

11272779
11/2/2011 1:03:00 PM \$56.00
Book - 9963 Pg - 7050-7073
Gary W. Ott
Recorder, Salt Lake County, UT
US TITLE PARK CITY
BY: eCASH, DEPUTY - EF 24 P.

WHEN RECORDED, MAIL TO:

Murray City Recorder
Murray City
5025 So. State Street
Murray, Utah 84107

CONSERVATION EASEMENT AND MAINTENANCE AGREEMENT

THIS CONSERVATION EASEMENT AND MAINTENANCE AGREEMENT is made this ____ day of October, 2011, by Hamlet Development Corporation, a Utah corporation (the "Grantor"), and MURRAY CITY, a municipal corporation and body politic of the State of Utah (the "Grantee"), whose mailing address is 5025 So. State Street, Murray, Utah 84107.

RECITALS

- 1) Grantor owns certain real property located in Salt Lake County, Utah (the "Property") sometimes referred to as the Park Property and Trail Facilities in ¶ 2.3. of that certain Participation and Development Agreement between Grantor and the Redevelopment Agency of Murray City, as amended, to which a form of this instrument is attached (the "Participation Agreement"). A legal description of the Property is attached hereto as Exhibit "A" and is by this reference made a part hereof. The parcels comprising the Property shall be referred to as the Park Plan Parcel, the West Open Space Easement Parcel.
- 2) When the Park Property and Trail Facilities are completed by Grantor, the Property will possess scenic, open space, recreational and educational values (collectively, "conservation values") of significant importance to the Grantor, Grantee, the people of Murray City, and the people of the State of Utah.
- 3) Grantor intends that the conservation values of the Property be preserved and maintained by the application of maintenance and land use patterns that perpetuate and do not significantly impair or interfere with those values.
- 4) Grantor further intends, by the recording of this Easement, to preserve and protect the conservation values of the Property in perpetuity.

NOW, THEREFORE, in consideration of the covenants herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following is hereby established, acknowledged and agreed:

GRANT OF EASEMENT

IN CONSIDERATION of the above and the covenants, terms, conditions and restrictions contained herein, and pursuant to the laws of the State of Utah and in particular Utah Code Ann. § 57-18-1, et seq. (1985), with the intention of making an irrevocable easement in perpetuity, Grantor hereby grants to Grantee and establishes a conservation easement, as hereinafter defined, (the "Easement") over and across all the Property to preserve and protect the natural, ecological, water, wildlife, habitat, open space, scenic, aesthetic, plant life and wetland values present on the Property, and shall bind Grantor and Grantee and their respective successors in ownership and/or use of the Property forever. The Easement shall be perpetual and shall not be subject to any mortgage, lien, or other encumbrance other than encumbrances of sight or record existing at the time this instrument is signed or encumbrances or rights excepted herein.

Further, Grantor and Grantee acknowledge and agree that:

1. Purpose. It is the purpose of this Easement to assure that the Property will be retained forever in its open space condition as a public park and to prevent any use of the Property that will significantly impair or interfere with the conservation values of the Property. The use of the Property shall be limited to such activities which are consistent with the purpose of this Easement.
2. Rights and duties of the Grantee. To accomplish the purpose of this Easement, the following rights and duties are conveyed to the Grantee:
 - a. To preserve and protect the conservation interest and values of the Property.
 - b. To enter upon the Property to maintain the same as provided hereinafter and to inspect and enforce the rights herein granted in a manner and at any time that will not unreasonably interfere with the proper uses being made of the Property at the time of such entry; and
 - c. To enjoin any activity on or use of the Property that is inconsistent with the purpose of this Easement or which may be reasonably expected to have a significant adverse impact on the conservation interests associated with the Property, and to enforce the restoration of such areas or features of the Property that may be damaged by any such inconsistent activity or use.
3. Permitted Uses and Practices. The following uses and practices, though not an exhaustive recital of consistent uses and practices, are consistent with the Easement, provided that each such use or practice is effected in a manner that is not inconsistent with the purpose of the Easement as specified in paragraph 1 and that each such use or practice shall neither significantly impair the public's view of and over the Property nor, in general, result in significant injury to or the destruction of a significant conservation interest:

- a. To plant and maintain trees, bushes and grasses and to protect, preserve and enhance the aesthetic, park-like and conservation values of the Property;
- b. To control predatory or problem animals by the use of selective control measures and techniques;
- c. To remove such weeds that the Grantee reasonably determines to be hazardous to the uses and practices herein reserved;
- d. To build, maintain and repair facilities, fences and systems reasonably appropriate for maintenance and protection purposes, for the protection of vegetation planted in accordance with subparagraph (a) of this paragraph, or for the separation of areas on which buildings are located;
- e. To use the Property for educational purposes consistent with the purpose of the Easement;
- f. To use the Property for park, athletic, community art purposes and other recreational activities consistent with the purpose of the Easement; and
- g. To conduct all other activities reasonably consistent with and/or related to the conservation values and use of the Easement stated above.

4. Prohibited Uses and Practices. Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited

- a. Division, subdivision or de facto subdivision (through long-term leasing or otherwise) of any parcel of the Property into more than one (1) separately owned parcel of real property;
- b. Construction or location of any structure or other improvement except for trails, picnic and recreational areas, community art sculptures and pieces, and other improvements for recreational uses as approved by Grantee, which are reasonably appropriate to a use permitted under this Easement;
- c. The use of motorized vehicles, including snowmobiles, all terrain vehicles and other recreational vehicles, except as may be necessary to maintain the Property and to maintain utility lines running through the Property;
- d. Hunting or trapping for any purpose other than predatory, scientific research or problem animal control;
- e. Drilling, exploration for and extraction of oil and gas, coring, mining,

excavation, depositing or extraction of sand, gravel, soil, rocks and/or without limitation, any mineral or similar materials for any site on the Property;

f. Dumping, depositing, discharging, releasing or abandoning any solid or hazardous wastes, hazardous substances or material, pollutant or debris, ashes, trash, garbage or junk in, on or under the Property or into the surface or groundwater on or under the Property;

g. Manipulation or alteration of natural watercourses or riparian communities;

h. Burning of any material;

i. Establishment or maintenance of any agricultural, grazing, livestock or industrial use not expressly permitted;

j. Advertising of any kind or nature on the Property, including but not limited to, the placement or maintenance of signs, billboards or any other outdoor advertising of any kind or nature except for sign relating to the use or limitations on use applicable to the Property, directional and regulatory signs relating the Property, and signs of an informational or educational nature relating to the Property, the conservation values and purposes of this Easement; and

k. All other uses and practices inconsistent with and significantly detrimental to the stated objectives and purpose of the Easement.

5. Environmental Cleanup. The Property has been subject to environmental cleanup in accordance with the Voluntary Cleanup Program ("VCP") of Title 19, Chapter 8 of the Utah Code, pursuant to which a Certificate of Completion (the "VCP Certificate") has been issued and recorded in the real property records of Salt Lake County, Utah, by the Executive Director of the Utah Department of Environmental Quality or the Executive Director's representative. The VCP Certificate is an encumbrance pursuant to which this Easement is subject. The Grantee agrees to monitor and manage any contamination remaining on the Property after the issuance of the VCP Certificate in accordance with the provisions of the VCP Certificate, including any Site Management Plan required by the VCP Certificate. Attached hereto as Exhibit "B" is a copy of the VCP Certificate and related Site Management Plan which are incorporated herein by this reference. Grantor, either through the Birkhill Community Association, the master community association for the property to be developed within the First Phase Concept Plan as provided in the Participation Agreement, or any other means will undertake and comply with the periodic monitoring and reporting requirements of any VCP applicable to the Property.

6. Enforcement of Easement.

a. Grantor shall notify the Grantee in writing before exercising any

right reserved to Grantor, expressly or impliedly, with respect to the Property, the exercise of which may have a significant adverse impact on the conservation interests associated with the Property. The notice shall inform the Grantee of all aspects of the proposed activity including, but not limited to, the nature, siting, magnitude, and anticipated effect of the proposed activity or use with respect to the purpose of the Easement. Such notice shall be sent as provided below.

b. The Grantee shall have sixty (60) days from the mailing of such notice to review the proposed activity and notify the other of any objections thereto. Such objection, if any, shall be based upon the Grantee's opinion that the proposed activity is inconsistent with this instrument, and shall inform the Grantor of the manner, if any, in which the proposed activity can be modified to be consistent with the terms thereof. The Grantee shall have the right to prevent any proposed activity which is incompatible with the purpose of intent of this instrument or with the authorized uses or prohibitions specified herein.

c. Any violation of the Easement by the Grantor under this Section 6 shall be subject to termination through injunctive proceedings with the imposition of temporary restraining order or through any other legal means, it being recognized that monetary damages and/or other non-injunctive relief would not adequately remedy the violation of the covenants and restrictions of the Easement. In addition, the Grantee shall have the right to enforce the restoration of the portions of the Property affected by activities in violation of the Easement to the condition which existed prior to any damage or disturbance.

d. Failure by the Grantee to exercise its rights under this instrument in the event of any breach by the Grantor or its successors or assigns shall not be deemed or construed to be a waiver of the Grantee's rights hereunder as to that breach or any subsequent breach.

7. Maintenance Activities. Grantee hereby acknowledges that the Grantor has fulfilled its obligations under the Participation Agreement with regard to the development of the Property in accordance with the (a) Park Plan attached hereto as Exhibit "C" and (b) the trails and landscaped open space for the West Open Space Easement Parcel and agrees to accept possession of the Park Plan Parcel, the West Open Space Easement Parcel and all their respective improvements as the development of each parcel is completed and to conduct the following activities at its expense:

a. Maintenance and operation of the Property and all park facilities and improvements constructed by Grantor pursuant to the Participation Agreement, together with any subsequent facilities or improvements added thereafter by Grantee consistent with the terms hereof.

b. Construction and maintenance of trails and recreational facilities over portions of the Property as approved by Grantee.

c. Grantee shall indemnify and hold Grantor harmless of and from activities or actions of Grantee or public users of the Property which may or do cause damage to persons or property or otherwise violate the terms of this Easement; however, under no circumstances shall Grantee's obligations under this paragraph or this Easement be construed to obligate Grantee to conduct, fund or participate in any environmental clean-up or remediation obligations under the VCP program or otherwise, other than to address environmental cleanup or remediation obligations caused by Grantee's failure to comply with the terms of this Easement.

8. Transfer of Easement. If the Grantee determines that it no longer is able to enforce its rights under this instrument or that it no longer desires to enforce the rights, or desires to assign enforcement rights, the Grantee shall be entitled to convey in whole or in part all its rights under this instrument, at no expense to Grantor, and deliver a copy of this instrument to an appropriate organization approved by the Mayor and Council of Murray City. The Grantee is hereby expressly prohibited, however, from subsequently transferring the Easement, whether or not for consideration, unless the Grantee, as a condition of the subsequent transfer, requires that the conservation purposes which the Easement is intended to advance continue to be carried out and any transferee of the Easement also agrees to comply with all the terms of the Easement.

9. Termination of Easement. The Grantee shall not voluntarily or willingly allow the termination of any of the restrictions of this instrument, and if any or all of the restrictions of the Easement are nevertheless terminated by a judicial or other governmental proceeding, any and all compensation received by the Grantee as a result of the termination shall be used by the Grantee in a manner consistent with the conservation purposes of the Easement.

10. Subsequent Transfers. The Grantee shall incorporate the terms of this Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Property.

11. Notices. Any notice, demand, request, consent, approval, or communication shall be in writing and served personally or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the following:

Public Services Director
Murray City
4545 South 500 West
Murray, Utah 84107

President
Hamlet Development Corporation
308 East 4500 So.
Murray, Utah 84107

or to such other address as parties hereto from time to time shall designate by written notice to the other.

12. Recordation. Grantee shall record this instrument in timely fashion in its official records of Salt Lake County, Utah and may re-record it at any time as may be required to preserve its rights in this Easement.

13. General Provisions.

a. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Utah.

b. Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the Easement to effect the purpose of this Easement and the policy and purpose of Utah Code § 57-18-1, et seq. (1985) and related provisions.

c. Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

d. Successors. The covenants, terms conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the Grantee, subsequent owners of the Property, and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Property.

e. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

Approved as to the availability of funds
Murray City Finance Division

Pat Kilborn
Budget Officer

IN WITNESS WHEREOF, Grantor has executed this instrument on the day and year first above written.

GRANTOR:

HAMLET DEVELOPMENT CORPORATION

By [Signature]

Its President

ATTEST:

[Signature]
City Recorder

GRANTEE:

MURRAY CITY, UTAH

By [Signature]

Its [Signature]

APPROVED AS TO FORM

[Signature]
Murray City Attorneys Office

STATE OF UTAH)

: ss.

COUNTY OF SALT LAKE)


On the 25 day of October, 2011, personally appeared before me Daniel Snarr the signers of the foregoing instrument, who duly acknowledged to me that they executed the same.

[Signature]
Notary Public
Residing at: SL County

STATE OF UTAH)

: ss.

COUNTY OF SALT LAKE)

 ANDREA ROMANCZYK
Notary Public State of Utah
My Commission Expires on:
August 1, 2015
Comm. Number: 611703

On the 7 day of OCTOBER, 2011, personally appeared before me Michael Brodsky, President of Hamlet Development Corporation, who duly acknowledged to me that he executed the foregoing instrument.

[Signature]
Notary Public
Residing at:


 STEVEN J NIELSEN
NOTARY PUBLIC-STATE OF UTAH
COMMISSION # 610663
COMM. EXP. 06-21-2016

EXHIBIT "A"

Legal Description of the Property

PARK PLAN PARCEL

BEGINNING at a point on the west right-of-way line of Main Street, said point being North $00^{\circ}30'11''$ East 615.17 feet (North $00^{\circ}15'54''$ East by record) along Main Street monument line and West 49.35 feet from the Northeast Quarter of Section 1, Township 2 South, Range 1 West, Salt Lake Base and Meridian; thence $S89^{\circ}57'37''W$ 82.50 feet; thence $N00^{\circ}02'23''W$ 41.29 feet; thence $N26^{\circ}14'10''W$ 19.73 feet; thence $S89^{\circ}57'37''W$ 245.32 feet; thence Northwestery 82.51 feet along the arc of a 57.50 foot radius curve to the left, chord bears $N76^{\circ}22'25''W$ 75.61 feet; thence $N00^{\circ}02'23''W$ 204.41 feet; thence $S76^{\circ}43'06''E$ 36.18 feet; thence $S68^{\circ}12'37''E$ 290.80 feet; thence $S39^{\circ}46'13''E$ 154.80 feet; thence $S76^{\circ}01'54''E$ 6.08 feet; thence $S00^{\circ}02'23''E$ 44.28 feet to the POINT OF BEGINNING
Containing 58,885 SF or 1.352 acres

TAX ID NO. 21-01-229-047

TAX ID NO. 21-01-229-048

TAX ID NO. 21-01-229-049

EXHIBIT "A" CONTINUED

WEST OPEN SPACE EASEMENT

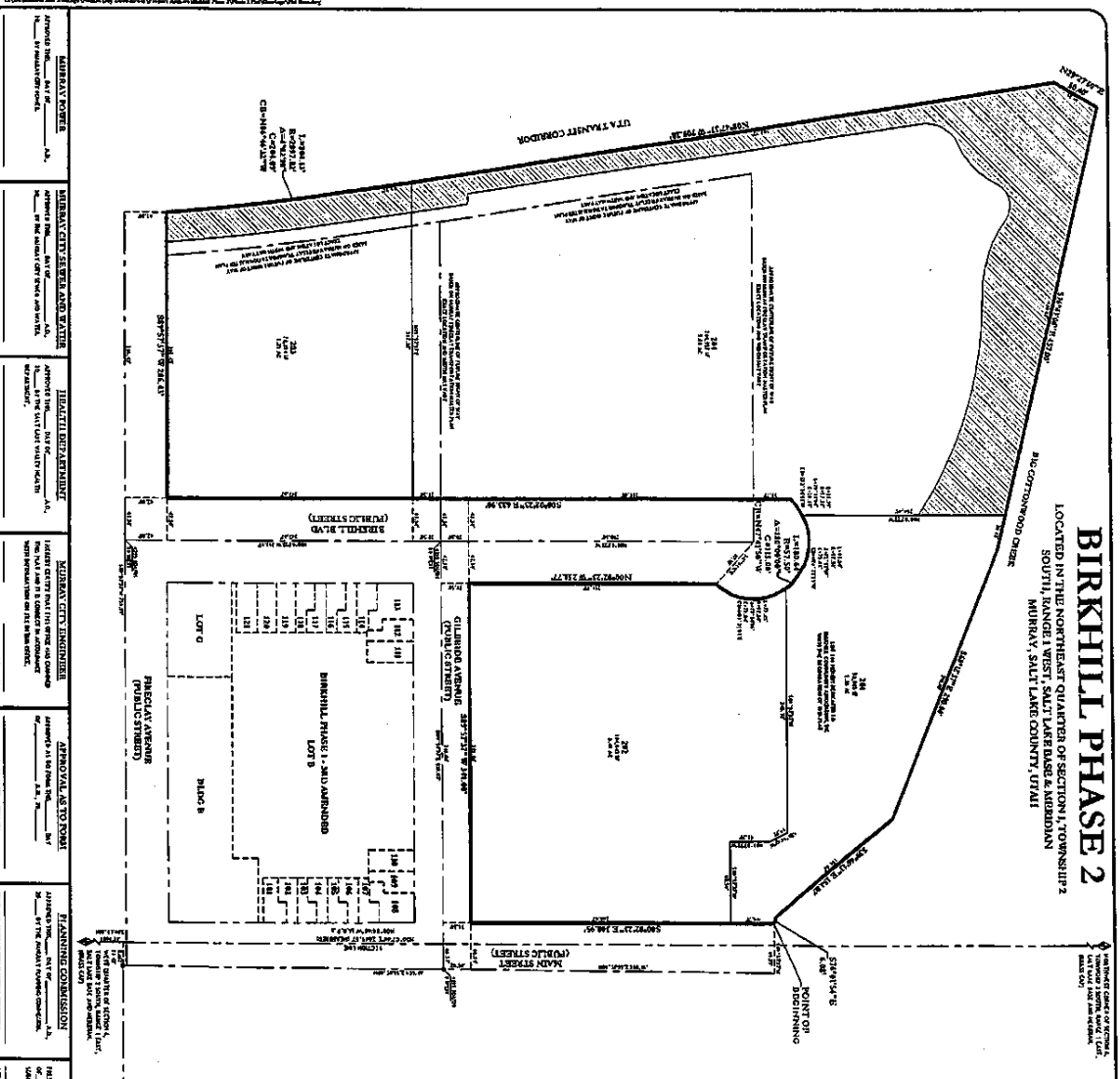
BIRKHILL PHASE 2

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF LOT 203 AS SHOWN ON THE BIRKHILL PHASE 2 PLAT RECORDED AS ENTRY NUMBER 11227070 IN BOOK 2011P AT PAGE 104 IN THE SALT LAKE COUNTY RECORDERS OFFICE, SAID POINT OF BEGINNING IS N00°30'11"E 45.85 FEET AND S89°57'37"W 756.39 FEET FROM A MONUMENT AT THE INTERSECTION OF MAIN STREET AND FIRECLAY AVENUE, SAID MONUMENT BEING N00°07'44"E 1094.38 FEET ALONG THE SECTION LINE AND EAST 23.42 FEET FROM THE WEST QUARTER CORNER OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 1 EAST SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE ALONG THE BOUNDARY OF SAID BIRKHILL PHASE 2 PLAT THE FOLLOWING FOUR COURSES: (1) NORTHWESTERLY 204.13 FEET ALONG A 2897.82 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 4°02'10" AND A LONG CHORD OF N06°46'32"W 204.09 FEET; (2) N08°47'37"W 709.28 FEET (3) N29°27'50"E 50.40 FEET; (4) S76°43'06"E 420.82 FEET TO THE NORTHEAST CORNER OF LOT 204 OF THE SAID BIRKHILL PHASE 2 PLAT; THENCE ALONG THE EASTERLY PROPERTY LINE OF SAID LOT 204 S00°02'23"E 87.94 FEET; THENCE NORTHWESTERLY 234.01 FEET ALONG A 394.73 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 33°58'02" AND A LONG CHORD OF N73°13'59"W 230.60 FEET; THENCE NORTHWESTERLY 81.25 FEET ALONG A 123.95 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 37°33'32" AND A LONG CHORD OF N72°05'54"W 79.80 FEET; THENCE SOUTHWESTERLY 42.04 FEET ALONG A 24.17 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 99°38'31" AND A LONG CHORD OF S75°33'05"W 36.94 FEET; THENCE SOUTHWESTERLY 57.45 FEET ALONG A 82.52 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 39°53'17" AND A LONG CHORD OF S45°40'28"W 56.30 FEET; THENCE SOUTHWESTERLY 45.99 FEET ALONG A 35.41 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 74°24'44" AND A LONG CHORD OF S28°24'45"W 42.82 FEET; THENCE S08°47'37"E 468.57 FEET, THENCE N89°57'37"E 10.12 FEET; THENCE S08°47'37"E 98.57 FEET; THENCE SOUTHEASTERLY 208.72 FEET ALONG A 2927.82 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 04°05'05" AND A LONG CHORD OF S06°45'05"E 208.68 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF SAID BIRKHILL PHASE 2; THENCE ALONG SAID SOUTHERLY BOUNDARY S89°57'37"W 30.10 FEET TO THE POINT OF BEGINNING.

CONTAINS 54,858 SQUARE FEET (1.26 ACRES)

BIRKHILL PHASE 2

LOCATED IN THE NORTHEAST QUARTER OF SECTION 7, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SALT LAKE BASS & HERRINGMAN MOUNTAIN, SALT LAKE COUNTY, UTAH



APPROVAL	DATE
STATE OF UTAH, DIVISION OF HERITAGE AND ARCHITECTURE	
STATE OF UTAH, DEPARTMENT OF HERITAGE AND ARCHITECTURE	
STATE OF UTAH, DEPARTMENT OF CONSUMER AND TRADE SERVICES	
STATE OF UTAH, DEPARTMENT OF REVENUE	
STATE OF UTAH, DEPARTMENT OF SOCIAL SERVICES	
STATE OF UTAH, DEPARTMENT OF HEALTH SERVICES	
STATE OF UTAH, DEPARTMENT OF COMMUNITY DEVELOPMENT	
STATE OF UTAH, DEPARTMENT OF ENVIRONMENT	
STATE OF UTAH, DEPARTMENT OF TRANSPORTATION	
STATE OF UTAH, DEPARTMENT OF AGRICULTURE	
STATE OF UTAH, DEPARTMENT OF MINING AND RECLAMATION	
STATE OF UTAH, DEPARTMENT OF CORRECTIONS	
STATE OF UTAH, DEPARTMENT OF EDUCATION	
STATE OF UTAH, DEPARTMENT OF LABOR	
STATE OF UTAH, DEPARTMENT OF JUSTICE	
STATE OF UTAH, DEPARTMENT OF ENERGY	
STATE OF UTAH, DEPARTMENT OF WORKFORCE DEVELOPMENT	
STATE OF UTAH, DEPARTMENT OF WATER RESOURCES	
STATE OF UTAH, DEPARTMENT OF METEOROLOGY	
STATE OF UTAH, DEPARTMENT OF LAND AND NATURAL RESOURCES	

BOUNDARY DESCRIPTION

1. THAT THE SURVEYOR HAS REVISITED THE BOUNDARY MARKERS AND RECORDS OF THIS SURVEY AND HAS FOUND THEM TO BE CORRECT AND ACCURATE.

2. THAT THE SURVEYOR HAS REVISITED THE BOUNDARY MARKERS AND RECORDS OF THIS SURVEY AND HAS FOUND THEM TO BE CORRECT AND ACCURATE.

3. THAT THE SURVEYOR HAS REVISITED THE BOUNDARY MARKERS AND RECORDS OF THIS SURVEY AND HAS FOUND THEM TO BE CORRECT AND ACCURATE.

4. THAT THE SURVEYOR HAS REVISITED THE BOUNDARY MARKERS AND RECORDS OF THIS SURVEY AND HAS FOUND THEM TO BE CORRECT AND ACCURATE.

LEGEND

SYMBOL	DESCRIPTION
_____	BOUNDARY
_____	MADE GRADE
_____	CONCRETE
_____	ASPHALT/PAVEMENT
_____	GRAVEL DRIVEWAY
_____	WOOD DRIVEWAY
_____	SECTION NUMBER

NO.	DATE	REVISION
1		
2		
3		

CONVEYANCE ACKNOWLEDGMENT

I, the undersigned, of legal age, sound mind, and legal capacity, do hereby certify that I am the owner of the above described premises and that I have duly acknowledged the foregoing instrument before me this _____ day of _____, A.D. 20__.

(Signature)

Notary Public for the State of Utah

CONVEYANCE ACKNOWLEDGMENT

I, the undersigned, of legal age, sound mind, and legal capacity, do hereby certify that I am the owner of the above described premises and that I have duly acknowledged the foregoing instrument before me this _____ day of _____, A.D. 20__.

(Signature)

Notary Public for the State of Utah

BIRKHILL PHASE 2

1. THAT THE SURVEYOR HAS REVISITED THE BOUNDARY MARKERS AND RECORDS OF THIS SURVEY AND HAS FOUND THEM TO BE CORRECT AND ACCURATE.

2. THAT THE SURVEYOR HAS REVISITED THE BOUNDARY MARKERS AND RECORDS OF THIS SURVEY AND HAS FOUND THEM TO BE CORRECT AND ACCURATE.

3. THAT THE SURVEYOR HAS REVISITED THE BOUNDARY MARKERS AND RECORDS OF THIS SURVEY AND HAS FOUND THEM TO BE CORRECT AND ACCURATE.

EXHIBIT "B"

Voluntary Cleanup Program Certificate of Completion and Site Management Plan

10808990
08/28/2008 04:44 PM REC CO
Book - 9633 Pg - 8351-8357
GARY W. LOTT
RECORDER, SALT LAKE COUNTY, UTAH
UTAH DEPT OF ENVIRONMENTAL QUA
168 NORTH 1950 W
SLC UT 84116
D77 KER, DEPUTY - M1 7 P.

When recorded return to:
Utah Department of Environmental Quality
Division of Environmental Response and Remediation
Attention: Voluntary Program Coordinator
168 North 1950 West
Salt Lake City, Utah 84116

RE: Former Morgan Hanauer Smelter Voluntary Cleanup Site (VCP # C045)
4200 South Main Street, Murray, Utah

CERTIFICATE OF COMPLETION

1. Compliance with Terms of Voluntary Cleanup Program

The Executive Director of the Utah Department of Environmental Quality, through his undersigned designee below, has determined that Hamlet Development and Gibbons Realty Company, hereinafter collectively referred to as "Applicant," have completed a Utah Department of Environmental Quality ("UDEQ") supervised voluntary cleanup of the real property described in Attachment A (the "Property"), in accordance with sections 19-8-108 and 19-8-110 of the Utah Code Annotated and the Voluntary Cleanup Agreement entered into on March 14, 2006. The Applicant is granted this Certificate of Completion ("COC") pursuant to section 19-8-111 and subject to the conditions set forth in section three below. Figures depicting the Property are located in Attachment B.

2. Acknowledgment of Protection From Liability

This COC acknowledges protection from liability provided by section 19-8-113 of the Utah Code Annotated to an applicant who is not responsible for the contamination under the provisions listed in subsection 19-8-113(1)(b) at the time the applicant applies to enter into a Voluntary Cleanup Agreement, and to future owners who acquire the Property covered by this COC, and to lenders who make loans secured by the Property covered by the COC.

As set forth in section 19-8-113, this release of liability is not available to an owner or lender who was originally responsible for a release or contamination, or to an owner or lender who changes the land use from the use specified in the COC if the changed use or uses may reasonably be expected to result in increased risks to human health or the environment, or to an owner or lender who causes further releases on the Property. Also, there is no release from liability if the COC is obtained by fraud, misrepresentation, or the knowing failure to disclose material information. Finally, protection from liability is limited to contamination identified in the documents related to the investigation and cleanup of the Property.

SCANNED

DERR

2008-004152

RECEIVED

SEP 08 2008

DEQ
Environmental Response & Remediation

BK 9963 PG 7062

3. Specified Land Use for Certificate of Completion

This COC is issued based on the Applicant's representation that the Property will be used for mixed commercial and residential uses, consistent with the residential exposure scenario described in the Risk Assessment Guidance for Superfund, Volume I, Human Health Evaluation, Parts A and B. The residential scenario is defined as exposure to adults to incidental ingestion and dermal contact to hazardous constituents for a duration of 30 years at a frequency of 350 days per year.

In addition, this COC is issued based upon compliance with the COC, as well as compliance with an Environmental Covenant (EC), dated August 12, 2008 and recorded in the records of the Salt Lake County Recorder as Entry No. 10497519 in Book 9634 at Page 2136, and the Site Management Plan (SMP), dated July 21, 2008. The COC, EC, and SMP, among other things, require:

- a. The Property shall be used in a manner that is consistent with the land use described in section three above;
- b. Non-use of the groundwater located beneath the Property via wells, pits, sumps or other means;
- c. Compliance with the Environmental Covenant recorded with the Salt Lake County Recorder on August 12, 2008 in Book 9634 on pages 2136-2164.
- d. The Site Management Plan is implemented as proposed;
- e. Reports are submitted to UDEQ as described in the SMP;
- f. Continued reimbursement to UDEQ for its oversight of activities under the EC and SMP;
- g. Continued consent to access by UDEQ to monitor compliance with the EC and SMP;

4. Unavailability of Release of Liability

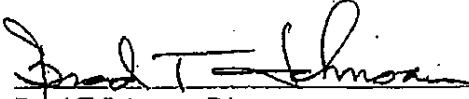
Use of the Property that is not consistent with section three including failure to comply with the EC or SMP described in section three shall constitute a change in land use expected to result in increased risks to human health/the environment making the release of liability in section two unavailable.

5. Availability of Records

All documents discussed in this COC are on file and may be reviewed at the UDEQ/ Division of Environmental Response and Remediation office located at 168 North 1950 West, Salt Lake City, Utah.

6. Final Signature for Former Morgan Hanauer Smelter Certificate of Completion

Dated this 21st day of AUGUST 2008.



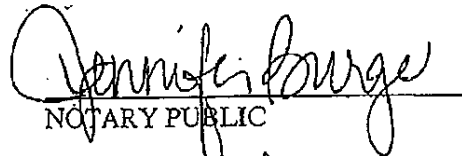
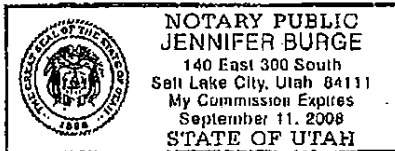
Brad T Johnson, Director
Division of Environmental Response and Remediation
And Authorized Representative of the
Executive Director of the Utah
Department of Environmental Quality

STATE OF UTAH _____)

;SS.

COUNTY OF Salt Lake)

On this 21 day of August, 2008, personally appeared before me, Brad T Johnson
who duly acknowledged that he/she signed the above Certification of Completion as an authorized
representative of the Executive Director of the Utah Department of Environmental Quality.



NOTARY PUBLIC

Residing At: SLC

My Commission Expires 9-11-08

ATTACHMENT A

**Former Morgan Hanauer Smelter
Legal Property Description**

**Former Morgan Hanauer Smelter
4200 South Main Street
Murray, Utah**

Legal Property Description:

The Former Morgan Hanauer Smelter site consists of the following-described real property situated in Salt Lake County, State of Utah:

BEGINNING at the intersection of the 1968 Murray City Annexation Boundary in Big Cottonwood Creek recorded December 31, 1968 in Book GG at Page 18 of the Salt Lake County records and a line 33.00 feet perpendicular distant westerly of the Main Street monument line, said point being North 87°15'51" East 16.28 feet (North 87°01'34" East 16.16 feet per 1968 Murray City Annexation Plat), North 00°30'11" East 1741.07 feet (00°15'54" East 1741.07 feet by record) along said Main Street monument line, and North 76°01'54" East 33.93 feet (North 76°16'11" West 33.93 feet by record) along said 1968 Murray City Annexation Boundary in Big Cottonwood Creek from the East Quarter Corner of Section 1, Township 2 South, Range 1 West, Salt Lake Base and Meridian (Basis of Bearings being North 00°30'11" East 1518.10 feet from the found centerline monument marking the intersection of Fireclay Avenue and Main Street to the found centerline monument marking the intersection of Central Avenue and Main Street), and running thence along said 1968 Murray City Annexation Boundary in Big Cottonwood Creek the following five courses: North 76°01'54" West 23.32 feet (North 76°16'11" West by record), North 39°46'13" West 154.80 feet (North 40°00'30" West by record), North 68°12'37" West 290.80 feet (North 68°26'54" West by record), North 76°43'06" West 457 feet (North 76°57'23" West by record) and South 29°27'50" West 50.40 feet (South 29°13'33" West by record) to the easterly right-of-way line of the UTA Light Rail Transit Corridor, formerly Union Pacific Land Resources Corporation (UPRR) as shown on the 1996 Existing Union Pacific Railroad Track Alignment Survey filed as Survey S97-09-0651 in the Salt Lake County Surveyors Office; thence along said easterly right-of-way line the following two courses: South 08°47'37" East 709.28 (South 09°02'48" East by record) and Southerly 216.19 feet along a 2897.82 foot radius curve to the right through a central angle of 04°16'28" and along a chord of South 06°39'23" East 216.13 feet to a point on the north line of the Road Dedication Plat Fireclay Avenue as recorded in Book 99-11P at Page 310 of said records; thence along said north line North 89°57'37" East 722.30 feet (North 89°42'43" East 722.44 feet per Road Dedication Plat Fireclay Avenue) to the west line of Main Street; thence along said west line North 00°30'11" East 621.48 feet to the POINT OF BEGINNING.

Containing 658,857 square feet or 15.125 acres.

Property Tax Identification Numbers: 21-01-229-004-0000, 21-01-229-005-0000.

ATTACHMENT B

**Former Morgan Hanauer Smelter
Site Map**

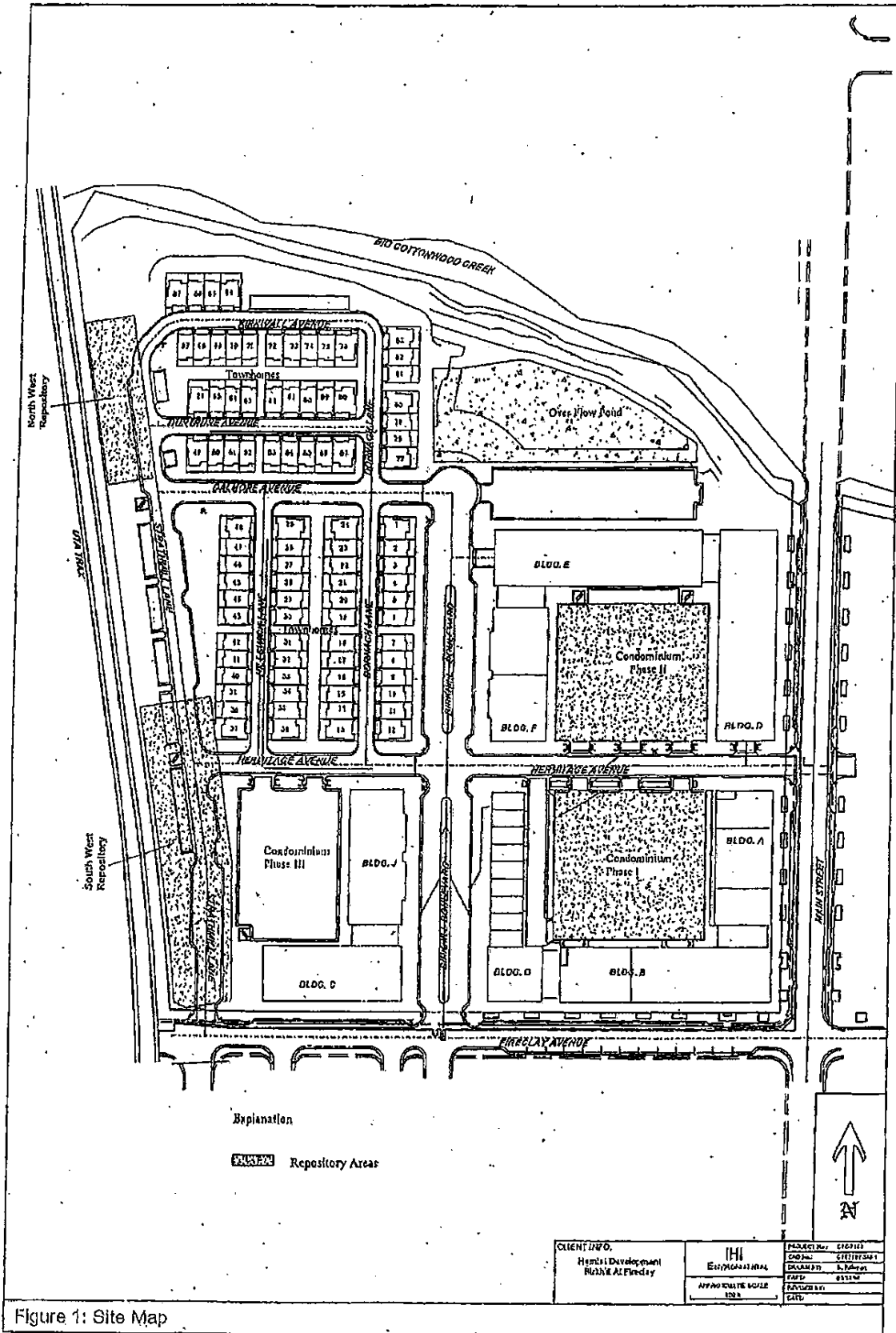


Figure 1: Site Map

EXHIBIT "C"

[See plan for park entitled:

"Birkhill at Fireclay - Park
Murray, Utah
Site/Landscape Development"

Dated: November 16, 2007- 10:06 am]

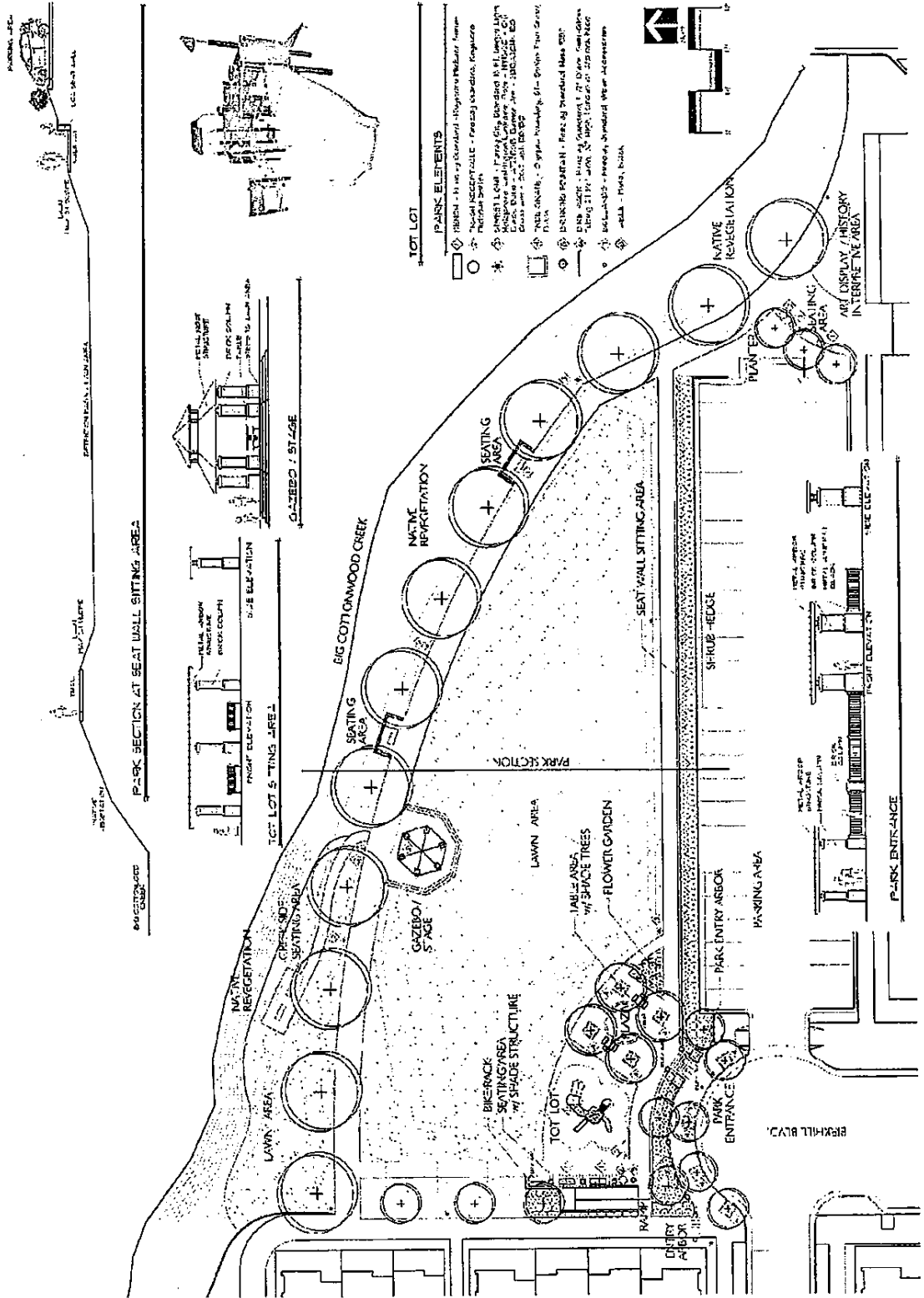
Attachment No. 8

Description of the Park Property and Facilities

The property and park improvements to be acquired, constructed and installed by the Participant in connection with the First Phase of the development of the Site shall consist of the property and improvements shown in the Birkhill at Fireclay-Park, Site/Landscape Development Plan, dated November 16, 2007 and attached hereto (the "Park Plan").

Birkhill at Fireclay - Park

Murray, Utah
 Site Landscape Development



- TOT LOT**
- PEELABLE PAINT - Free of Standard - High or Medium - Medium
 - PEELABLE PAINT - Free of Standard - High or Medium - High
 - PEELABLE PAINT - Free of Standard - High or Medium - Low
 - PEELABLE PAINT - Free of Standard - High or Medium - Very Low
 - PEELABLE PAINT - Free of Standard - High or Medium - No
 - PEELABLE PAINT - Free of Standard - High or Medium - No
 - PEELABLE PAINT - Free of Standard - High or Medium - No
- PARK ELEMENTS**
- PEELABLE PAINT - Free of Standard - High or Medium - Medium
 - PEELABLE PAINT - Free of Standard - High or Medium - High
 - PEELABLE PAINT - Free of Standard - High or Medium - Low
 - PEELABLE PAINT - Free of Standard - High or Medium - Very Low
 - PEELABLE PAINT - Free of Standard - High or Medium - No
 - PEELABLE PAINT - Free of Standard - High or Medium - No
 - PEELABLE PAINT - Free of Standard - High or Medium - No

EXHIBIT "A" CONTINUED

WEST OPEN SPACE EASEMENT PARCEL

West Open Space Easement

A parcel of land located in the Northeast Quarter of Section 1, Township 2 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, Utah described as follows: BEGINNING at a point on the west right-of-way line of Main Street, said point being North 00°30'11" East 992.85 feet (North 00°15'54" East by record) along Main Street monument line and West 872.42 feet from the Centerline Monument at Fireclay Avenue and Main street; said point also being North 00°07'58" East 2087.51 feet along the section line and West 842.60 feet from the East Quarter Corner Section 1, Township 2 South, Range 1 West, Salt Lake Base and Meridian; and running thence S76°43'06"E 420.82 feet; thence S00°02'23"E 41.94 feet; thence S89°57'37"W 83.85 feet; thence westerly 7.90 feet along the arc of a 31.00 foot radius curve to the left, chord bears N82°44'07"W 7.88 feet; thence S89°57'37"W 7.90 feet; thence northwesterly 4.71 feet along the arc of a 3.00 foot radius curve to the right, chord bears N45°02'23"W 4.24 feet; thence N00°02'23"W 15.50 feet; thence S89°57'37"W 112.00 feet; thence N00°02'23"W 42.17 feet; thence S89°57'37"W 126.00 feet; thence S00°02'23"E 81.13 feet; thence S42°46'30"W 11.41 feet; thence southerly 45.90 feet along the arc of a 51.00 foot radius curve to the left, chord bears S16°59'26"W 44.37 feet; thence S08°47'37"E 2.00 feet; thence southerly 2.36 feet along the arc of a 3.00 foot radius curve to the right, chord bears S13°42'23"W 2.30 feet; thence S36°12'23"W 9.36 feet; thence S08°47'37"E 132.00 feet; thence S53°47'37"E 8.30 feet; thence southeasterly 2.38 feet along the arc of a 3.00 foot radius curve to the right, chord bears S31°02'26"E 2.32 feet; thence S08°17'15"E 28.18 feet; thence southwesterly 4.69 feet along the arc of a 3.00 foot radius curve to the right, chord bears S36°27'34"W 4.22 feet; thence S81°12'23"W 13.00 feet; thence S08°47'37"E 390.00 feet; thence N81°12'23"E 13.00 feet; thence southeasterly 4.71 feet along the arc of a 3.00 foot radius curve to the right, chord bears S53°47'37"E 4.24 feet; thence southerly 7.33 feet along the arc of a 286.50 foot radius curve to the right, chord bears S08°03'39"E 7.33 feet; thence southerly 2.42 feet along the arc of a 3.00 foot radius curve to the right, chord bears S15°49'33"W 2.36 feet; thence S38°58'45"W 8.56 feet; thence southerly 27.47 feet along the arc of a 279.50 foot radius curve to the right, chord bears S02°51'19"E 27.46 feet; thence S00°02'23"E 60.53 feet; thence S45°02'23"E 8.66 feet; thence southeasterly 2.36 feet along the arc of a 3.00 foot radius curve to the right, chord bears S22°32'23"E 2.30 feet; thence S00°02'23"E 66.67 feet; thence southerly 3.03 feet along the arc of a 15.00 foot radius curve to the right, chord bears S05°45'12"W 3.03 feet; thence S89°57'37"W 29.69 feet; thence northerly 216.19 feet along the arc of a 2897.82 foot radius curve to the left, chord bears N06°39'24"W 216.13 feet; thence N08°47'37"W 709.28 feet; thence N29°27'50"E 50.40 feet to the Point of Beginning.

Contains 59,360 SF or 1.363 acres