasible unless otherwise requested by Seller;

(v) Seller will have the right to have a representative of Seller accompany Buyer and Buyer's representatives, agents or designees while they are on the Property;

(vi) any entry by Buyer, its representative, agents or designees will not materially interfere with Seller's or any tenant's use of the Property;


(vii) Buyer will indemnify, defend and hold Seller harmless for, from and against any and all claims, damages, costs, liabilities and losses (including mechanics' liens) arising out of any entry by Buyer or its agents, designees or representatives; and

(viii) Buyer will restore the Property at Buyer's sole cost and expense if this transaction does not close. Until restoration is complete, Buyer will take all steps necessary to ensure that any conditions on the Property created by Buyer's testing will not materially interfere with the normal operation of the Property or create any dangerous, unhealthy, unsightly or noisy conditions on the Property.

In addition, prior to any entry involving physical testing, drilling or other physical disturbance, Seller may require Buyer to provide Seller with proof of comprehensive or commercial general liability insurance covering Buyer or its consultant or contractor performing the work, which insurance shall include, but not be limited to, completed operations and broad form property damage coverage and which shall name Seller as an additional insured. Seller may also require Buyer or its consultant or contractor performing the work to obtain pollution liability insurance which shall include, but not be limited to, specific coverage for removal, remediation, cleanup and disposal of hazardous or nonhazardous materials. The insurers and the amounts and coverages of such policies shall be satisfactory to Seller. This provision will survive the Closing or any earlier termination of this Agreement.


17. LIQUIDATED DAMAGES. IF BUYER COMMITS A DEFAULT UNDER THIS AGREEMENT, THEN IN ANY SUCH EVENT, ESCROW HOLDER MAY BE INSTRUCTED BY SELLER TO CANCEL THE ESCROW AND SELLER SHALL THEREUPON BE RELEASED FROM ITS OBLIGATIONS HEREUNDER. BUYER AND SELLER AGREE THAT BASED UPON THE CIRCUMSTANCES NOW EXISTING, KNOWN AND UNKNOWN, IT WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO ESTABLISH SELLER'S DAMAGE BY REASON OF BUYER'S DEFAULT UNDER THIS AGREEMENT. ACCORDINGLY, BUYER AND SELLER AGREE THAT IN THE EVENT OF DEFAULT BY BUYER UNDER THIS AGREEMENT, IT WOULD BE REASONABLE AT SUCH TIME TO AWARD SELLER, AS SELLER'S SOLE AND EXCLUSIVE REMEDY AT LAW, "LIQUIDATED DAMAGES" EQUAL TO (I) THE AMOUNT REPRESENTED BY THE DEPOSIT (AS DEFINED IN PARAGRAPH 3(a) HEREOF) PLUS ANY AND ALL ACCRUED INTEREST THEREON AND (II) ANY AND ALL AMOUNTS FOR WHICH BUYER HAS INDEMNIFIED SELLER HEREIN. THEREFORE, IF BUYER COMMITS A DEFAULT UNDER THIS AGREEMENT, SELLER

MAY INSTRUCT THE ESCROW HOLDER TO CANCEL THE ESCROW WHEREUPON ESCROW HOLDER SHALL IMMEDIATELY PAY OVER TO SELLER THE DEPOSIT TOGETHER WITH ALL INTEREST ACCRUED THEREON, AND SELLER SHALL BE RELIEVED FROM ALL OBLIGATIONS AND LIABILITIES HEREUNDER, AND, PROMPTLY FOLLOWING ESCROW HOLDER'S RECEIPT OF SUCH INSTRUCTION, ESCROW HOLDER SHALL CANCEL THE ESCROW. SELLER AND BUYER ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THE PROVISIONS OF THIS PARAGRAPH 17 AND BY THEIR INITIALS IMMEDIATELY BELOW AGREE TO BE BOUND BY ITS TERMS.

  
\_\_\_\_\_  
Buyer's Initials

  
\_\_\_\_\_  
Seller's Initials

18. BUYER'S REMEDIES. IF SELLER SHALL FAIL TO CONVEY THE PROPERTY TO BUYER IN ACCORDANCE WITH THE PROVISIONS OF THIS AGREEMENT, AND SUCH FAILURE CONSTITUTES A DEFAULT HEREUNDER, THEN BUYER'S SOLE REMEDY SHALL BE LIMITED TO (I) THE REFUND OF THE DEPOSIT AND ALL INTEREST ACCRUED THEREON WHILE IN ESCROW, AND (II) THE REIMBURSEMENT OF BUYER'S ACTUAL REASONABLE OUT-OF-POCKET EXPENSES FOR ENGINEERING AND DEVELOPMENT COSTS REIMBURSEMENT OF WHICH SHALL IN NO EVENT EXCEED THE SUM OF FIVE THOUSAND DOLLARS (\$5,000.00). BUT BUYER SHALL NOT HAVE THE RIGHT TO RECEIVE ANY EQUITABLE RELIEF, INCLUDING, WITHOUT LIMITATION, THE RIGHT TO RECORD A LIS PENDENS AGAINST THE PROPERTY UNDER APPLICABLE LAW, OR TO PURSUE THE SPECIFIC PERFORMANCE OF THIS AGREEMENT NOR SHALL BUYER HAVE THE RIGHT TO PURSUE AN ACTION FOR DAMAGES. SELLER AND BUYER ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THE PROVISIONS OF THIS PARAGRAPH 18 AND BY THEIR INITIALS IMMEDIATELY BELOW AGREE TO BE BOUND BY ITS TERMS.

  
\_\_\_\_\_  
Buyer's Initials

  
\_\_\_\_\_  
Seller's Initials

19. Damage or Condemnation Prior to Closing. Seller shall promptly notify Buyer of any casualty to the Property or any condemnation proceeding commenced prior to the Close of Escrow. If any such damage or proceeding relates to or may result in the loss of any material portion of the Property (other than buildings or other structures located on the Property, which are excluded from the operation of this Section 19), Seller or Buyer may, at their option, elect either to: (i) terminate this Agreement, in which event all funds deposited into Escrow, together with any interest accrued thereon, by Buyer shall be returned to Buyer and neither party shall have any further rights or obligations hereunder, or (ii) continue the Agreement in effect, in which event, upon the Close of Escrow, Buyer shall be entitled to any compensation, awards, or other payments or relief resulting from such casualty or condemnation proceeding relating to the Property and there shall be no adjustment to the Purchase Price.

20. Notices. All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered or sent by certified mail, postage prepaid,



return receipt requested, or overnight delivery for next business day delivery and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if mailed, upon receipt or refusal to accept delivery as indicated on the return receipt, or (iii) if delivered by Federal Express or other overnight courier for next business day delivery, the business day immediately following the date sent.

To Buyer: PEG Development, LLC  
Attention: Cameron Gunter  
180 N University Ave, Suite 200  
Provo, UT 84601  
  
Telephone: (801) 655-1998  
Facsimile: (801) 655-0729

With a Copy To: Law Office of Steven W. Farnsworth, P.C.  
  
180 N University Ave, Suite 260  
Provo, UT 84601  
Attn: Steven W. Farnsworth, Esq.  
Telephone: (801) 437-4565  
Facsimile: (801) 437-4566  
email: [steven.farnsworth@swflaw.net](mailto:steven.farnsworth@swflaw.net)

To Seller:: Utah County  
Attn: Gary J. Anderson, Chair  
Board of County Commissioners  
100 East Center Street, Suite 2300  
Provo, UT 84606  
Telephone: (801) 851-8135  
Facsimile: (801) 851-8146

With a Copy To: David H. Shawcroft  
Deputy Utah County Attorney  
100 East Center, Suite 2400  
Provo, UT 84606  
Telephone: (801) 851-8001  
Facsimile: (801) 851-8009

To Escrow Holder: First American Title Company  
Attn: Anna Irons  
215 South State Street  
Ste. 380  
Salt Lake City, UT 84111  
Telephone: (801) 536-3100  
Facsimile: (866) 344-5051

Notice of change of address shall be given by written notice in the manner detailed in this Paragraph 20. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or communication sent.

21. Brokers. Buyer and Seller recognize that neither the Seller nor the Buyer are represented by any broker. If any claims for brokers' or finders' fees for the consummation of this Agreement arise, then Buyer hereby agrees to indemnify, save harmless and defend Seller from and against such claims if they shall be based upon any statement or representation or agreement by Buyer, and Seller hereby agrees to indemnify, save harmless and defend Buyer if such claims shall be based upon any statement, representation or agreement made by Seller.

22. Legal Fees. In the event of the bringing of any action or suit by a party hereto against another party hereunder by reason of any breach of any of the covenants or agreements or any inaccuracies in any of the representations and warranties on the part of the other party arising out of this Agreement, then in that event, the prevailing party in such action or dispute, whether by final judgment, or out of court settlement shall be entitled to have and recover of and from the other party all costs and expenses of suit, including reasonable attorneys' fees. Any judgment or order entered in any final judgment shall contain a specific provision providing for the recovery of all costs and expenses of suit, including reasonable attorneys' fees (collectively "Costs") incurred in enforcing, perfecting and executing such judgment. For the purposes of this paragraph, Costs shall include, without limitation, attorneys' fees, costs and expenses incurred in the following (i) post-judgment motions; (ii) contempt proceeding; (iii) garnishment, levy, and debtor and third party examination; (iv) discovery; and (v) bankruptcy litigation.

23. Assignment. Buyer shall not assign, transfer or convey its rights and/or obligations under this Agreement and/or with respect to the Property without the prior written consent of Seller, which consent Seller may not unreasonably withhold. Any attempted assignment without the prior written consent of Seller shall be void and Buyer shall be deemed in default hereunder. Any permitted assignments by Buyer shall not relieve the assigning party from its liability under this Agreement.

24. 1031 Exchange. Seller and Buyer acknowledge and agree that the purchase and sale of the Property may be part of a tax-free exchange under Section 1031 of the Internal Revenue Code for either Buyer or Seller. Each party hereby agrees to take all reasonable steps on or before the Close of Escrow to facilitate such exchange if requested by the other party, provided that (a) no party making such accommodation shall be required to acquire any substitute property, (b) such exchange shall not affect the representations, warranties, liabilities and obligations of the parties to each other under this Agreement, (c) no party making such accommodation shall incur any additional cost, expense or liability in connection with such exchange (other than expenses of reviewing and executing documents required in connection with such exchange), and (d) no dates in this Agreement will be extended as a result thereof.

25. Miscellaneous.

(a) Survival of Covenants. The covenants, representations and warranties of Buyer and Seller set forth in this Agreement shall survive the recordation of the Deed and the Close of Escrow and shall not be deemed merged into the Deed upon its recordation.

- (b) Required Actions of Buyer and Seller. Buyer and Seller agree to execute such instruments and documents and to diligently undertake such actions as may be required in order to consummate the purchase and sale herein contemplated and shall use good faith efforts to accomplish the Close of Escrow in accordance with the provisions hereof.
- (c) Time of Essence. Time is of the essence of each and every term, condition, obligation and provision hereof.
- (d) Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.
- (e) Captions; Interpretation. Any captions to, or headings of, the paragraphs or subparagraphs of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof. The use of the terms "hereof," "herein," and "hereunder" shall mean and refer to this Agreement as a whole, unless the context expressly requires otherwise. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party or parties causing this Agreement to be drafted.
- (f) No Obligations to Third Parties. Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the parties thereto, to any person or entity other than the parties hereto.
- (g) Exhibits. The Exhibits attached hereto are hereby incorporated herein by this reference for all purposes.
- (h) Amendment to this Agreement. The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.
- (i) Waiver. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.
- (j) Fees and Other Expenses. Except as otherwise provided herein, each of the parties shall pay its own fees and expenses in connection with this Agreement.
- (k) Entire Agreement. This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between Buyer and Seller as to the subject matter hereof. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of either party shall be of any effect unless it is in writing and executed by the party to be bound thereby.
- (l) Partial Invalidity. If any portion of this Agreement, as applied to either party or to any circumstances, shall be adjudged by a court to be void or unenforceable, such

portion shall be deemed severed from this Agreement and shall in no way effect the validity or enforceability of the remaining portions of this Agreement.

(m) Successors and Assigns. Subject to the provisions of Paragraph 23 hereof, this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

(n) Business Days. In the event any date described in this Agreement relative to the performance of actions hereunder by Buyer, Seller and/or Escrow Holder falls on a Saturday, Sunday or legal holiday, such date shall be deemed postponed until the next business day thereafter.

(o) Submission of Document. Submission of this Agreement to Buyer for examination or signature does not constitute a reservation, right or option to purchase the Property, and will not be effective as a binding purchase and sale agreement or otherwise until full execution by and delivery to both Buyer and Seller.

(p) Non-Liability. Buyer hereby acknowledges and agrees it is an express condition upon which this Agreement is made by Seller that no officer, trustee or beneficiary of Seller executing this Agreement shall ever be made personally liable for the obligations of Seller hereunder.

(q) Approval of Use and Design. Buyer represents and warrants to Seller that Buyer will construct, or cause to be constructed, improvements to the Property consisting of mixed use residential and business units, in relative conformance with the concept plans attached hereto as Exhibit "B" ("Concept Plans"). A portion of the consideration received by Seller for the sale of the Property is the ability to control the development of the Property, to both enhance the downtown Provo City area and to enhance the Seller's adjacent properties. Seller retains the right to approve or disapprove all uses of the Property and the right to approve or disapprove the design of all structures to be built on the Property. This right to approve or disapprove shall not be unreasonably withheld by Seller. Seller acknowledges that Buyer is required to design and construct the development in accordance with the Provo City Code. Buyer shall proceed with all reasonable diligence to develop the Property and shall provide all proposed design plans, concept floor plans, site plans, detailed elevations with exterior material specs, and use plans to the Seller. The plans shall be delivered to the Seller subsequent to the final approval from Provo City. Seller shall have a period of not less than 30 days from the date of receipt of such plans to review and approve or deny the design plans, concept floor plans, site plans, detailed elevations with exterior material specs and proposed uses of the property. The plans shall include sufficient detail to allow the Seller to reasonably visualize the architectural characteristics of all improvements, including finishing materials, textures, and colors. The Buyer shall not commence construction of any improvements on the Property until the Seller has approved the plans for such construction, in writing. For any reason of denial, Seller shall provide Buyer with an explanation as to the denial and a general description of the remedy which is desired. Seller acknowledges that any requested remedy cannot violate the Provo City Code. In the event that the Buyer objects to the proposed remedy, the Seller will consider any reasonable alternative remedy proposed by the Buyer. Construction shall be in accordance with the Seller approved plans, however Seller will allow for slight modifications either prior to or during construction

provided such changes are first approved by the Seller, in writing. Such approval shall not be unreasonably denied. In the event that the Buyer defaults in the strict performance of the provisions related to this Subsection 25(q), the Seller shall be entitled to exercise all remedies available at law or in equity, including the right of specific performance. Notwithstanding anything contained in this Agreement to the contrary, the provisions of this subsection 25(q) shall survive the Closing and shall not merge with the Deed.

(r) **Option to Re-purchase.** In the event that Buyer has not both (i) obtained Seller approved building permits from Provo City, and (ii) commenced construction of Seller approved structures on more than 30% of the surface area of the Property (pouring of concrete footings and foundations), prior to July 1, 2015, Seller shall have the option, at its sole discretion, to re-purchase the Property from the Buyer. Buyer shall, within 30 days of receipt of a written request from the Seller, re-convey the Property to Seller, free and clear of all liens and encumbrances, by Warranty Deed, and Buyer, at Buyer's expense, shall provide an extended coverage Owner's Title Insurance Policy, to Seller, in the amount of the Purchase Price. All costs and fees associated with the re-conveyance shall be paid by Buyer. In the event that Seller elects to demand a re-conveyance, Seller shall refund to Buyer the net proceeds obtained by Seller at the closing of the sale of the Property. In the event that the Buyer defaults in the strict performance of the provisions related to this Option to Re-purchase, the Seller shall be entitled to exercise all remedies available at law or in equity, including the right of specific performance of this Option to Re-purchase. Notwithstanding anything contained in this Agreement to the contrary, the provisions of this subsection 25(r) shall survive the Closing and shall not merge with the Deed.

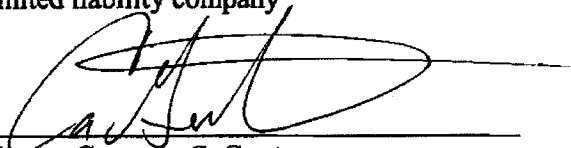
(s) **Additional Property and Option to Re-Purchase.** Seller is the record owner of that certain real property identified by tax serial number 05:013:0017, adjacent to the Property, and consisting of approximately 228 square feet in area, which Seller obtained by Quit Claim Deed, entry no. 20171:2005 (the "Quit Claim Property"). Without additional consideration received by Seller, and as a part of the transaction for the sale of the Property, Seller shall convey the Quit Claim Property to Buyer. At least one (1) business day prior to the Close of Escrow, Seller shall deposit or cause to be deposited with Escrow Holder the Quit-Claim Deed, in the form attached hereto as Exhibit "E", duly executed by Seller and properly acknowledged. All of the "Buyer's Covenants, Representations, Acknowledgments and Warranties" as set forth in section 15, and all of Buyer's indemnification obligations related to the Property, shall be equally applicable to the Property and to the Quit Claim Property. Seller shall have the option to re-purchase the Quit Claim Property, pursuant to the same provisions as contained in subsection 25(r) for the Property. In the event that the Seller's option to re-purchase the Property is triggered, as described in subsection 25(r), and Seller elects to re-purchase the Property, the election to re-purchase shall be deemed to include the Quit Claim Property. All references to the Property, as contained in subsection 25(q) and subsection 25(r), shall be deemed to include both the Property and the Quit Claim Property. In the event that the Buyer defaults in the strict performance of the provisions related to this Option to Re-purchase, the Seller shall be entitled to exercise all remedies available at law or in equity, including the right of specific performance of this Option to Re-purchase. Notwithstanding anything contained in this Agreement to the contrary, the provisions of this subsection 25(s) shall survive the Closing and shall not merge with the Quit Claim Deed.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

“BUYER”

PEG DEVELOPMENT, LLC,  
a Utah limited liability company

By: \_\_\_\_\_



Name: Cameron S. Gunter  
Its: Manager

“SELLER”

BOARD OF COUNTY COMMISSIONERS,  
UTAH COUNTY, UTAH

By: \_\_\_\_\_



Name: LARRY E. ELLERTSON  
Its: VICE CHAIR

ATTEST:  
BRYAN E. THOMPSON  
Utah County Clerk/Auditor

By: \_\_\_\_\_

  
Deputy Clerk/Auditor

APPROVED AS TO FORM:  
JEFFERY BUHMAN  
Utah County Attorney

By: \_\_\_\_\_

  
Deputy Utah County Attorney

**Acceptance by Escrow Holder:**

Anna Tramm hereby acknowledges that it has received originally executed counterparts or a fully executed original of the foregoing Agreement of Purchase and Sale and Joint Escrow Instructions and agrees to act as Escrow Holder thereunder and to be bound by and perform the terms thereof as such terms apply to Escrow Holder.

Dated: 6-2, 2004 \_\_\_\_\_

By: Anna Tramm  
Print Name: escrow officer  
Its Authorized Agent

**EXHIBIT A****LEGAL DESCRIPTION OF LAND****PARCEL 1:**

COMMENCING AT NORTHWEST CORNER OF BLOCK 13, PLAT "B", PROVO CITY SURVEY; THENCE EAST 92 FEET; THENCE SOUTH 102 FEET; THENCE WEST 92 FEET; THENCE NORTH 102 FEET TO BEGINNING.

**PARCEL 2:**

COMMENCING 92 FEET EAST OF NORTHWEST CORNER OF BLOCK 13, PLAT "B", PROVO CITY SURVEY; THENCE EAST 49.50 FEET; THENCE SOUTH 189.52 FEET; THENCE WEST 25 FEET; THENCE NORTH 45° EAST 17 FEET; THENCE NORTH 57.85 FEET; THENCE NORTH 45° WEST 1.41 FEET; THENCE WEST 35.50 FEET; THENCE NORTH 119.02 FEET TO BEGINNING.

**PARCEL 3:**

COMMENCING 141.5 FEET EAST FROM NORTHWEST CORNER OF BLOCK 13, PLAT "B", PROVO CITY SURVEY; THENCE EAST 58.34 FEET; THENCE SOUTH ALONG THE EAST LINE OF LOT 5, 199.52 FEET TO SOUTH LINE OF LOT 4; THENCE WEST 58.34 FEET; THENCE NORTH 199.52 FEET TO BEGINNING.

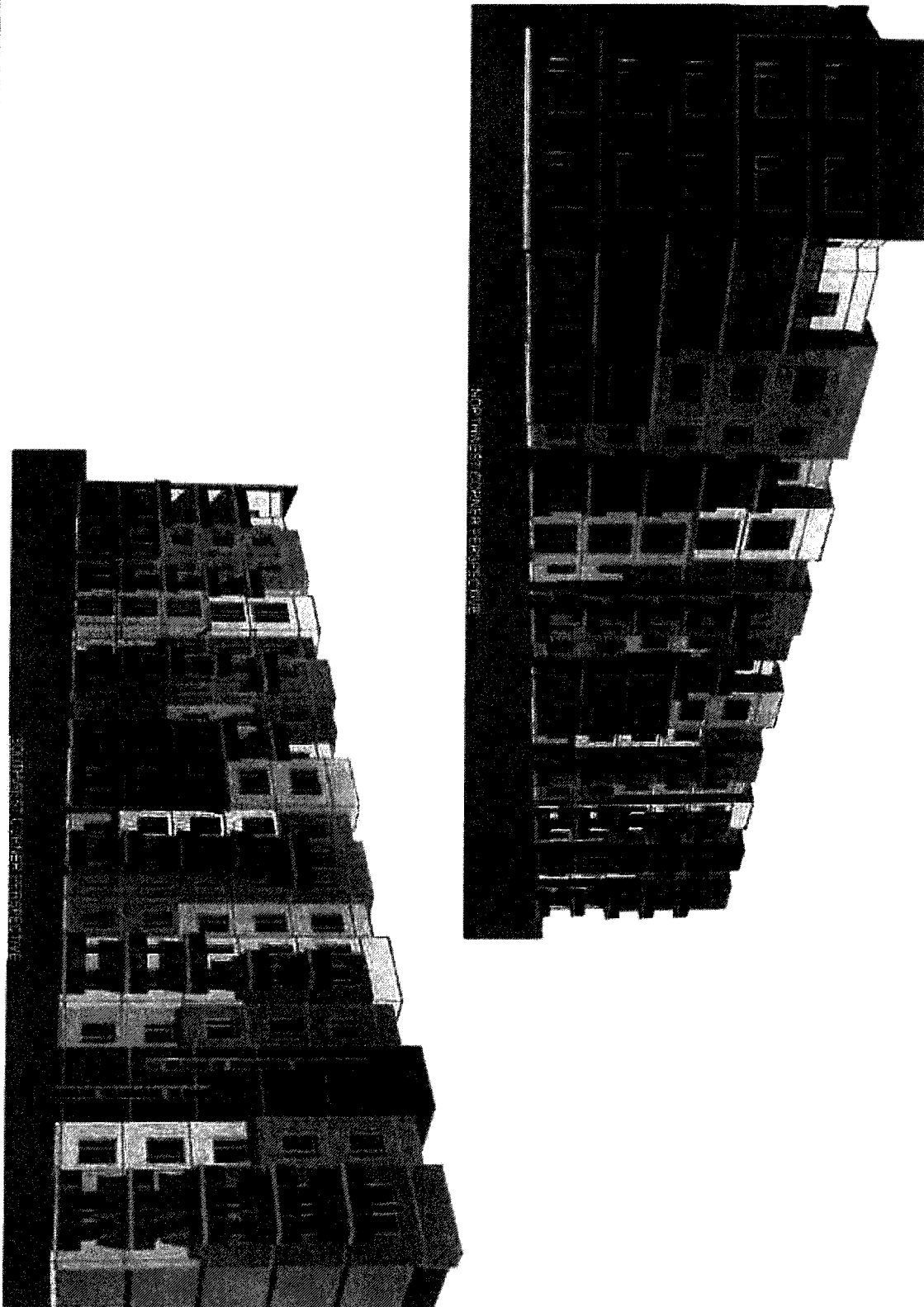
**PARCEL 4:**

COMMENCING AT NORTHWEST CORNER OF LOT 6, BLOCK 13, PLAT "B", PROVO CITY SURVEY; THENCE EAST 3 RODS; THENCE SOUTH 12 RODS; THENCE WEST 3 RODS; THENCE NORTH 12 RODS TO BEGINNING.

LESS AND EXCEPTING FROM PARCELS 1, 2, 3, AND 4, AS DESCRIBED ABOVE, ALL OF THOSE PORTIONS CONTAINED IN THE QUIT CLAIM DEED RECORDED FEBRUARY 28, 2005 AS ENTRY NO. 20172:2005 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF A PARCEL, DESCRIBED IN A SPECIAL WARRANTY DEED RECORDED UNDER ENTRY #6432-92, SAID CORNER BEING MORE SPECIFICALLY DESCRIBED AS BEING LOCATED SOUTH 102.00 FEET FROM THE NORTHWEST CORNER OF BLOCK #13 IN PLAT "B" OF PROVO CITY SURVEY OF BUILDING LOTS, SAID POINT ALSO BEING ON THE WESTERLY BOUNDARY OF SAID BLOCK #13, THENCE THE FOLLOWING ALONG SAID PARCELS: EAST 92.00 FEET; SOUTH 17.02 FEET; EAST 35.50 FEET; SOUTH 45° EAST 1.41 FEET; SOUTH 57.50 FEET; THENCE DEPARTING FROM SAID DEED, SOUTH 42° 03' 41" WEST 14.84 FEET TO A GATE POST; THENCE SOUTH 00°38'18" EAST 10.98 FEET TO ANOTHER GATE POST; THENCE WEST 118.67 FEET ALONG THE SOUTHERLY BOUNDARY OF LOT #4 OF BLOCK #13 TO THE SOUTHWEST CORNER OF SAID LOT #4; THENCE NORTH 97.52 FEET ALONG THE WESTERLY BOUNDARY OF SAID BLOCK #13 TO THE POINT OF BEGINNING.



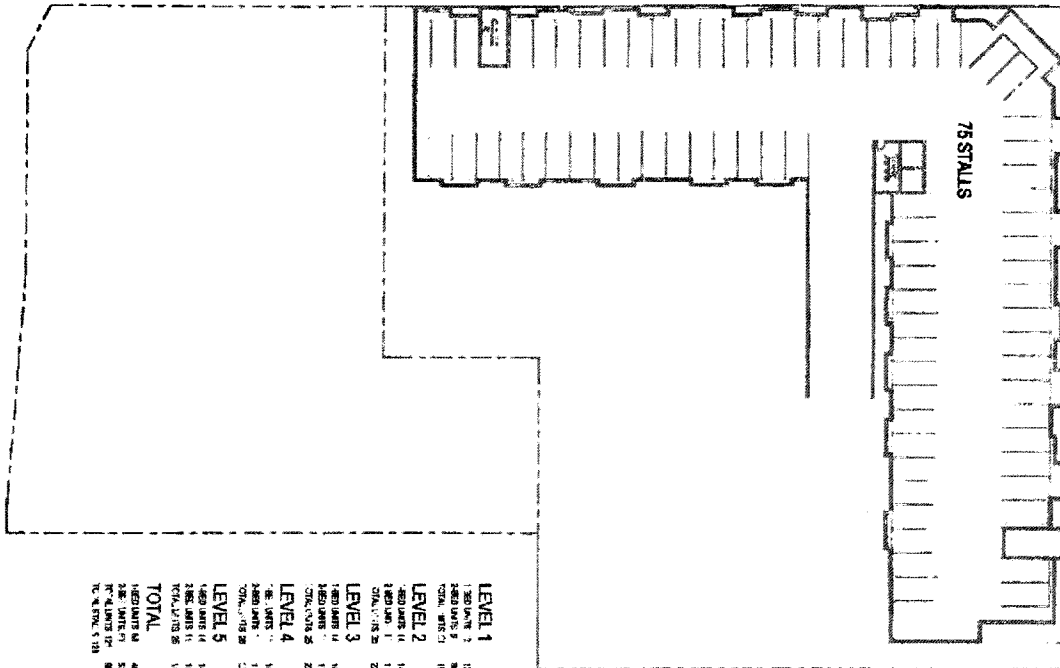
**EXHIBIT B**  
**CONCEPT PLANS**



PRELIMINARY - NOT FOR CONSTRUCTION

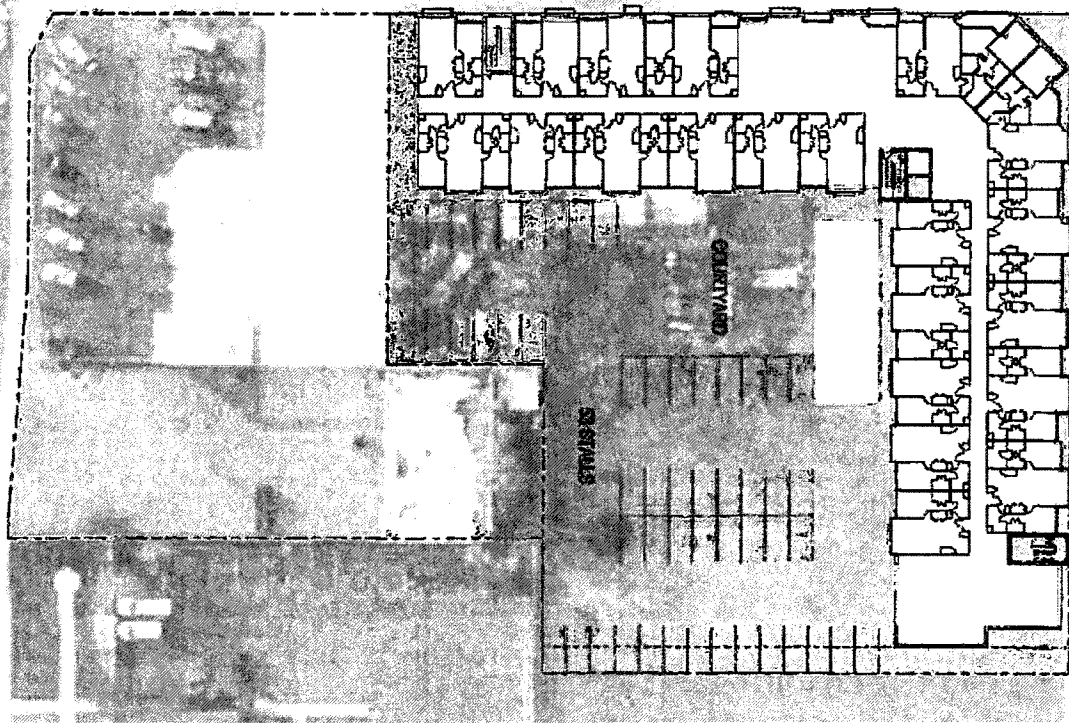
C:\WORK\PROJECTS\TEMPLE VIEW AP75\CONSTRUCTION DRAWING\CD\0303.dwg Plot Date: 11/11/14 11:11:11 AM

SUBTERRANEAN PARKING LEVEL



<b>LEVEL 1</b>	1,800 LAMINATE	1,800 SQ. FT.
<b>LEVEL 2</b>	1,800 LAMINATE	1,800 SQ. FT.
<b>LEVEL 3</b>	1,800 LAMINATE	1,800 SQ. FT.
<b>LEVEL 4</b>	1,800 LAMINATE	1,800 SQ. FT.
<b>LEVEL 5</b>	1,800 LAMINATE	1,800 SQ. FT.
<b>TOTAL</b>	9,000 LAMINATE	9,000 SQ. FT.

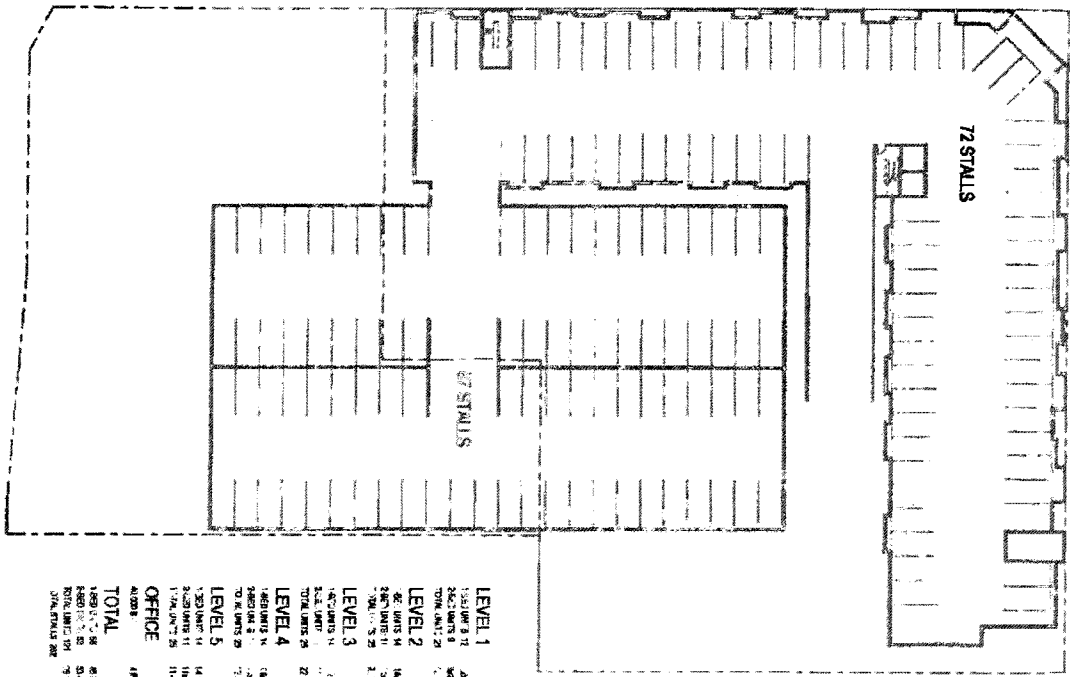
GRADE LEVEL



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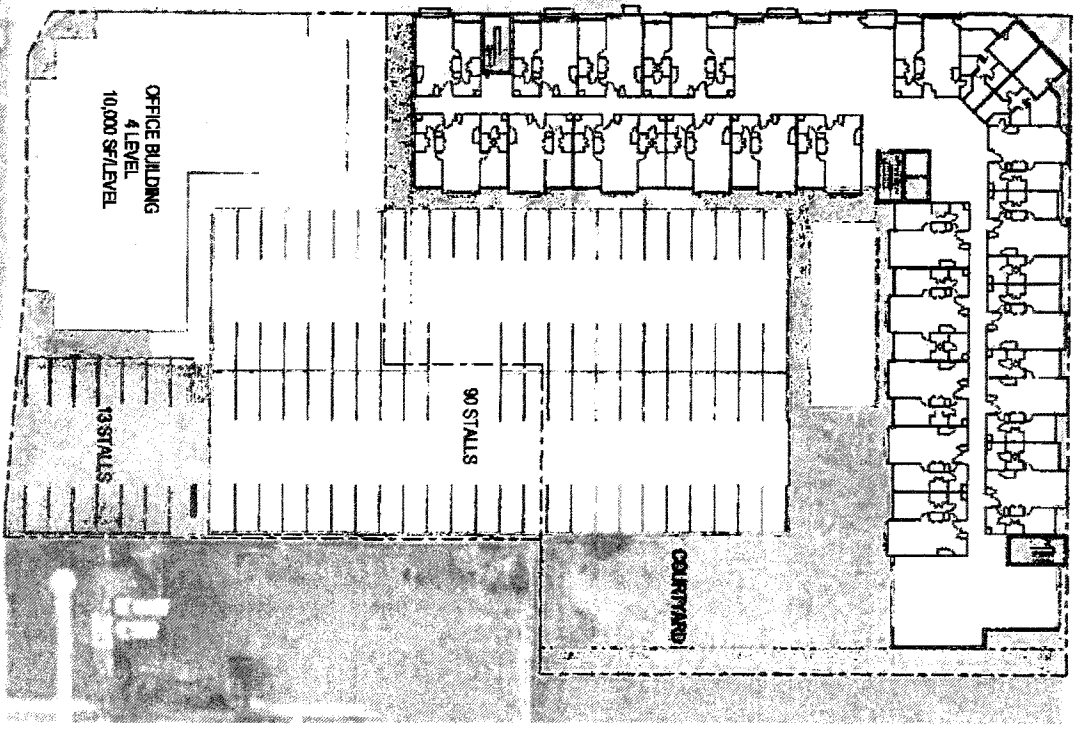
3/20/14 11:51:57 AM

SUBTERRANEAN PARKING LEVEL



- LEVEL 1**  
1,350 SQ FT  
242 UNITS IN  
TOTAL UNIT 28
- LEVEL 2**  
42 UNITS IN  
242 UNITS IN  
TOTAL UNIT 28
- LEVEL 3**  
1,350 SQ FT  
242 UNITS IN  
TOTAL UNIT 28
- LEVEL 4**  
1,350 SQ FT  
242 UNITS IN  
TOTAL UNIT 28
- LEVEL 5**  
1,350 SQ FT  
242 UNITS IN  
TOTAL UNIT 28
- OFFICE**  
14,124 SQ FT  
14,124 SQ FT  
TOTAL UNIT 28
- TOTAL**  
1,350 SQ FT  
242 UNITS IN  
TOTAL UNIT 28

GRADE LEVEL



**EXHIBIT C**

**DEED**

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Law Offices of Steven W. Farnsworth  
180 N University Ave, Suite 260  
Provo, UT 84601  
MAIL TAX NOTICE TO:  
PEG Development  
180 N University Ave, Suite 200  
Provo, UT 84601

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

**SPECIAL WARRANTY DEED**

**UTAH COUNTY**, a separate body politic with an address of 100 East Center, Provo, Utah 84606, Grantor, hereby **CONVEYS** and **WARRANTS** against all who claim by, through, or under the Grantor, to **PEG DEVELOPMENT, LLC**, a Utah limited liability company, Grantee, of 180 North University Avenue, Suite 200, Provo, Utah 84601, for the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the following described tract of land (for taxing purposes designated Tax Parcel Serial Nos. 05:013:0010, 05:013:0019, 05:013:0008 and 05:013:0011) in Utah County, State of Utah, to wit:

**PARCEL 1:**  
COMMENCING AT NORTHWEST CORNER OF BLOCK 13, PLAT "B", PROVO CITY SURVEY;  
THENCE EAST 92 FEET; THENCE SOUTH 102 FEET; THENCE WEST 92 FEET; THENCE NORTH  
102 FEET TO BEGINNING.

**PARCEL 2:**  
COMMENCING 92 FEET EAST OF NORTHWEST CORNER OF BLOCK 13, PLAT "B", PROVO CITY  
SURVEY; THENCE EAST 49.50 FEET; THENCE SOUTH 189.52 FEET; THENCE WEST 25 FEET;  
THENCE NORTH 45° EAST 17 FEET; THENCE NORTH 57.85 FEET; THENCE NORTH 45° WEST  
1.41 FEET; THENCE WEST 35.50 FEET; THENCE NORTH 119.02 FEET TO BEGINNING.

**PARCEL 3:**  
COMMENCING 141.5 FEET EAST FROM NORTHWEST CORNER OF BLOCK 13, PLAT "B", PROVO  
CITY SURVEY; THENCE EAST 58.34 FEET; THENCE SOUTH ALONG THE EAST LINE OF LOT 5,  
199.52 FEET TO SOUTH LINE OF LOT 4; THENCE WEST 58.34 FEET; THENCE NORTH 199.52  
FEET TO BEGINNING.

**PARCEL 4:**  
COMMENCING AT NORTHWEST CORNER OF LOT 6, BLOCK 13, PLAT "B", PROVO CITY SURVEY;  
THENCE EAST 3 RODS; THENCE SOUTH 12 RODS; THENCE WEST 3 RODS; THENCE NORTH 12  
RODS TO BEGINNING.

LESS AND EXCEPTING FROM PARCELS 1, 2, 3, AND 4, AS DESCRIBED ABOVE, ALL OF THOSE PORTIONS CONTAINED IN THE QUIT CLAIM DEED RECORDED FEBRUARY 28, 2005 AS ENTRY NO. 20172:2005 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF A PARCEL, DESCRIBED IN A SPECIAL WARRANTY DEED RECORDED UNDER ENTRY #6432-92, SAID CORNER BEING MORE SPECIFICALLY DESCRIBED AS BEING LOCATED SOUTH 102.00 FEET FROM THE NORTHWEST CORNER OF BLOCK #13 IN PLAT "B" OF PROVO CITY SURVEY OF BUILDING LOTS, SAID POINT ALSO BEING ON THE WESTERLY BOUNDARY OF SAID BLOCK #13, THENCE THE FOLLOWING ALONG SAID PARCELS: EAST 92.00 FEET; SOUTH 17.02 FEET; EAST 35.50 FEET; SOUTH 45° EAST 1.41 FEET; SOUTH 57.50 FEET; THENCE DEPARTING FROM SAID DEED, SOUTH 42° 03' 41" WEST 14.84 FEET TO A GATE POST; THENCE SOUTH 00°38'18" EAST 10.98 FEET TO ANOTHER GATE POST; THENCE WEST 118.67 FEET ALONG THE SOUTHERLY BOUNDARY OF LOT #4 OF BLOCK #13 TO THE SOUTHWEST CORNER OF SAID LOT #4; THENCE NORTH 97.52 FEET ALONG THE WESTERLY BOUNDARY OF SAID BLOCK #13 TO THE POINT OF BEGINNING.

The above described parcels are conveyed subject to interests, easements, and rights of way of record or of use and subject to all items listed in Schedule B, Section 2 of the Commitment for Title Insurance issued by First American Title Company dated February 20, 2014, Order No. NCS-657565-SLC1, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference.

Subject to and reserving unto the Grantor the right to approve or disapprove all uses of the above described parcels and the right to approve or disapprove the design of all structures to be built on the above described parcels; and further reserving unto the Grantor the Option to Re-purchase the above described parcels, all as set forth in that certain Agreement of Purchase and Sale dated the \_\_\_\_\_ day of \_\_\_\_\_, 2014, a copy of which is attached hereto as Exhibit "B" and incorporated herein by this reference.

WITNESS the hand of said Grantor, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

UTAH COUNTY

\_\_\_\_\_  
Bryan E. Thompson  
Utah County Clerk/Auditor

STATE OF UTAH            )  
                                  : ss.  
COUNTY OF UTAH        )

On the \_\_\_\_ day of \_\_\_\_\_, 2014, personally appeared before me Bryan E. Thompson, who, being by me duly sworn, did say that he is the Clerk/Auditor of Utah County, that said instrument was signed in behalf of Utah County as authorized pursuant to a motion by the Board of County Commissioners of Utah County, and said Bryan E. Thompson acknowledged to me that Utah County executed the same.

\_\_\_\_\_  
Notary Public



# COMMITMENT FOR TITLE INSURANCE

## ISSUED BY

**First American Title Insurance Company National Commercial Services**  
215 South State Street, Ste. 380, Salt Lake City, UT 84111  
Phone: (801)536-3100 | Fax: (866)344-5051

PEG Development  
Attr: Soren Halladay  
180 North University Avenue , Suite 200  
Provo , UT 84601

March 07, 2014  
Order Number: NCS-657575-SLC1  
Ref No. APN 05-013-0010, 05-013-0019, 05-013-0008, 05-013

\*\*\*

RE: Proposed Owner/Applicant:

We agree to issue a policy to you according to the terms of this Commitment. When we show the policy amount and your name as the proposed insured in Schedule A, this Commitment becomes effective as of the Commitment Date shown in Schedule A.

If the Requirements shown in this Commitment have not been met within six months after the Commitment Date, our obligation under this Commitment will end. Also, our obligation under this Commitment will end when the Policy is issued and then our obligation to you will be under the Policy.

Our obligation under this commitment is limited by the following:

- The Provisions in Schedule A.
- The Requirements in Schedule B-1.
- The Exceptions in Schedule B-2.
- The Conditions on the inside cover page.

The Commitment is not valid with out SCHEDULE A and Sections 1 and 2 of SCHEDULE B.

Underwritten by:

First American Title Insurance Company



Dennis J. Gilmore  
President



Timothy Kemp  
Secretary



**SCHEDULE A**

**ESCROW/CLOSING INQUIRIES** should be directed to your Escrow Officer: Anna Irons at (801)536-3100 located at 215 South State Street, Ste. 380, Salt Lake City, UT 84111.

Effective Date: February 20, 2014 at 7:30 a.m.

1. Policy or (Policies) to be issued:

ALTA 2006 Standard Owner's for \$0.00 PREMIUM \$

Proposed Insured:

Endorsements PREMIUM \$

2. The estate or interest in the land described or referred to in this commitment and covered herein is fee simple and title thereto is at the effective date hereof vested in:

Utah County, a body corporate and politic

3. The land referred to in this Commitment is located in Utah County, UT and is described as:

PARCEL 1:

COMMENCING AT NORTHWEST CORNER OF BLOCK 13, PLAT "B", PROVO CITY SURVEY; THENCE EAST 92 FEET; THENCE SOUTH 102 FEET; THENCE WEST 92 FEET; THENCE NORTH 102 FEET TO BEGINNING.

PARCEL 2:

COMMENCING 92 FEET EAST OF NORTHWEST CORNER OF BLOCK 13, PLAT "B", PROVO CITY SURVEY; THENCE EAST 49.50 FEET; THENCE SOUTH 189.52 FEET; THENCE WEST 25 FEET; THENCE NORTH 45? EAST 17 FEET; THENCE NORTH 57.85 FEET; THENCE NORTH 45? WEST 1.41 FEET; THENCE WEST 35.50 FEET; THENCE NORTH 119.02 FEET TO BEGINNING.

PARCEL 3:

COMMENCING 141.5 FEET EAST FROM NORTHWEST CORNER OF BLOCK 13, PLAT "B", PROVO CITY SURVEY; THENCE EAST 58.34 FEET; THENCE SOUTH ALONG THE EAST LINE OF LOT 5, 199.52 FEET TO SOUTH LINE OF LOT 4; THENCE WEST 58.34 FEET; THENCE NORTH 199.52 FEET TO BEGINNING.

LESS AND EXCEPTING ALL THAT PORTION CONTAINED IN THE QUIT CLAIM DEED RECORDED FEBRUARY 28, 2005 AS ENTRY NO. 20172:2005 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

No. NCS-657575-SLC1

COMMENCING AT THE NORTHWEST CORNER OF A PARCEL, DESCRIBED IN A SPECIAL WARRANTY DEED RECORDED UNDER ENTRY #6432-92, SAID CORNER BEING MORE SPECIFICALLY DESCRIBED AS BEING LOCATED SOUTH 102.00 FEET FROM THE NORTHWEST CORNER OF BLOCK #13 IN PLAT "B" OF PROVO CITY SURVEY OF BUILDING LOTS, SAID POINT ALSO BEING ON THE WESTERLY BOUNDARY OF SAID BLOCK #13, THENCE THE FOLLOWING ALONG SAID PARCELS: EAST 92.00 FEET; SOUTH 17.02 FEET; EAST 35.50 FEET; SOUTH 45° EAST 1.41 FEET; SOUTH 57.50 FEET; THENCE DEPARTING FROM SAID DEED, SOUTH 42° 03' 41" WEST 14.84 FEET TO A GATE POST; THENCE SOUTH 00°38'18" EAST 10.98 FEET TO ANOTHER GATE POST; THENCE WEST 118.67 FEET ALONG THE SOUTHERLY BOUNDARY OF LOT #4 OF BLOCK #13 TO THE SOUTHWEST CORNER OF SAID LOT #4; THENCE NORTH 97.52 FEET ALONG THE WESTERLY BOUNDARY OF SAID BLOCK #13 TO THE POINT OF BEGINNING.

PARCEL 4:

COMMENCING AT NORTHWEST CORNER OF LOT 6, BLOCK 13, PLAT "B", PROVO CITY SURVEY; THENCE EAST 3 RODS; THENCE SOUTH 12 RODS; THENCE WEST 3 RODS; THENCE NORTH 12 RODS TO BEGINNING.

**SCHEDULE B - Section 1  
Requirements**

The following are the requirements to be complied with:

1. Pay the agreed amounts for interest in the land and/or the mortgage or deed of trust to be insured.
2. Pay us the premiums, fees and charges for the policy. In the event the transaction for which this commitment is furnished cancels, a cancellation fee will be imposed.
3. Provide us with releases, reconveyances or other instruments, acceptable to us, including payment of any amounts due, removing the encumbrances shown in Schedule B-2 that are objectionable to the proposed insured.
4. Provide us with copies of appropriate agreements, resolutions, certificates, or other evidence needed to identify the parties authorized to execute the documents creating the interest to be insured.
5. The documents creating the interest to be insured must be signed, delivered and recorded.
6. You must tell us, in writing, the name of anyone not referred to in this Commitment who will receive an interest in, or who will make a loan secured by a deed of trust or mortgage secured by, the land described in this Commitment.
7. After we have received the information requested in these requirements, together with any other information about the transaction, we will have the right to add requirements to this Schedule B-1 or special exceptions to Schedule B-2.

\*\*\*

**SCHEDULE B - Section 2  
Exceptions**

Any policy we issue will have the following exceptions unless they are taken care of to our satisfaction.

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interest or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easements or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments and any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof, water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
7. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this commitment.
8. General property taxes for the year 2014 now a lien, not yet due.  
  
(Affects Parcel 1)  
Taxes for the year 2013 were exempt. Tax ID No. 05-013-0010.  
  
(Affects Parcel 2)  
Taxes for the year 2013 were exempt. Tax ID No. 05-013-0019.  
  
(Affects Parcel 3)  
Taxes for the year 2013 were exempt. Tax ID No. 05-013-0008.  
  
(Affects Parcel 4)  
Taxes for the year 2013 were exempt. Tax ID No. 05-013-0011.

No. NCS-657575-SLC1

- 9. General property taxes were not assessed against the land because of ownership by a tax exempt entity. The land may be subject to a possible Appendix Roll Tax from the time of transfer into a non-exempt entity for the remainder of the taxing year.
- 10. The land is included within the boundaries of Provo City, and is subject to charges and assessments made thereby.
- 11. Ordinance Number 0-89-011 Recorded by the City of Provo January 13, 1989 as Entry No. 1091 in Book 2570 at Page 861 of Official Records. *RDA*
- 12. Resolution No. 1994-81 Recorded by the City of Provo on September 30, 1994 as Entry No. 77193 in Book 3541 at Page 841 of Official Records. *Business Development District*

\*\*\*

The name(s) NONE, has/have been checked for judgments, State and Federal tax liens, and bankruptcies and if any were found, are disclosed herein.

The name **Utah County**, a governmental agency exempt from execution pursuant to Utah Code Annotated 63-30-22, has NOT been checked for judgments, State and Federal tax liens, or bankruptcies.

\*\*\*

**Title inquiries should be directed to Steve Nielsen @ (801)578-8826.**

\*\*\*

**NOTE:** The policy(ies) to be issued as a result of this Commitment contain an Arbitration Clause set forth in the Conditions/Conditions and Stipulations Section. The following is included for the information of the proposed Insured(s):

**Any matter in dispute between you and the company may be subject to arbitration as an alternative to court action pursuant to the rules of the American Arbitration Association or other recognized arbitrator, a copy of which is available on request from the company. Any decision reached by arbitration shall be binding upon both you and the company. The arbitration award may include attorney's fees if allowed by state law and may be entered as a judgment in any court of proper jurisdiction.**

\*\*\*

**In the event the transaction for which this commitment was ordered "cancels", please refer to Paragraph B under Schedule B, Section 1 for required cancellation fee.**

\*\*\*

**CONDITIONS**

**1. DEFINITIONS**

- (a) "Mortgage" means mortgage, deed of trust or other security instrument.
- (b) "Public Records" means title records that give constructive notice of matters affecting the title according to the state law where the land is located.

**2. LATER DEFECTS**

The Exceptions in Schedule B may be amended to show any defects, liens or encumbrances that appear for the first time in the public records or are created or attached between the Commitment Date and the date on which all of the Requirements are met. We shall have no liability to you because of this amendment.

**3. EXISTING DEFECTS**

If any defects, liens or encumbrances existing at Commitment Date are not shown in Schedule B, we may amend Schedule B to show them. If we do amend Schedule B to show these defects, liens or encumbrances, we shall be liable to you according to Paragraph 4 below unless you knew of this information and did not tell us about it in writing.

**4. LIMITATION OF OUR LIABILITY**

Our only obligation is to issue to you the Policy referred to in this Commitment, when you have met its Requirements. If we have any liability to you for any loss you incur because of an error in this Commitment, our liability will be limited to your actual loss caused by your relying this Commitment when you acted in good faith to:

comply with the Requirements

or

eliminate with our written consent any Exceptions shown in Schedule B

We shall not be liable for more than the Amount shown in Schedule A of this Commitment and our liability is subject to the terms of the Policy form to be issued to you.

**5. CLAIMS MUST BE BASED ON THIS COMMITMENT**

Any claims, whether or not based on negligence, which you may have against us concerning the title to the land must be based on this Commitment and is subject to its terms



## PRIVACY POLICY

### We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our parent company, The First American Corporation, we have adopted this Privacy Policy to govern the use and handling of your personal information.

### Applicability

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from public records or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its *Fair Information Values*, a copy of which can be found on our web site at [www.firstam.com](http://www.firstam.com).

### Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

### Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial services providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

### Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply.

### Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products and services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's *Fair Information Values*. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.



**EXHIBIT D**

**FIRPTA CERTIFICATE**

To inform PEG Development, LLC, a Utah Limited Liability Company (the "Transferee"), that withholding of tax under Section 1445 of the Internal Revenue Code of 1986, as amended ("Code"), will not be required by \_\_\_\_\_ (the "Transferor"), Transferor hereby certifies the following:

1. The Transferor is not a foreign corporation, foreign partnership, foreign trust, foreign estate or foreign person (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder); and

(a) The Transferor's U.S. employer or tax (social security) identification number is \_\_\_\_\_.

The Transferor understands that this Certification may be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury the undersigned declares that it has examined this Certification and to the best of its knowledge and belief, it is true, correct and complete.

\_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

EXHIBIT "E"

QUIT CLAIM DEED

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Law Offices of Steven W. Farnsworth  
180 N University Ave, Suite 260  
Provo, UT 84601  
MAIL TAX NOTICE TO:  
PEG Development  
180 N University Ave, Suite 200  
Provo, UT 84601

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

## QUIT-CLAIM DEED

UTAH COUNTY, a separate body politic with an address of 100 East Center, Provo, Utah 84606, Grantor, hereby **QUIT-CLAIMS** to PEG DEVELOPMENT, LLC, a Utah limited liability company, Grantee, of 180 North University Avenue, Suite 200, Provo, Utah 84601, for the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the following described tract of land (for taxing purposes designated Tax Parcel Serial No. 05:013:0017) in Utah County, State of Utah, to wit:

Commencing at a point on the westerly boundary of a parcel described as "Parcel 11" in a Warranty Deed recorded under entry #62511-2001, said point being more specifically described as being located 102.00 feet South and 92.00 feet East from the Northwest Corner of Block #13, Plat B, of Provo City Survey of Building Lots, thence the following along said parcel:

South 17.02 feet;  
East 35.50 feet;  
South 45° East 1.41 feet;

South 57.85 feet; thence departing from said deed S 42° 58' 56" West 14.59 feet to a gate post; thence S 00° 38' 18" East 10.98 feet to another gate post; thence East 22.83 feet along the southerly boundary of Lot #4 of Block #13 to the southwest corner of a parcel described as "Parcel 12" in the aforementioned recorded deed; thence North 10.00 feet to the southeast corner of Parcel 11; thence North along the east side of Parcel 11, 189.52 feet to the north line of Block #13; thence West along said block, 49.50 feet to the northwest corner of Parcel 11; thence South 102.00 feet to the point of beginning.

Note! South = S 00° 18.65' West using Utah State Plane Coordinates, NAD '27, Central Zone

Subject to and reserving unto the Grantor the right to approve or disapprove all uses of the above described parcel and the right to approve or disapprove the design of all structures to be built on the above described parcel; and further reserving unto the Grantor the Option to Re-purchase the above described parcel, all as set forth in that certain Agreement of Purchase and Sale dated the \_\_\_\_ day of \_\_\_\_\_, 2014, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference.

WITNESS the hand of said Grantor, this \_\_\_\_ day of \_\_\_\_\_, 2014.

UTAH COUNTY

\_\_\_\_\_  
Bryan E. Thompson  
Utah County Clerk/Auditor

STATE OF UTAH            )  
                                  : ss.  
COUNTY OF UTAH )

On the \_\_\_\_ day of \_\_\_\_\_, 2014, personally appeared before me Bryan E. Thompson, who, being by me duly sworn, did say that he is the Clerk/Auditor of Utah County, that said instrument was signed in behalf of Utah County as authorized pursuant to a motion by the Board of County Commissioners of Utah County, and said Bryan E. Thompson acknowledged to me that Utah County executed the same.

\_\_\_\_\_  
Notary Public