

**PROTECTIVE COVENANTS FOR
DIXIE COVE SUBDIVISION**

A SUBDIVISION LOCATED IN ST. GEORGE
WASHINGTON COUNTY, UTAH

Ence Construction Company, a Utah corporation, hereinafter referred to as the "Developer," is the owner of the following described property, hereinafter referred to as the "Property," located in Washington County, State of Utah, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE

Developer hereby includes all of the Property in the plat recorded herewith of Dixie Cove Subdivision—Phase I, and divides the Property into lots as shown on said plat (such lots being shown on said plat as Lots numbered 19 through 36, and dedicates the streets shown on said plat to the public. The easements indicated on said plat are hereby perpetually reserved for public utilities and for any other uses as designated thereon or set forth herein.

Developer further declares that all of the Property described herein is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied, and improved subject to the following limitations, restrictions, covenants and conditions, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement and sale of the Property, and are established and agreed upon for the purposes of enhancing and protecting the value, desirability and attractiveness of the Property and every lot, part or portion thereof. The acceptance of any deed to or conveyance of any lot, part or portion of the Property by the grantees therein named or by their legal representatives, heirs, executors, administrators, successors or assigns, shall constitute their covenant and agreement with the Developer and with each other to accept, hold, improve, use and convey the Property described and conveyed in or by such deed or conveyance subject to said restrictions, covenants and conditions. These restrictions, covenants and conditions shall run with the land.

ARTICLE I - GENERAL RESTRICTIONS

1. **LAND USE AND BUILDING TYPE:** All lots shall be used only for single family residential purposes. No professional, business or commercial use shall be made of any lot, or any portion thereof; provided, however, that the lot restrictions contained in this section shall not be construed in such a manner as to prohibit an owner or resident from (a) maintaining his personal professional library therein; (b) keeping his personal business or professional records or accounts therein; or (c) handling his personal, business or professional telephone calls or correspondence therefrom.

The only building or structure permitted to be erected, placed or permitted to be located on any lot within the subdivision shall be a detached single family dwelling not to exceed two stories in height, with an enclosed private garage, except as otherwise provided herein. All construction shall be of new materials, except that used brick may

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FOR: SOUTHERN UTAH TITLE CO

be used so long as it conforms with the building and subdivision ordinances of St. George City, Utah. All structures shall be constructed in accordance with the zoning and building ordinances of St. George City, Utah, in effect from time to time.

"Family" is defined to mean persons related by blood or marriage, by legal adoption, or by operation of law.

2. **COMPLETION OF CONSTRUCTION:** The construction of any building on any portion of the Property shall be continuously and diligently pursued from and after the commencement of such construction, and in any event shall be substantially completed and have a certificate of occupancy issued within nine (9) months after such commencement.

3. **LOT SIZE:** Lot sizes as described on the recorded plat of subdivision are considered minimum lot sizes and no person shall further subdivide any lot other than as shown on the recorded plat of said subdivision.

4. **MINIMUM AREA:** The minimum total square footage of living area on the first level above ground and located within the area of a foundation for any residential dwelling constructed on any lot within the subdivision, exclusive of porches, balconies, patios and garages, shall be not less than 1,000 square feet.

5. **BUILDING LOCATION:** No building shall be located on any lot nearer than twenty-five (25) feet to the front lot line; nor nearer than ten (10) feet to the rear lot line; nor nearer than ten (10) feet to one side lot line; nor nearer than eight (8) feet to the other side lot line. All of the foregoing measurements shall be made from the applicable lot line to the foundation, porch or other extension of such building, whichever is nearer to such lot line. For the purpose of this covenant, eaves and steps shall not be considered as part of a building for the purpose of determining such distance, provided, however, that this shall not be construed to permit any portion of a building, including eaves or steps to encroach upon another lot. Any lot line fronting a street shall be considered a front lot line. Buildings other than principal buildings may be closer to the lot lines than provided in this paragraph, upon approval of the Architectural Control Committee, but must comply with Paragraph 8.

6. **CARE AND MAINTENANCE OF LOT:** The owner of each lot shall keep the same free from rubbish, litter and noxious weeds. All structures, landscaping and improvements shall be maintained in good condition and repair at all times. Each lot shall be subject to an easement for access to make repairs upon that lot or adjoining lots and structures; provided however, that:

- (a) Any damage caused by such entry shall be repaired at the expense of the owner whose property was the subject of the repair work which caused the same;
- (b) Any such entry shall be made only at reasonable times and with as little inconvenience as possible to the owner of the entered lot; and
- (c) In no event shall said easement be deemed to permit entry into the interior portion of any dwelling.

7. **SLOPE AND DRAINAGE CONTROL:** No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels. The slope control areas of each lot and all improvements in them shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

8. **FENCES AND SIGHT OBSTRUCTIONS:** No structure, fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points thirty (30) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within the (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at such height to prevent obstruction of such sight lines. No fence, wall, hedge, shrub or other structure shall be placed along any front property line. No fence, wall, hedge, tree, plant, shrub or foliage shall be planted, kept or maintained in such manner as, in the opinion of the Architectural Control Committee, shall create a serious potential hazard or an aesthetically unpleasant appearance to the other residents of the area.

9. **DRIVEWAYS:** Each main driveway on a lot shall be constructed out of cement. Cinders, sand, gravel, or dirt shall not be permitted for driveway material on any lot. Driveways of any other materials must be approved by the Architectural Control Committee. The driveway on each lot shall be in a color which blends with the exterior of the structure located on such lot. Any RV or other parking pad to be constructed to the side of the home/garage, must first be approved by the Architectural Control Committee, as provided for in Article II.

10. **EASEMENTS:** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation, maintenance or replacement of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. Any structure, planting or other material which is placed in the easement areas in violation of this section shall be done so at the sole risk of the owner, and the owner shall be responsible for any damage or replacement caused thereby. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible. The title holder of each lot shall from time to time grant rights over, across, on, under and upon these easements for such additional uses and services as may be provided from time to time by a public authority or private utility company.

11. **TEMPORARY OR OTHER STRUCTURES:** No structure of a temporary nature, and no trailer, bus, basement, outhouse, tent, shack, garage, or other outbuilding shall be used at any time as a residence either temporarily or permanently,

nor shall any such structures be erected or placed on said property at any time. No trailer, bus, outhouse, tent, shack or temporary structure shall be erected or placed on any lot at any time. No old or second-hand structures shall be moved onto any of said lots. It is the Developer's intention that all dwellings and other buildings to be erected within the subdivision be new construction, of good quality, workmanship, and materials.

12. **NUISANCES:** No noxious or offensive activity shall be carried on upon any lot, part or portion of the Property, nor shall anything be done thereon which may be or may become an annoyance to the neighborhood. No clothes drying or storage of any articles which are visible from any public street shall be permitted.

No resident's use of a lot shall endanger the health or disturb the reasonable enjoyment of any other owner or resident.

13. **SAFE CONDITION:** Without limiting any other provision of these covenants, each owner shall maintain and keep such owner's lot at all times in a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity which might interfere with the reasonable enjoyment of other owners of their respective lots.

14. **SIGNS:** Except for one "For Sale" sign of not more than two (2) square feet, no billboard of any character shall be erected, posted, painted or displayed upon or about any of the Property. No sign of any kind, except signs used by the Developer, or by a builder to advertise the Property during a development, construction or sales period, shall be displayed to the public view on any lot, part or portion of the Property without the prior written approval of the Architectural Control Committee and said Architectural Control Committee shall have the right to remove or cause the removal of any such billboard or any such sign erected and displayed without said prior written approval.

15. **OIL AND MINING OPERATIONS:** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, part or portion of the Property, nor shall any oil well, gas well, tank, tunnel, mineral excavation or shaft be permitted upon or in any such lot or portion of the Property.

16. **ANIMALS, LIVESTOCK, POULTRY, AGRICULTURE:** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, part or portion of the Property, except that dogs, cats or other domesticated household pets may be kept in a residence constructed on a lot, provided that they are not kept, bred, or maintained for any commercial purpose. Such animals as are permitted shall be strictly controlled and kept pursuant to all applicable laws and ordinances, and shall be on a leash or inside a fence when outside the owner's residence.

17. **GARBAGE AND REFUSE DISPOSAL:** No lot, part or portion of the Property, shall be used or maintained as dumping ground for rubbish, rubble, trash, garbage or other waste. Such trash, rubbish, rubble, garbage or other waste as produced within the Property, shall be kept only in sanitary containers. No rubbish, trash, papers, junk or debris shall be burned upon the Property except that trash may

be burned in accordance with applicable laws and ordinances inside homes that are properly equipped with inside incinerator units.

18. **BUILDING MATERIALS:** No lot, part or portion of the Property shall be used or maintained as a storage for building materials except during a construction phase. Once a dwelling is occupied or made available for sale all building materials shall be removed or stored inside such dwelling, out of public sight.

19. **WATER SUPPLY:** No individual water supply system shall be used or permitted to be used on any lot, part or portion of the Property.

20. **SEWAGE DISPOSAL:** No individual sewage disposal system shall be permitted on any lot, part or portion of the Property.

21. **RV'S, BOATS, AND VEHICLES:** No boats, trailers, buses, motor homes, campers, recreational vehicles, or other such vehicles, shall be parked or stored upon any lot except within an enclosed garage or on a cement pad behind the required front lot line set-back area. No such vehicles shall be parked overnight on any street located within the subdivision.

Except as otherwise provided herein, no automobile, recreational or commercial vehicle, other motorized vehicle, or any portion thereof, shall be stored, dismantled, rebuilt, serviced, repaired or repainted on or in front of any lot unless performed within a completely enclosed garage or other structure located on the lot which screens the sight and sound of such activity from the public streets and neighboring lots. The foregoing restriction shall not be deemed to prevent temporary parking for loading or unloading of such vehicles, provided that in no case, shall overnight parking be allowed for more than 72 hours.

22. **LANDSCAPING:** The front yard area of each lot will be completely landscaped by Developer at the time of closing. No more than twenty-five percent (25%) of the landscaping shall be in the desert motif. The planting of trees and shrubs and grass are encouraged and recommended.

All diseased trees must be removed by the lot owner within one hundred-twenty (120) days after the diseased condition is discovered or after receipt of notification issued by the Architectural Control Committee demanding the removal thereof. All diseased and other trees removed from any lot, part or portion of the Property shall be replaced by the lot owner by the planting of an equivalent number of trees of the same species upon such lot. All trees planted by a lot owner pursuant to the requirements of this paragraph shall be of a minimum size of two and one half inches (2 1/2") caliper measured at a point one foot (1') above ground level.

23. **EXCAVATIONS.** Except for excavations for an approved foundation or basement, no excavations or removal of dirt are permitted on any lot below the present grade of such lot without prior written approval of the Architectural Control Committee.

ARTICLE II - ARCHITECTURAL CONTROL

1. **ARCHITECTURAL CONTROL COMMITTEE:** Prior to the commencement of any excavation, construction or remodeling of any structure or of any addition to any structure, there shall first be filed with the Architectural Control Committee two (2) complete sets of building plans and specifications, together with a site or plot plan, indicating the exact part of the building site which the improvements will cover, and no such work shall commence unless and until the Architectural Control Committee shall endorse on one set of such plans its written approval that such plans are in compliance with the covenants herein set forth and with the standards herein or hereafter established by said Architectural Control Committee pursuant hereto. The second set of such plans shall be filed as a permanent record with the Architectural Control Committee. Said Architectural Control Committee shall have the right to refuse to approve any such plans and specifications and shall have the right, in so doing, to take into consideration the suitability of the proposed building, the materials of which it is to be built, the site upon which it is proposed to be erected, the harmony thereof with the surroundings, and the effect of said building, or other structure so planned, on the outlook from adjacent or neighboring property. The Architectural Control Committee shall promulgate and maintain a list of standards for guidance in approving or disapproving plans and specifications pursuant to this Article. In the event said Architectural Control Committee fails to approve or disapprove in writing any such plans within sixty (60) days after the submission thereof to the Architectural Control Committee, then such approval shall be deemed to have been given.

The Architectural Control Committee shall consist of three (3) persons. The Developer shall have the right to appoint all members of the Architectural Control Committee until such time as title to more than ninety percent (90%) of the number of lots in the Property has been transferred to bona fide purchasers. When title to more than ninety percent (90%) of all of the lots in said development has been transferred by the Developer, a majority of the owners of lots, parts or portions of the Property subject to these covenants shall elect and appoint members of the Architectural Control Committee, which Committee shall thereafter be vested with the powers described herein and shall have jurisdiction over all of the property subject to these restrictions, covenants and conditions.

The Architectural Control Committee shall adopt reasonable rules and regulations for the conduct of its proceedings and to carry out its duties and may fix the time and place for its regular meetings and such extraordinary meetings as may be necessary, and shall keep written minutes of its meetings, which shall be open for inspection upon request. The Architectural Control Committee shall, by majority vote, elect one of its members as chairman and one of its members as secretary and the duties of each will be such as usually appertain to such offices.

2. **ADDITION, CHANGE OR ALTERATION:** No addition, change or alteration or, in the event of a casualty loss, shall any restoration be made to the exterior portion of any residence, until the plans and specifications showing the nature, kind, shape, height, materials, and location of the addition, change, alteration or restoration, and the grading plan and landscape plan therefor, shall have been submitted to and approved in writing as to the harmony of exterior design and location

in relation to surrounding structures and topography and finish grade elevations by the Architectural Control Committee.

3. **DWELLING CONSTRUCTION AND FENCE RESTRICTIONS:** In order to promote a harmonious community development and protect the character of the neighborhood, the following guidelines are applicable to the Property:

(a) Dwelling style, design, alterations and additions will conform to standards established by the Architectural Control Committee.

(b) Exterior construction materials will be limited to aluminum or vinyl siding, stone, stone veneer, brick or brick veneer, stucco or other materials approved for use by the Architectural Control Committee, and shall be in colors and of materials indigenous to the area. Specifications regarding the color, texture, finish and quality for the above will be made available by the Architectural Control Committee. Illuminative or reflective colors are prohibited provided however, that exterior walls may be white in color.

(c) Roof materials will be limited to tile, shake, architectural grade asphalt, or fiber glass shingles of a minimum weight of 235 pounds per square, and shall be in colors which blend with the balance of the exterior of the structure. No mansard roofs are allowed. Roof pitch shall be at least 4/12.

(d) Storage or utility buildings are allowed as approved by the Architectural Control Committee. All such structures intended for such uses must be built so as to blend in harmoniously with the surrounding buildings. All air conditioning equipment and utility pipes, etc. shall be placed as discretely as possible and covered with landscaping or fence materials.

(e) Dome structures of any type are not allowed.

(f) Any light used to illuminate garages, patios, parking areas or for any other purposes, shall be so arranged as to reflect light away from adjacent residences and away from the vision of passing motorists.

(g) No external radio, television, dish or other antennae of any kind or nature, or device for the reception or transmission of radio, microwaves or other similar signals shall be permitted on any lot without the prior written approval of the Architectural Control Committee.

(h) Fences, walls and other barriers shall be of material approved by the Architectural Control Committee.

ARTICLE III - DURATION, ENFORCEMENT, AMENDMENT

1. **DURATION OF RESTRICTIONS:** The covenants and restrictions contained herein shall run with and bind the land for a period of fifty (50) years from the date this document is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each, subject to amendment as herein set forth. During the Development Phase (defined below), the

covenants and restrictions contained herein may be modified, amended or repealed in whole or in part at any time and from time to time by the Developer or his successor or assigns by recorded instrument. The "Development Phase" shall be the time from the date of the recording of the Plat of Subdivision until such time as Developer transfers legal title to more than ninety percent (90%) of the number of lots to bona fide purchasers.

2. **AMENDMENT:** Upon completion of the Development Phase, the covenants and restrictions contained herein may be amended by a recorded instrument signed by no less than the owners of seventy-five percent (75%) of the number of lots. Any amendment after the completion of the Development Phase shall require a thirty (30) day written notice of any such proposed amendment be sent to every owner of any lot, part or portion of the Property.

3. **ADDITIONAL PROPERTY:** Additional property may be subjected to these covenants, conditions and restrictions by the Developer. The Developer shall indicate its intent to have such property bound by these covenants, conditions and restrictions on the plat of such property, or by recording an additional set of covenants, and thereafter such additional property shall be considered as part of the Property in all respects. This right of the Developer shall be assignable to one or more assignees.

4. **NOTICES:** Any notice required under the provisions of this document to be sent to any lot owner shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such owner.

5. **CONSTRUCTION AND SEVERABILITY:** All of the restrictions, covenants and conditions contained in this document shall be construed together. Invalidation of any one of said restrictions, covenants or conditions, or any part thereof, shall in no wise affect the enforceability or applicability any of the remaining restrictions, covenants or conditions, or parts thereof.

6. **VIOLATION CONSTITUTES NUISANCE:** Every act or omission whereby any restriction, covenant or condition in this document set forth is violated in whole or in part, is declared to be and shall constitute a nuisance, and may be abated by appropriate legal action by the Developer or any owner or owners from time to time of any lot or portion of the Property. Remedies hereunder shall be deemed cumulative and not exclusive.

7. **ENFORCEMENT:** Each and all of the restrictions, covenants and conditions contained in this document is and are for the benefit of the Developer, and of the owner or owners from time to time of any lot, part or portion of the Property. Each such restrictive covenant and condition shall inure to the benefit of and pass with each and every lot, part or portion of the Property and shall apply to and be binding upon each and every successor in interest. Said restrictions, covenants and conditions are and shall be deemed covenants of equitable servitude, and the actual or threatened breach thereof, or the continuance of any such breach, or compliance therewith, may be enforced, enjoined, abated, or remedied by appropriate proceedings at law or in equity by the Developer or the owner or owners from time to time of any lot, part or portion of the Property, provided, however, that no such breach shall affect or impair the lien of any bona fide mortgage or trust deed which shall have been given in good faith and for value, except that any subsequent owner of said, lot,

part or portion of the Property shall be bound and obligated by the said restrictions, covenants and conditions, whether such ownership is obtained by foreclosure, at a trustee's sale, or otherwise. All attorneys fees and costs incurred in any such action, and all expenses incurred in connection with such completion, shall constitute a lien on such lot owner's lot, and shall also be a personal obligation of said lot owner, enforceable at law, until such payment therefore is made.

8. RIGHT TO ENFORCE: The provisions contained in these covenants shall bind and inure to the benefit of and be enforceable by the Developer, by the owner or owners from time to time of any lot, part or portion of said Property, their and each of their legal representative, heirs, successors and assigns, and failure by the Developer or any such owner, or their respective legal representatives, heirs, successors, or assigns, to enforce any of said restrictions, covenants, or conditions shall in no event be deemed a waiver of the right to do so thereafter.

9. ASSIGNMENT OF POWERS: Any and all rights and power of the Developer herein contained may be delegated, transferred or assigned. Wherever the term "Developer" is used herein, it includes Developer and its successors and assigns.

IN WITNESS WHEREOF, the undersigned has hereunto executed this document this 1st day of July, 1994.

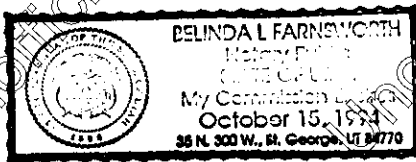
DEVELOPER
ENCE CONSTRUCTION COMPANY
A UTAH CORPORATION

By Jay Ence
Jay Ence, President

STATE OF UTAH)
) ss.
COUNTY OF WASHINGTON)

On this 1st day of July, 1994, before me personally appeared Jay Ence, whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed) did say that he is the president of Ence Construction Company, a corporation, and that the foregoing document was signed by him on behalf of that corporation by authority of its bylaws or of a resolution of its board of directors, and he acknowledged before me that the corporation executed the document and the document was the act of the corporation for its stated purpose.

Belinda L Farnsworth
NOTARY PUBLIC
Address: St. George
My Commission Expires: 10-15-94



MC/DC/DN:E:Ence Ex 724407 Dix Cove.cavs 030994 724407 dc

CONSENT

Consent is hereby given to the recording of the foregoing Protective Covenants for Dixie Cove Subdivision—Phase I and agreement to the provisions and effect thereof.

Dated: 7-5-94

Mary C Riding
MARY C RIDING

STATE OF UTAH
COUNTY OF WASHINGTON) ss.

On this 5TH day of July, 1994, before me personally appeared Mary C. Riding, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are signed on the preceding document, and acknowledged before me that he/she/they signed it voluntarily for its stated purpose.

Belinda L Farnsworth
NOTARY PUBLIC
Address: ST. GEORGE
My Commission Expires: 10-15-94



CONSENT

Consent is hereby given to the recording of the foregoing Protective Covenants for Dixie Cove Subdivision—Phase I and agreement to the provisions and effect thereof.

Dated: July 7, 1994

FAR WEST BANK

By [Signature]
Its S.R. Vice President

STATE OF UTAH

COUNTY OF WASHINGTON

) ss.

On this 7th day of July, 1994, before me personally appeared Devin S. Thatcher whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he/she is the S.R. Vice President of Far West Bank, a corporation, and that the foregoing document was signed by him/her on behalf of that corporation by authority of its bylaws or of a resolution of its board of directors, and he/she acknowledged before me that the corporation executed the document and the document was the act of the corporation for its stated purpose.

[Signature]
NOTARY PUBLIC
Address: St. George
My Commission Expires: 10-15-94

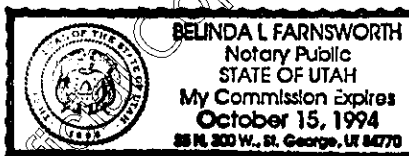


EXHIBIT "A"

BEGINNING AT A POINT N 89°27'12" E 1716.00 FEET ALONG THE CENTER SECTION LINE AND N 00°56'35" W 819.18 FEET FROM THE WEST 1/4 CORNER OF SECTION 23, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE N 00°56'35" W 509.14 FEET TO A POINT ON THE 1/16 LINE; THENCE N 89°23'20" E 427.47 FEET ALONG THE 1/16 LINE TO THE WESTERLY RIGHT OF WAY LINE OF 1450 WEST STREET; THENCE S 00°08'03" E 66.84 FEET ALONG SAID RIGHT OF WAY LINE TO THE POINT OF A 366.00 FOOT RADIUS CURVE TO THE LEFT; THENCE SOUTHEASTERLY 313.54 FEET ALONG THE ARC OF SAID CURVE; THENCE LEAVING 1450 WEST STREET AND RUNNING S 40°46'57" W 64.02 FEET; THENCE S 56°52'12" W 202.96 FEET; THENCE S 89°03'25" W 184.52 FEET; THENCE S 82°39'26" W 50.31 FEET; THENCE S 89°03'25" W 100.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 5.266 ACRES.