

When Recorded Return To:

Summit Mountain Holding Group, L.L.C.  
3632 N. Wolf Creek Drive  
Eden, Utah 84310  
Attention: M. Thomas Jolley



E# 2646631 PG 1 OF 11  
ERNEST D ROWLEY, WEBER COUNTY RECORDER  
22-JUL-13 1114 AM FEE \$31.00 DEP SY  
REC FOR: GT TITLE SERVICES - SALT LAKE  
ELECTRONICALLY RECORDED

**NONEXCLUSIVE ACCESS EASEMENT  
ROADWAY ACCESS AND UTILITIES**

THIS NONEXCLUSIVE EASEMENT FOR ROADWAY ACCESS AND UTILITIES ("Agreement") is granted, made and entered into as of this 10 day of July, 2013, by and between Weber State University, a Utah institution of higher education (the "Grantor") and Summit Mountain Holding Group, L.L.C., a Utah limited liability company, its successors and assigns (the "Grantee").

**RECITALS**

A. Grantor is the owner of certain real property located in Weber County, Utah more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference for all purposes ("Grantor Property").

B. Grantee is the owner and developer of certain real property adjacent to the Grantor Property in Weber County, Utah more particular described in Exhibit "B" attached hereto and incorporated herein by this reference for all purposes ("Grantee Property").

C. Grantee is in the process of developing and improving the Grantee Property including construction of infrastructure improvements (road, sewer and water). Grantee shall furnish to Grantor in electronic form the GPS/G/S data of actual utility location for direct reading into Survey or G/S software applications.

D. Grantor has agreed to grant and convey to Grantee perpetual nonexclusive easements and rights-of-way over, through, across and under that certain property more particularly described in Exhibit "C" attached hereto and incorporated herein (together, the "Access Road") and a nonexclusive easement for access to and construction and use of utilities located below the surface of the Access Road ("Utility System"), all as further described in this Agreement. The Access Road and Utility System are collectively referred to in this Agreement as the "Easement Property" and the rights and interests therein granted to Grantee are collectively referred to as the "Easements."

## AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the sum of Ten Dollars paid by Grantee to Grantor, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Grantor and Grantee agree as follows:

1. Grant of Easements. Subject to the terms and conditions set forth in this Agreement, Grantor hereby grant and convey to Grantee free and clear of all liens and encumbrances, (i) a perpetual nonexclusive easement and right-of-way for ingress and egress by vehicular and pedestrian traffic over, through, across and under the Access Road, and (ii) a nonexclusive easement and right-of-way for connection, installation, operation, maintenance, service, repair, improvement, replacement, and for access to and use of the Utility System, including but not limited to, sewer, water, gas, electricity, telephone, cable TV, communications, and storm drainage facilities, and including all necessary wires, fixtures, lines, equipment, catch basins, grates and receivers and all other facilities necessary for the reasonable use of, and any improvements to, the Utility System.

2. Easements Appurtenant to the Grantee Property; Benefited Parties. The Easements shall be appurtenant to and run with the land and constitute a portion of the Grantee Property and each part thereof. The Easements shall be for the use and benefit of the following parties ("Benefited Parties"): (a) Grantee and its respective successors and assigns; and (b) all tenants, subtenants, guests, employees, contractors, agents, customers, invitees and concessionaires of Grantee; (c) members of the public desiring to use the Access Road; and (d) any owners' associations that may be formed in connection with the development of the Grantee Property ("Owners' Associations"), and all owners in connection with and members of any such associations. Grantee shall have the right to transfer the Easements, and to grant sub-easements, to public or quasi-public service providers, governmental entities and Owners' Associations, in gross, to facilitate public access and the delivery of utility services. Without limiting the generality of the foregoing, Grantee shall have the right to assign all its rights, interest, duties and obligations hereunder to one or more Owners' Associations, in which event Grantee shall be relieved of its duties and obligations hereunder to the extent of such assignment.

3. Grantee's Use of Access Road. Grantee and the Benefited Parties shall have the right and easement, in common with others, to utilize the Access Road for pedestrian and vehicular access, including but not limited to, automobile, truck and other wheeled conveyances, and to maintain, improve, replace and repair the Access Road as described in this Agreement. To the extent any portion of the Access Road is improved with sidewalks or other similar improvements evidencing that a portion of the Access Road is to be utilized by pedestrians and not by automobiles, such portion of the Access Road shall not be utilized by automobiles or other similar vehicles.

4. Grantee's Use of Utility System. Grantee shall have the right at its sole cost and expense to use, connect to, bury, locate, operate, expand, maintain, repair, relocate, inspect, access and remove any portion or portions of the Utility System for the benefit of the Grantee Property.

5. Grantor's Reservation of Rights. Subject to the terms and provisions hereof, Grantor reservé unto itself the right to cross over or under the Easement Property, to place or grant other easements along, across, or under the Easement Property, and to otherwise make improvements to the Easement Property, so long as such uses and improvements do not materially impair or diminish Grantee's or the Benefited Parties' use of the Easement Property for the purposes herein granted. Grantee shall exercise its use of the Easements in a manner that does not unreasonably burden Grantor in the enjoyment or ownership of the Easement Property.

6. Maintenance. Grantee shall be responsible, at its sole cost and expense, for maintaining the Easement Property in good condition and repair including all maintenance, ice and snow removal, sanding, salting, upkeep and repairs, replacement and resurfacing of the Easement Property. Entry by Grantee which may result in disturbance or modification to the landscape or improvements of the Easement Property requires prior written notice to Grantor.

7. Liens. Grantee shall not cause or allow any claims, liens, or encumbrances to be attached to the Easement Property. In the event any such claims, liens, or encumbrances are attached to the Easement Property, Grantee agrees to defend and reimburse Grantor for any costs of defense and remediation

8. Liability and Insurance. Grantee shall provide at its expense, and keep in full force during the term of this Agreement, general liability insurance in an amount which is commercially reasonable in accordance with local standards with respect to injury to or death of any one or more persons in any one accident or other occurrence, and damages to property within the Easement Property. Such insurance shall not be canceled without thirty (30) days' written notice to Grantor.

9. Covenants to Run With the Land. The Easements, the covenants and the rights related thereto shall constitute covenants running with the land, and shall burden the Easement Property as the servient estate, and benefit the Grantee Property as the dominant estate, and shall be binding upon Grantor, its respective successors, assigns, and any person acquiring, leasing, or otherwise owning an interest in the Easement Property.

10. No Relationship. The parties hereto do not, by this Agreement nor by any parties' acts, become principal and agent, limited or general partners, joint venturers or of any other similar relationship of each other in the conduct of their respective businesses, or otherwise.

11. Cooperation. The parties hereto agree to cooperate reasonably to attempt to resolve any disputes that may arise in the future between them with respect to the parties' use of the Easement Property.

12. No Waiver. Failure of a party to insist upon strict performance of any provisions of this Agreement shall not be construed as a waiver for future purposes with respect to any such provision or option. No provision of this Agreement shall be waived unless such waiver is in writing and signed by the party alleged to have waived its rights.

13. Force Majeure. The parties shall be excused from performing any of their respective obligations or undertakings set forth in this Agreement, except any obligations to pay any sums of money under this Agreement, so long as the performance of any such obligation or undertaking is prevented or delayed by an act of God, weather, fire, earthquake, flood, explosion, action of the elements, war, invasion, insurrection, riot, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, or order of government or civil defense authorities. Any party, if claiming a force majeure delay hereunder, shall give notice of such delay to the other party within twenty (20) days after the occurrence of such force majeure event, which notice shall set forth the anticipated length of such delay which has been caused by such event.

14. Authority. The undersigned represent and warrant that each of them has been duly authorized by all necessary corporate or company action, as appropriate, to execute this Agreement for and on behalf of the respective parties. The undersigned further represent and warrant that this Agreement, when fully executed, shall constitute a legal, valid, and binding agreement for each of the respective parties, enforceable in accordance with its terms.

15. Costs and Expenses and Remedies Upon Breach. In the event of a breach in any of the covenants or agreements contained herein, the breaching party shall pay all costs and expenses, including reasonable attorneys' fees, which may arise or accrue from enforcing this agreement or in pursuing any remedy provided by the laws of the State of Utah, whether such remedies are pursued by filing suit or otherwise.

16. Enforcement. Each party shall have the full power and authority to enforce compliance with this Agreement in any manner provided for in law or in equity, including without limitation, the right to bring an action for damages, to enjoin the violation, or specifically enforce the provisions of this Agreement, and if that party prevails in such action, it shall recover as part of its costs all reasonable attorney's fees, court costs and expert witness fees.

17. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, successors, legal representatives, and assigns. At such time as Grantee no longer owns the Grantee Property, or in the event of Grantee's transfer of title or interest to any specific portions thereof to a third-party purchaser, all of the owners of Grantee Property and any Owners' Associations that may be created to manage Grantee Property shall assume automatically the benefits of and be responsible for all of Grantee's rights, covenants, benefits, responsibilities and duties in connection with this Agreement, and Grantee shall be relieved from and after the date of such transfer of all liability as respects Grantee's obligations, if any, thereafter to be performed. The obligations contained in this Agreement, if any, to be performed by Grantee, shall, subject as aforesaid, be binding upon Grantee's successors and assigns, only during their respective periods of ownership.

18. Interpretation. The paragraph headings in this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation and construction. The use of the singular in this Agreement shall include the plural, where the context is otherwise appropriate.

19. Duration and Amendment. This Agreement shall be recorded in the Office of the Weber County Recorder. Notwithstanding anything within this Agreement to the contrary, the parties may terminate this Agreement only by a written notice of termination executed by the parties, and recorded in the Office of the Weber County Recorder, Utah. The parties may amend this Agreement only by a written instrument executed by the parties, and recorded in the Office of the Weber County Recorder, Utah. In the event of abandonment of use of Easements for a period of five (5) years by Grantee subsequent to Grantee's construction of roads or utilities, this Agreement shall automatically expire and be recorded as such in the Office of the Weber County Recorder, Utah.

20. Partial Invalidity. If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be held invalid, the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

21. Counterparts. This Agreement may be executed in one or more counterparts, which together shall constitute the Agreement.

22. Applicable Law. This Agreement shall be governed by and construed in accordance with and interpreted under the laws of the State of Utah.

23. Recitals Incorporated. The Recitals set forth above are true and correct and are incorporated herein by this reference.

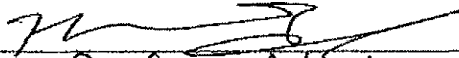
24. Approval of Governing Boards. The terms of this Agreement may be subject to approval by Grantor governing bodies including the Weber State University Board of Trustees and the Utah State Board of Regents.

Remainder of this page intentionally left blank

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

**GRANTOR:**

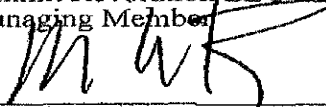
WEBER STATE UNIVERSITY,


By:   
Its: V.P. for Admin

**GRANTEE:**

**Summit Mountain Holding Group, L.L.C.**

By: Summit Revolution LLC  
Its: Managing Member

By:   
Name: Elliott Bisnow  
Its: Manager

By:   
Name: Gregory Vincent Mauro  
Its: Manager

STATE OF UTAH )  
 )  
:SS.  
COUNTY OF WEBER )

The foregoing instrument was acknowledged before me this 12 day of July, 2013, by Norman Tarbox, the VP for Administrative Services of Weber State University,

Joanne Robinson  
NOTARY PUBLIC  
Residing at: Weber County, UT

My Commission Expires: 6-22-2016

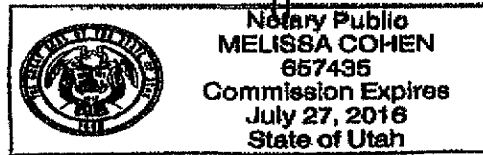


STATE OF Utah )  
 )  
:SS.  
COUNTY OF Weber )

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of July, 2013, by Elliot Bisnow, Manager of Summit Revolution LLC, the Managing Member of Summit Mountain Holding Group, L.L.C.

Melissa Cohen  
NOTARY PUBLIC  
Residing at: 2487 N Hwy 158 Eden, UT 84910

My Commission Expires: 7/27/2016

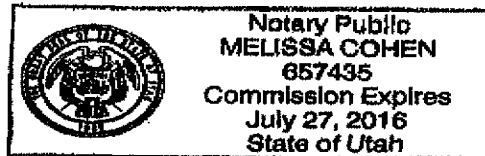


STATE OF Utah )  
 )  
:SS.  
COUNTY OF Weber )

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of July, 2013, by Gregory Vincent Mauro, Manager of Summit Revolution LLC, the Managing Member of Summit Mountain Holding Group, L.L.C.

Melissa Cohen  
NOTARY PUBLIC  
Residing at: 2487 N Hwy 158 Eden UT 84910

My Commission Expires: 7/27/2016



## EXHIBIT "A"

LEGAL DESCRIPTION OF GRANTOR PROPERTY

Parcel No. 23-012-0109

J R

THAT PART OF THE FOLLOWING DESCRIBED PROPERTY LYING SOUTH OF WEBER-CACHE COUNTY LINE (40-21). BEGINNING AT A POINT THAT IS NORTH 0D57'08" EAST ALONG THE SECTION LINE 1457.55 FEET AND WEST 391.09 FEET FROM THE SOUTHEAST CORNER OF SECTION 6, TOWNSHIP 7 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 21D51'21" WEST 127.94 FEET TO A POINT ON THE ARC OF A 1049.43 FOOT RADIUS CURVE, THE CENTER OF WHICH BEARS SOUTH 16D46'08" WEST; THENCE WESTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 29D49'34" A DISTANCE OF 546.30 FEET; THENCE NORTH 45D00'59" (45D00'59") WEST 33.94 FEET; THENCE NORTH 13D01'28" EAST 60.75 FEET; THENCE NORTH 27D33'36" WEST 169.15 FEET; THENCE NORTH 68D08'39" WEST 123.43 FEET; THENCE NORTH 21D51'21" EAST 129.28 FEET; THENCE SOUTH 68D08'39" EAST 800.00 FEET TO THE POINT OF BEGINNING. TOGETHER WITH A RIGHT OF WAY OVER EXISTING ROADS TO THE ABOVE DESCRIBED PROPERTY, ALSO, TOGETHER WITH A RIGHT OF WAY OVER THE PRIVATE ROAD AT POWDER MOUNTAIN SKI RESORT AS RECORDED IN BOOK 24, PAGES 80-82, WEBER COUNTY PLATS, ENTRY NO. 868457, AND 25.00 FEET EITHER SIDE OF THE FOLLOWING DESCRIBED CENTERLINE: BEGINNING AT A POINT ON THE NORTHERLY LINE OF THE ABOVE DESCRIBED PRIVATE ROAD, SAID POINT BEING NORTH 0D57'08" EAST ALONG THE SECTION LINE 1216.92 FEET AND WEST 2186.87 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 6; THENCE NORTH 87D33'51" EAST 254.12 FEET TO A POINT ON THE ARC OF A 900.00 FOOT RADIUS CURVE, THE CENTER OF WHICH BEARS NORTH 2D26'09" WEST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 17D00' A DISTANCE OF 267.04 FEET; THENCE NORTH 70D33'51" EAST 185.00 FEET TO A POINT ON THE ARC OF A 700.00 FOOT RADIUS CURVE, THE CENTER OF WHICH BEARS NORTH 19D26'09" WEST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 21D34'46" A DISTANCE OF 263.64 FEET; THENCE NORTH 21D51'21" EAST 317.07 FEET.



EXHIBIT "B"

LEGAL DESCRIPTION OF GRANTEE PROPERTY

Parcel No. 23-012-0054



THAT PART OF THE FOLLOWING PROPERTY LYING SOUTHWESTERLY OF THE WEBER-CACHE COUNTY LINE (40-21).

THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 7 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY.

EXCEPT THAT PART DEEDED IN BOOK 1405-215.

ALSO EXCEPT THAT PART DEEDED TO WEBER STATE COLLEGE (1592-1024).

SUBJECT TO 50 FOOT RIGHT OF WAY 25 FEET EACH SIDE OF THE FOLLOWING CENTER LINE:

BEGINNING AT A POINT OF THE NORTHERLY LINE OF THE ABOVE DESCRIBED PRIVATE ROAD, SAID POINT BEING NORTH 0D57'08" EAST ALONG THE SECTION LINE 1216.92 FEET AND WEST 2186.87 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 6; THENCE NORTH 87D33'51" EAST 254.12 FEET TO A POINT ON THE ARC OF A 900.00 FOOT RADIUS CURVE, THE CENTER OF WHICH BEARS NORTH 2D26'09" WEST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 17D00' A DISTANCE OF 267.04 FEET; THENCE NORTH 70D33'51" EAST 185.00 FEET TO A POINT ON THE ARC OF A 700.00 FOOT RADIUS CURVE, THE CENTER OF WHICH BEARS NORTH 19D26'09" WEST; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 21D34'46" A DISTANCE OF 263.64 FEET; THENCE NORTH 21D51'21" EAST 317.07 FEET.

EXHIBIT "C"LEGAL DESCRIPTION OF EASEMENT PROPERTY

Beginning at a point that is South 1,547.18 feet and West 455.93 feet from the East Quarter Corner of Section 6, Township 7 North, Range 2 East, Salt Lake Base and Meridian; running thence South 22°03'15" West 33.40 feet; thence westerly along a 1,049.43 foot radius non-tangent curve to the left,(chord bears North 76°15'15" West a distance of 117.94 feet), through a central angle of 06°26'34", a distance of 118.01 feet; thence North 82°05'18" East 11.12 feet; thence easterly along a 459.15 foot radius curve to the right,(chord bears North 88°48'39" East a distance of 107.50 feet), through a central angle of 13°26'42", a distance of 107.74 feet; thence South 84°28'01" East 8.65 feet; to the point of beginning.

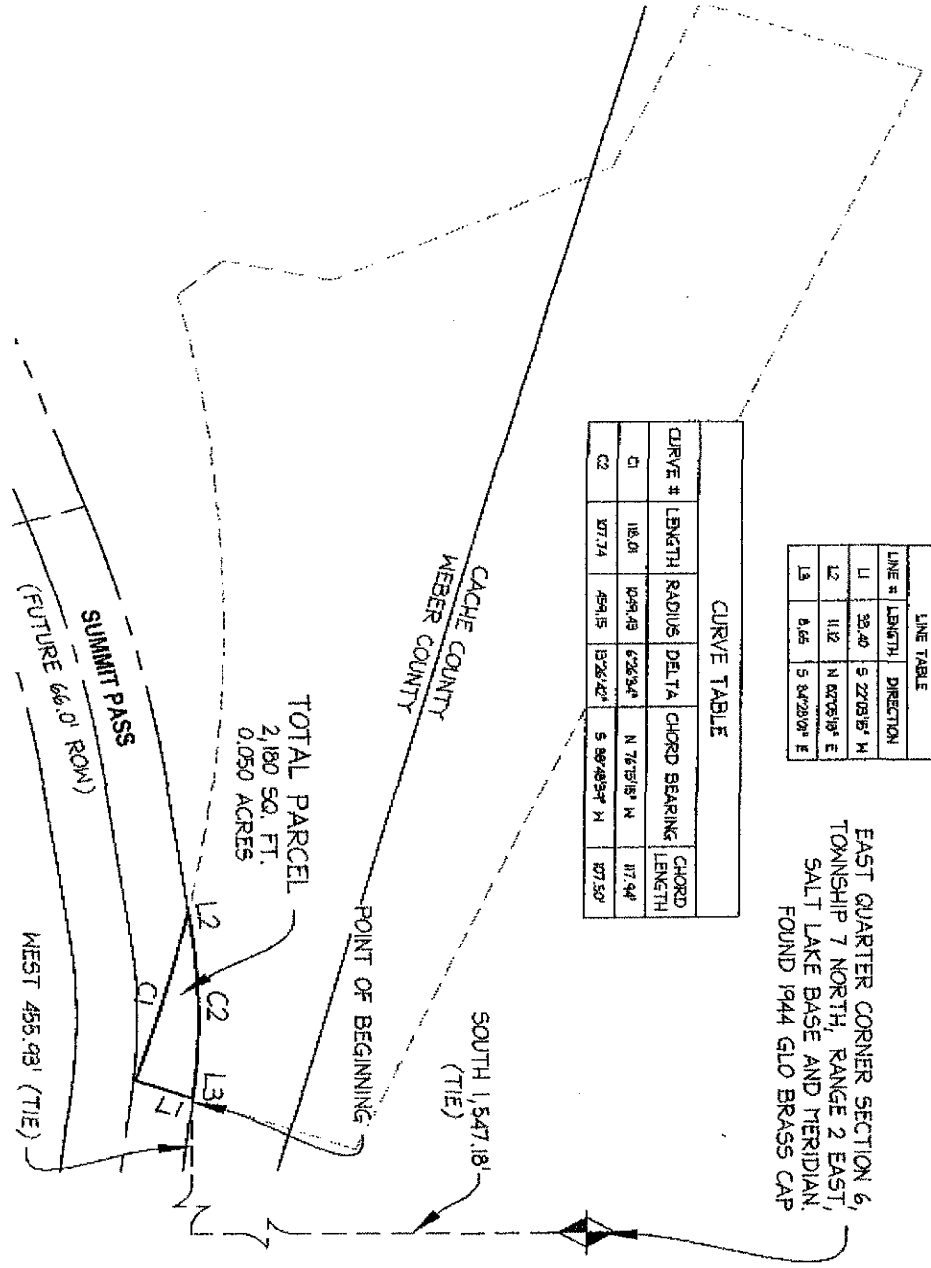
containing 2,180 square feet or 0.050 acres

BASIS OF BEARINGS FOR THIS DESCRIPTION IS NORTH 00°23'40" EAST BETWEEN THE FOUND GLO BRASS CAP MONUMENTS REPRESENTING THE WEST QUARTER CORNER AND THE NORTHWEST CLOSING CORNER OF SECTION 5, TOWNSHIP 7 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN.

| LINE TABLE |        |               |
|------------|--------|---------------|
| LINE #     | LENGTH | DIRECTION     |
| 11         | 33.40  | S 22°05'57" W |
| 12         | 11.12  | N 02°05'19" E |
| 13         | 8.65   | S 84°23'00" E |

| CURVE TABLE |        |         |         |               |              |
|-------------|--------|---------|---------|---------------|--------------|
| CURVE #     | LENGTH | RADIUS  | DELTA   | CHORD BEARING | CHORD LENGTH |
| C1          | 18.01  | 1091.43 | 62°34'  | N 76°18' M    | 117.94'      |
| C2          | 307.74 | 459.15  | 132°42' | S 89°48'39" W | 107.50'      |

EAST QUARTER CORNER SECTION 6,  
 TOWNSHIP 7 NORTH, RANGE 2 EAST,  
 SALT LAKE BASE AND MERIDIAN.  
 FOUND 1944 GLO BRASS CAP



**LEGAL DESCRIPTION:**

BEGINNING AT A POINT THAT IS SOUTH 1,547.18 FEET AND WEST 455.93 FEET FROM THE EAST QUARTER CORNER OF SECTION 6, TOWNSHIP 7 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN; RUNNING THENCE SOUTH 22°05'57" WEST 33.40 FEET; THENCE WESTERLY ALONG A 1,049.43 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT, (CHORD BEARS NORTH 76°15'15" WEST A DISTANCE OF 117.94 FEET), THROUGH A CENTRAL ANGLE OF 62°26'34", A DISTANCE OF 118.01 FEET; THENCE NORTH 02°05'19" EAST 11.12 FEET; THENCE EASTERLY ALONG A 459.15 FOOT RADIUS CURVE TO THE RIGHT (CHORD BEARS NORTH 89°48'39" EAST A DISTANCE OF 107.50 FEET), THROUGH A CENTRAL ANGLE OF 132°42', A DISTANCE OF 107.74 FEET; THENCE SOUTH 84°23'00" EAST 8.65 FEET; TO THE POINT OF BEGINNING.

CONTAINING 2,180 SQUARE FEET OR 0.050 ACRES

BASIS OF BEARINGS FOR THIS DESCRIPTION IS NORTH 00°23'40" EAST BETWEEN THE FOUND GLO BRASS CAP MONUMENTS REPRESENTING THE WEST QUARTER CORNER AND THE NORTHWEST CLOSING CORNER OF SECTION 5, TOWNSHIP 7 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN

**WEBER STATE PARCEL EXHIBIT MAP**

|              |         |
|--------------|---------|
| SHEET NUMBER | 1       |
| OF 1 SHEETS  |         |
| JOB NUMBER   | SLB0793 |

PREPARED FOR: SUMMIT MT HOLDING GROUP DATE SUBMITTED: 07/11/2013



5207 SOUTH STATE STREET, SUITE 300  
 8017481900 TEL 8017480500 FAX

MURRAY, UT 84107  
 WWW.NIV5.COM