

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

X DEVELOPMENT, LLC  
9537 S. 700 E.  
Sandy, Utah 84070  
Attn: Eric Towner

APN: 40:513:0003  
40:513:0004

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(Space above reserved for recorder's use)

### EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (“**Agreement**”) is entered into as of the 2 day of May, 2022, by and between X Development, LLC, a Utah limited liability company (“**Grantor**”), and TFC Geneva Rd, LLC, a Utah limited liability company (“**Grantee**”). Grantor and Grantee are referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

### RECITALS

- A. Grantor owns certain real property located in Vineyard, Utah County, State of Utah, more particularly described on Exhibit A, attached hereto and incorporated herein (“**Lot 4**”).
- B. Grantee owns certain real property located in Vineyard, Utah County, State of Utah, more particularly described on Exhibit B, attached hereto and incorporated herein (“**Lot 3**”).
- C. The southern boundary of Lot 4 abuts the northern boundary of Lot 3.
- D. Grantee desires a permanent easement approximately 5.18 feet wide on, over and across a portion of Lot 4 for the exclusive benefit of Lot 3, and Grantor is willing to grant the easement to Grantee upon the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the recitals set forth above, which are incorporated herein, the agreements contained herein, and for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree as follows:

1. Grant of Easement for Benefit of Lot 3. Subject to the terms, covenants, agreements, restrictions and conditions of this Agreement, Grantor, as grantor, hereby grants and conveys to Grantee, as grantee, a permanent easement on, over, across and through that portion of Lot 4 described on Exhibit C, attached hereto and incorporated herein (the “**Easement Area**”), which easement will be appurtenant to Lot 3. The easements granted above will benefit Lot 3, as the dominant/benefitted property, and burden Lot 4, as the servient/burdened property.

2. Grantee accepts the Easement Area and the Access Drive in their present “AS-IS” condition and “WITH ALL FAULTS,” including but not limited to, both latent and patent defects. Grantee hereby waives any warranty of habitability, construction, merchantability or fitness for a particular purpose.

3. Compliance with Laws/Nuisance. Grantee will comply with all present and future Laws relating to Grantee's development, use or occupancy of the Easement Area. The term "Laws" means any law, regulation, rule, order, statute or ordinance of any governmental or private entity in effect at any time during the Term and applicable to the Easement Area and Grantee's use thereof, including, but not limited to, building, fire and safety codes and regulations. Grantee will not do or allow any violation of any Laws concerning the use and safety of the Easement Area as such Laws now exist or may hereafter be established or amended or any public or private nuisance to occur by Grantee or any of its employees, guests or customers upon the Easement Area. Grantee will not do, bring, keep or sell anything in or about the Easement Area that is prohibited by, or that will cause a cancellation of or an increase in the existing premium for, any insurance policy covering Lot 4 or any part thereof. Grantee will not permit the Easement Area to be occupied or used in any manner that will constitute waste or a nuisance, or disturb the quiet enjoyment of or otherwise annoy other tenants/occupants on Lot 4.

4. Maintenance and Repair of Easement Area. Grantee, at its sole cost and expense, will maintain, repair, and replace the improvements located on the Easement Area in a good and safe condition. All repairs will be made in a good and workmanlike manner.

5. Liens. Grantee will keep the Easement Area and Lot 4 free and clear of all liens arising out of any work performed, materials furnished or obligations incurred by Grantee. If any such lien attaches to the Easement Area and/or Lot 4, and Grantee does not cause the same to be released by payment, bonding or otherwise within thirty (30) days after the attachment thereof, Grantor will have the right but not the obligation to cause the same to be released, and any sums expended by Grantor in connection therewith will be payable by Grantee within thirty (30) days of demand with eighteen percent (18%) interest thereon from the date of expenditure by Grantor.

6. Environmental. Grantee will not cause or permit any Hazardous Materials to be generated, brought onto, used, stored, or disposed of in or about the Easement Area or Lot 4 by Grantee or any agent, representative, employee, servant, or contractor of Grantee. Grantee will use, store, transport and/or dispose of all such Hazardous Materials in strict compliance with all Environmental Requirements, and will comply at all times during the Term with all Environmental Requirements. The term "**Hazardous Materials**" means any substance: (a) that now or in the future is regulated or governed by, requires investigation or remediation under, or is defined as a hazardous waste, hazardous substance, pollutant or containment under any governmental statute, code, ordinance, regulation, rule or order, and any amendment thereto, including for example only the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601, et seq., and the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq., or (b) that is toxic, explosive, corrosive, flammable, radioactive, carcinogenic, dangerous or otherwise hazardous, including gasoline, diesel fuel, petroleum hydrocarbons, polychlorinated biphenyls (PCBs), asbestos, radon and urea formaldehyde foam insulation. The term "**Environmental Requirements**" means all present and future Laws, orders, permits, licenses, approvals, authorizations and other requirements of any kind applicable to Hazardous Materials.

7. Indemnification and Insurance.

7.1 Grantee Indemnification and Insurance. Grantee will indemnify and save harmless Grantor, its trustees, directors, officers, managers, members, agents and servants, from and against all claims, actions, suits, judgments, decrees, orders, liabilities, costs and expenses (including reasonable attorneys' and paralegal fees and costs, expert witness fees, and disbursements) (collectively, "**Claims**"): (a) arising from or out of any occurrence in, upon or at the Easement Area during the Term of this Agreement, or the occupancy or use by Grantee of the Easement Area or any part thereof, except to the extent the same is caused by the willful or negligent act or omission of Grantor, its agents, employees or contractors; or (b) arising from or occasioned wholly or in part by the use and operations on the

Grantee or any negligent act or omission of Grantee or any subtenants, the agents, employees, servants, subtenants, lessees, or concessionaires of Grantee and its sublicensees. If any action or proceeding is brought against Grantor, its directors, officers, managers, members, agents, or servants by reason of any of the aforementioned causes, Grantee, upon receiving written notice thereof from Grantor in the manner prescribed herein, agrees to defend such action or proceeding by counsel reasonably acceptable to Grantor at Grantee's own expense. Grantee will maintain a commercial general liability policy (covering claims for bodily injury, personal injury and property damage) and with broad form contractual liability coverage or insuring the foregoing indemnification obligation by contractual endorsement with limits of not less than \$2,000,000 per occurrence and \$5,000,000 in the aggregate with an aggregate per location endorsement. Grantee will cause Grantor and Grantor's lender, if applicable, to be endorsed as an additional insured with coverage equivalent to the coverage provided by ISO form 20 11 85 on all policies of liability insurance maintained by Grantee (including excess liability and umbrella policies) with respect to the Easement Area. The insurance required to be carried by Grantee under this Section will be evidenced by a certificate of insurance (such insurance certificate with respect to liability insurance will be issued on ACORD 25) from Grantee's insurer, authorized agent or broker.

8. Boundary Line Agreement. Grantor and Grantee agree that they will use good faith efforts to cause the boundary line between Lot 3 and Lot 4 to be adjusted whereby the Easement Area will become part of Lot 3. The Boundary Line Adjustment Application will be made by Grantor. Grantor agrees to pay the costs associated with the application and the preparation of any surveys and plats.

9. No Public Dedication. The Easement Area will at all times remain the private property of Grantor. Nothing contained in this Agreement will be deemed a gift or a dedication of any portion of the Easement Area to the general public or for a public purpose whatsoever, it being the Parties' intent that this Agreement be strictly limited for the purposes expressed herein.

10. Notices. Any notice required or desired to be given under this Agreement will be considered given either when delivered to the recipient named below or when delivery is rejected or denied when delivered to the recipient named below. All notices will be given to Grantor and Grantee at the following addresses. Any notices permitted or required to be given or served in writing by either party to the other party will be delivered personally or sent by certified or registered mail, postage prepaid, or sent via a national overnight courier that maintains delivery records, such as Federal Express, at the following address:

To Grantor:  
 X Development, LLC  
 9537 S. 700 E.  
 Sandy, Utah 84070  
 Attn: Eric Towner

To Grantee:  
 TFC Geneva Rd, LLC  
 6770 South 900 East, Suite 102  
 Salt Lake City, Utah 84047  
 Attn: Jason Smith

11. Miscellaneous.

11.1 Entire Agreement. This Agreement constitutes the entire contract and understanding between the Parties related to the subject matter herein and supersedes all prior agreements, arrangements and understandings relating to the subject matter of this Agreement. Any modifications to this Agreement must be in writing and signed by all Parties.

11.2 Successors and Assigns. The terms and conditions of this Agreement will run with the land during the term of this Agreement. The rights, conditions and provisions of this Agreement will inure to the benefit of, and will be binding upon, the Parties hereto and their respective successors and assigns. If Grantee assigns the rights under this Agreement to a tenant or subtenant of Lot 3, such

tenant or subtenant will comply and perform Grantee's obligations under this Agreement and Grantor may enforce its rights under this Agreement directly against such tenant or subtenant.

11.3 Security of Easement Area. Grantee, at its sole cost and expense, will be solely responsible for the security of the Easement Area. Neither Grantor nor any of Grantor's agents, employees, or representatives will be responsible for or required to take any action to prevent, stop, protect against, apprehend, detain or otherwise become involved with any person or persons engaged in any robbery, pilferage, theft, burglary or other illegal action committed against or with respect to the Easement Area, or the vehicles or personal property of Grantee or Grantee's employees, guests, or customers. Notwithstanding anything in this Agreement to the contrary, Grantee assumes all risk of loss, harm, or damage to any vehicles or property located on the Easement Area, and indemnifies, holds harmless, acquits, releases and waives Grantor for, from, and against all Claims associated therewith.

11.4 Legal Rights. This Agreement, and the interpretation, validity, effect and performance hereof, will be governed by the laws of the State of Utah. Venue and jurisdiction for any legal proceedings will be in Utah County, Utah. If any action at law or in equity, or any legal proceeding, be instituted by any Party against the other Party to enforce this Agreement or any rights arising hereunder, or in connection with the subject matter hereof, the prevailing Party will be entitled to recover all costs of suit and reasonable attorneys' and paralegal fees. For purposes of this Section, the term "prevailing Party" will, in the case of a claimant, be the Party who is successful in obtaining substantially all of the relief sought, and in the case of the defendant or respondent, the Party who is successful in denying substantially all of the relief sought by the claimant, regardless of whether such action proceeds to final judgment.

11.5 Remedies. If any Grantee fails to perform its obligations under this Agreement, Grantor may pursue any remedy available at law or in equity or perform such obligations after providing Grantee thirty (30) days' prior written notice. In the event that Grantor performs Grantee's obligations under this Agreement, Grantee will reimburse Grantor for the costs incurred by Grantor in performing Grantee's obligations within thirty (30) days after written demand. Except as expressly provided otherwise in this Agreement, any sum owing to Grantor under the terms and provisions of this Agreement that will not be paid within thirty (30) days after it is due will bear interest at twelve percent (12%) (or the maximum interest permitted by law, whichever is less) per annum from the date the same becomes due and payable by the terms and provisions of this Agreement until paid.

11.6 Remedies Not Exclusive; No Waiver. The various rights and remedies herein contained and reserved to each of the Parties, except as otherwise expressly provided herein, will not be considered as exclusive of any other right or remedy of such Party but will be construed as cumulative and will be in addition to every other remedy now or hereafter existing at law, in equity or by statute. No delay or omission of the right to exercise any power or remedy by any Party will impair any such right, power or remedy or be construed as a waiver of any default or non-performance or as acquiescence therein. Any waiver of any breach of this Agreement, or the breach of any covenant, representation or warranty contained herein (a "**Breach**"), in any one instance, will not operate as or be deemed to be a further or continuing waiver of such Breach or any other Breach, nor will any failure at any time or times to enforce or require performance of any provision hereof operate as a waiver of or affect in any manner such Party's right at a later time to enforce or require performance of any such provision. No Party will be deemed to have waived any term, covenant or condition unless such Party gives the other Party written notice of such waiver.

11.7 Brokers and Commissions. Grantor and Grantee hereby represent and warrant to each other that neither has retained or dealt through any brokers, finders or middlemen for which a real estate commission or fee is payable in connection with this Agreement. Grantor and Grantee hereby

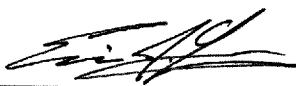
indemnify, defend and hold the other party harmless from and against any and all liabilities, expenses or claims arising out of a breach of the foregoing representations and warranties made herein and from any Claims asserted by any broker or finder for a fee or commission based upon any dealings with or statements made by the representing party.

11.8 Miscellaneous. This Agreement will be interpreted and construed only by the contents hereof, and there will be no presumption or standard of construction in favor of or against any Party. The captions in this Agreement are for convenience only and do not constitute a part of the provisions hereof. Time is expressly made of the essence of each and every provision of this Agreement. The Parties, and each of them, acknowledge, declare, and agree, that: (i) they have consulted legal counsel about this Agreement, including the meaning and effect of waiving any legal rights, or have had the opportunity to do so and have voluntarily chosen not to do so; (ii) they have had adequate time and opportunity to review the terms of this Agreement and have carefully read it; (iii) they are sophisticated parties that have negotiated this Agreement at arm's length, and accordingly, expressly waive any rule of law or any legal decision that would require interpretation of any ambiguities in this Agreement against the Party that has drafted it; and (iv) they intend to be legally bound to the provisions of this Agreement, which will be interpreted in a reasonable manner to effect the purposes of this Agreement and intent of the Parties as outlined herein. This Agreement may be executed in any number of duplicate counterparts, each of which will be deemed an original, and when taken together will constitute one and the same original Agreement, which will be fully binding upon each Party who executes the same.

THE SUBMISSION OF THIS AGREEMENT FOR EXAMINATION OR ITS NEGOTIATION OR THE NEGOTIATION OF THE TRANSACTION DESCRIBED HEREIN DOES NOT CONSTITUTE AN OFFER, AND THE EXECUTION OF THIS AGREEMENT BY GRANTEE DOES NOT CONSTITUTE A BINDING CONTRACT UNTIL SUCH TIME AS THIS AGREEMENT HAS BEEN SIGNED BY BOTH GRANTOR AND GRANTEE AND DELIVERED TO GRANTOR.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

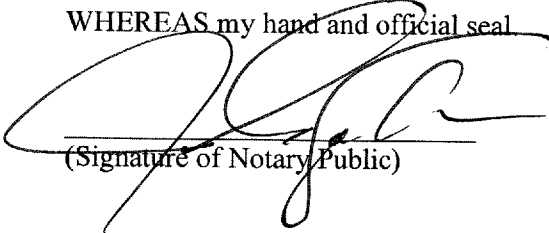
X Development, LLC,  
a Utah limited liability company

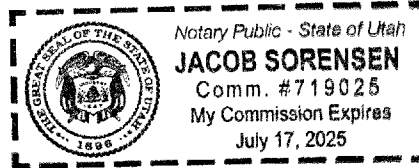
By:   
Name: Eric Towner  
Its: Manager

STATE OF Utah )  
 : ss  
COUNTY OF Salt Lake

On 5/2/22 before me, Jacob Sorenson, personally appeared Eric Towner personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) as Manager for X Development, LLC, and that by his/her/their signature(s) on the instrument X Development, LLC executed the instrument.

WHEREAS my hand and official seal

  
(Signature of Notary Public)



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

On \_\_\_\_\_ before me, \_\_\_\_\_, personally appeared \_\_\_\_\_ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) as \_\_\_\_\_ for TFC Geneva Rd, LLC, and that by his/her/their signature(s) on the instrument TFC Geneva Rd, LLC executed the instrument.

WHEREAS my hand and official seal.

\_\_\_\_\_  
(Signature of Notary Public)

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

X Development, LLC,  
a Utah limited liability company

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

Name: Eric Towner  
Its: Manager

TFC Geneva Rd, LLC,  
a Utah limited liability company

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

Name: Jason E. Smith  
Its: Manager

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

On \_\_\_\_\_ before me, \_\_\_\_\_, personally appeared Eric Towner personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) as Manager for X Development, LLC, and that by his/her/their signature(s) on the instrument X Development, LLC executed the instrument.

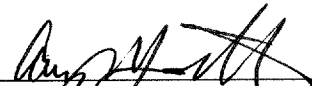
WHEREAS my hand and official seal.

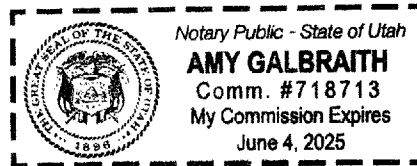
\_\_\_\_\_  
(Signature of Notary Public)

STATE OF Utah )  
 : ss  
COUNTY OF Salt Lake )

On May 2nd, 2022 before me, Amy Galbraith, personally appeared Jason P. Smith personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) as Manager for TFC Geneva Rd, LLC, and that by his/her/their signature(s) on the instrument TFC Geneva Rd, LLC executed the instrument.

WHEREAS my hand and official seal.

  
(Signature of Notary Public)





**EXHIBIT "A"**

**DESCRIPTION OF LOT 4**

Lot 4 of the Geneva Retail Frontage Subdivision dated as of May 1, 2018 pursuant to the official plat thereof recorded in the official records of Utah County, Utah.

**EXHIBIT "B"**

**DESCRIPTION OF LOT 3**

Lot 3 of the Geneva Retail Frontage Subdivision dated as of May 1, 2018 pursuant to the official plat thereof recorded in the official records of Utah County, Utah.

**EXHIBIT "C"**

**LEGAL DESCRIPTION OF EASEMENT AREA**

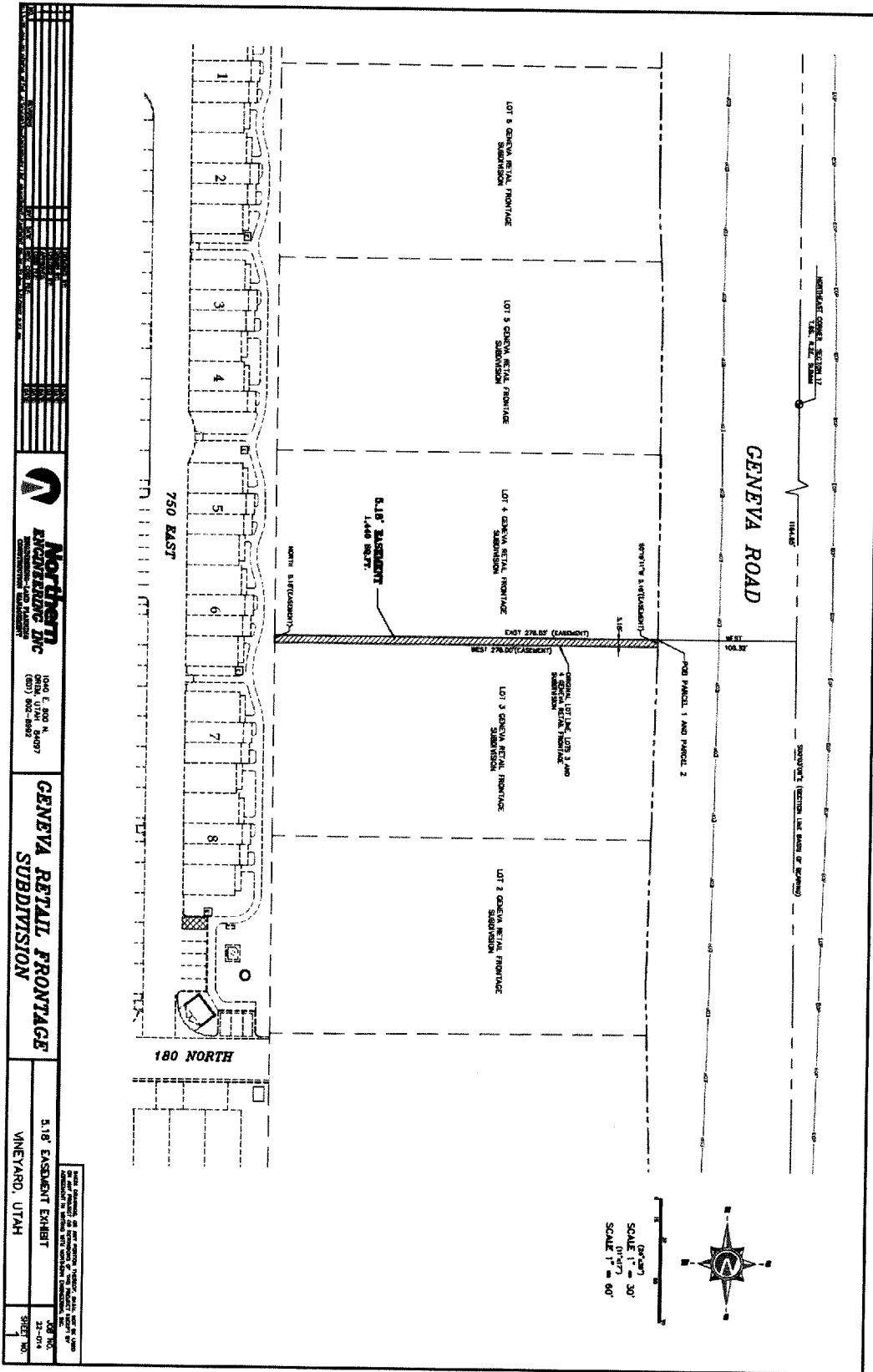
A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 6 SOUTH, RANGE 2 EAST, SLB&M VINEYARD UTAH, SAID PROPERTY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 17; THENCE S.00°03'06"E. ALONG THE SECTION LINE A DISTANCE OF 1164.65 FEET; THENCE WEST A DISTANCE OF 100.32 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY OF SR-114 (GENEVA ROAD) VINEYARD, UTAH SAID POINT ALSO BEING THE REAL POINT OF BEGINNING; THENCE S.00°19'11"W. A DISTANCE OF 5.18 FEET ALONG SAID RIGHT OF WAY; THENCE WEST A DISTANCE OF 278.00 FEET; THENCE NORTH A DISTANCE OF 5.18 FEET; THENCE EAST A DISTANCE OF 278.03 FEET TO THE POINT OF BEGINNING.

CONTAINING APPROXIMATELY 1,440 SQ.FT.

EXHIBIT "D"

DEPICTION OF EASEMENT AREA



**NORTHERN ENGINEERING INC.**  
 PROFESSIONAL ENGINEERING AND ARCHITECTURE  
 1000 E. 800 N., SUITE 200  
 OGDEN, UTAH 84403  
 (801) 500-9882

**GENEVA RETAIL FRONTAGE SUBDIVISION**

5.18' EASEMENT EXHIBIT  
 VINEYARD, UTAH  
 JOB NO. 22-014  
 SHEET NO. 1