

When Recorded Return To:  
WCWCD  
136 North 100 East, Suite 1  
St. George, UT 84770

00696150 Bk 1379 Pg 2063  
RUSSELL SHIRTS & WASHINGTON CO RECORDER  
2000 SEP 11 16:00 PM FEE \$4.00 BY BJ  
FOR: WASHINGTON COUNTY WATER CONSERV DIST

### **EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT ("Agreement") is made and executed as of the 25<sup>th</sup> day of August, 2000, by and between Winding River Associates, LLC, a Utah Limited Liability Company ("Grantor"), and Washington County Water Conservancy District, ("Grantee").

#### **Recitals-**

WHEREAS, Grantor owns certain real property located in Washington County, Utah, that is more particularly described in Exhibit A (hereinafter "Winding River South Property") attached hereto and incorporated herein by reference; and

WHEREAS, Grantee is making certain improvements in Washington County associated with its functions as a water conservancy district including the construction of the Sand Hollow Reservoir in Washington County, a sixty inch (60") diameter raw water pipeline and a culinary water pipeline (eighteen inch (18") minimum diameter) (hereinafter the "Water Pipelines") between the existing Quail Creek Reservoir and the Sand Hollow Reservoir, an electrical substation, and a pump station and other improvements; and

WHEREAS, Grantor desires the right to purchase water from the Grantee for use as water features on the Winding River South Property (hereinafter "Water Features Water"); to have a culinary water line of sufficient capacity to service the Winding River South Property when fully developed (at least eighteen inches in diameter) installed and maintained for use in developing the Winding River South Property (hereinafter "Culinary Line"); and to have a one hundred and seven foot (107 ft.) wide (wider in certain areas) subgrade road installed and maintained on a portion of the Winding River South Property over the Water Pipelines (hereinafter the "Subgrade Road"); and

WHEREAS, Grantor desires to obtain a two (2) year extension of Grantor's rights to obtain water connections under that separate agreement with Grantee dated February 9, 1999, and entitled "Agreement" and

WHEREAS, Grantee desires a non-exclusive temporary construction easement for the installation of the Water Pipelines on a portion of the Winding River South Property that is more particularly described in Exhibit B (hereinafter "Construction Easement Property") attached hereto and incorporated herein by reference; and

WHEREAS, Grantee desires a non-exclusive easement for the continued maintenance and repair of the Water Pipelines, on a portion of the Winding River South Property that is more particularly described in Exhibit C (hereinafter "Maintenance Easement Property") attached hereto and incorporated herein by reference; and

WHEREAS, Grantor may develop the Winding River South Property, including but not limited to the Maintenance Easement Property, into a multi-lane (four or more lanes) boulevard or other improvements including, but not limited to, roadway paving, curb, gutter, sidewalks/paths, tunnels, water features, signage, other utilities, parks and landscaping (hereinafter referred to collectively as "Future Improvements"); and

WHEREAS, Grantor desires to retain the right to change the location of the Subgrade Road or to terminate the use, if any, of part or all of the Subgrade Road at its sole discretion; and

WHEREAS, Grantor desires the right of first refusal to purchase certain real property owned by Grantee, which real property is more particularly described on Exhibit D attached hereto and incorporated herein by reference; and

WHEREAS, Grantee desires to purchase certain property for the installation of a pump station, electrical substation and other related improvements to serve the Sand Hollow Reservoir project as more fully set forth in Exhibit F (the "Sales Agreement") attached hereto and incorporated herein by reference;

**Agreement**

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties covenant and agree for themselves and their heirs, successors and assigns as follows:

1. **Construction Easement to Grantee.** Grantor does hereby quitclaim and grant to Grantee a temporary non-exclusive construction easement to install, erect, construct, and lay and thereafter use, operate, inspect, repair, maintain, replace, and remove the Water Pipelines over, across, through and on the real property that is more particularly described on Exhibit B (hereinafter "Construction Easement Property") attached hereto and incorporated herein. Grantee shall not use the Construction Easement Property in any manner that will unreasonably interfere with, or disrupt the use of, the Winding River South Property.

2. **Duration of Construction Easement.** The Construction Easement granted herein shall continue until the Water Pipelines have been installed, or until August, 2002, whichever occurs first, at which time Grantee will acknowledge release of the Construction Easement. Grantee shall be responsible for the installation of the Water Pipelines and the Subgrade Road on the Construction Easement Property. After installation of the Water Pipelines and the Subgrade Road on the Construction Easement Property, Grantee shall maintain the Water Pipelines in good condition and shall repair and restore any damage caused to the Winding River South Property (real or personal property) resulting from such installation, maintenance, or otherwise.

3. **Use of Construction Easement.** Grantor reserves and retains the right for its agents, representatives or any others designated by Grantor to cross or use the Construction Easement Property for any purposes it deems necessary and which do not unreasonably interfere with Grantee's easement rights hereunder. Grantor reserves and retains the right to grant other easements or rights of way upon, over, across, through or under the Construction Easement Property for utility, access, or other purposes and which do not unreasonably interfere with Grantee's easement rights hereunder.

4. **Improvements.** Grantee shall install the Water Pipelines and the Subgrade Road on the Construction Easement Property in a workmanlike manner and in accordance with applicable laws and standard construction practices.

5. **Restoration.** At the time of, or prior to, the release, abandonment or reconveyance of the Construction Easement, Grantee shall restore any part of the Winding River South Property outside of the Subgrade Road, which has been impacted or altered as a result of the Construction Easement to the general condition at the time of Grantor's granting of the Construction Easement. Grantee shall remove non-native materials left on the Construction Easement Property which do not constitute part of the Water Pipelines or the Subgrade Road.

6. **Maintenance Easement to Grantee.** Grantor does hereby quitclaim and grant to Grantee a non-exclusive easement to access, use, operate, inspect, repair, maintain, replace, improve and remove, the Water Pipelines over, across, through and on the real property that is more particularly described on Exhibit C (hereinafter "Maintenance Easement Property") attached hereto and incorporated herein. Grantee shall not use the Maintenance Easement Property in any manner that will unreasonably interfere with, or disrupt the use of, the Winding River South Property. Grantee, at its sole cost, shall repair and restore any damage caused to Future Improvements resulting from Grantee's access to or use, operation, inspection, repair, maintenance, replacement, improvement or removal of the Water Pipelines, except for extraordinary expenses in connection with repair or restoration of extraordinarily expensive water features, parks, landscaping, or the like (e.g. waterfalls).

7. **Duration of Maintenance Easement.** The Maintenance Easement granted herein shall continue until such time as the Water Pipelines are no longer utilized for the purposes intended under this Agreement or until Grantee releases, abandons or reconveys the Maintenance Easement.

8. **Repair and Maintenance of Water Pipelines.** Grantee shall be responsible for the maintenance, repair and replacement of the Water Pipelines. After installation of the Water Pipelines, Grantee shall maintain them in good condition and shall repair and restore any damage to them.

9. **Use of Maintenance Easement.** Grantor reserves and retains the right for its agents, representatives or any others designated by Grantor to cross or use the Maintenance Easement Property for any

purposes which do not unreasonably interfere with Grantee's easement rights hereunder. Grantor reserves and retains the right to grant other easements or rights of way upon, over or under the Maintenance Easement Property for utility, access or any other purposes and which do not unreasonably interfere with Grantee's easement rights hereunder.

10. Grantor Rights Retained; No Dedication to Public. Upon termination of the Construction Easement, Grantor may change the location of the Subgrade Road and terminate the Subgrade Road at any point on the Winding River South Property at its sole discretion. Nothing herein shall be construed to be a dedication, nor is it Grantor's intent by executing this Agreement to dedicate, the Subgrade Road for use as a public, municipal, county, state or federal road, highway, trail or other thoroughfare for which Grantor relinquishes any of its rights of use of the property upon which the Subgrade Road is located. Any use of such Subgrade Road by any individual, the public or governmental entity is by permission only and shall not act to establish a dedication to the public by Grantor, nor act as grounds for a perpetual easement claim by the public or any individual. Nothing herein shall be construed to limit Grantee's right of reasonable access to the Maintenance Easement.

11. Water Features Water. Grantee grants to Grantor the right to purchase no more than one hundred (100) acre feet of water per year from Grantee out of the Sand Hollow project for use by Grantor as water features on the Winding River South Property, subject to the following:

- a. Grantee may impose reasonable terms and conditions, including rates charged by Grantee to similarly situated customers, consistent with Grantee's normal practices, which may include terms intended to discourage the unreasonable waste of water, to which--for purposes of this Agreement--water features, per se, shall not be considered to be an unreasonable waste of water;
- b. Grantor's rights hereunder are subject to the priority use of water for municipal needs;
- c. Grantor shall pay rates and abide by such reasonable terms and conditions as may be established by the Board of Trustees of Grantee from time to time, and which are consistent with the intent of this Agreement.

A separate agreement consistent with the intent of this Paragraph 11 may be prepared and entered into between Grantee and Grantor after the execution of this Agreement. The terms and conditions contained in such agreement shall survive the closing of this transaction and are intended to be covenants and conditions running with the property. In the event Grantor has not given notice to Grantee of its desire to exercise its rights under this paragraph within ten (10) years of the date of this Agreement, Grantor's rights under this paragraph shall terminate and Grantee shall be under no obligation to furnish water as set forth above.

Nothing in this Paragraph 11 shall prevent or limit Grantor from obtaining additional water for use on the Winding River South Property for development purposes, water features, or otherwise.

12. Culinary Water Taps. Grantee shall permit Grantor to tap into Grantee's culinary waterline at such reasonable locations as Grantor may select to service the Winding River South Property, subject to Grantee's consent, which shall not be unreasonably withheld. Provided, however, that in the event that any municipality with jurisdiction over the area shall assert control over the culinary water pipeline or otherwise require its consent or approval for any action with regard to culinary water taps or supply, the rights and obligations of Grantor and Grantee under this paragraph shall be subject to the municipality's jurisdictional control. Any such taps shall be metered.

13. Right of First Refusal. Grantee grants to Grantor the right of first refusal to purchase certain real property owned by Grantee, which real property is more particularly described on Exhibit D. The specific terms and conditions of this Paragraph 13 are contained in that certain RIGHT OF FIRST REFUSAL AGREEMENT attached hereto and incorporated herein by reference in Exhibit D. The terms and conditions contained in the agreement marked "Exhibit D" hereto shall survive the closing of this transaction and are intended to be covenants and conditions running with the property.

14. Extension of Connections. Grantee grants to Grantor a two (2) year extension of Grantor's rights to obtain water connections under that separate agreement with Grantee dated February 4, 1999, and entitled

"AGREEMENT". The specific terms and conditions of this Paragraph 14 are contained in that certain ADDENDUM NO. 1 TO AGREEMENT attached hereto and incorporated herein by reference in Exhibit E. The terms and conditions contained in the addendum marked "Exhibit E" hereto shall survive the closing of this transaction.

15. Conveyance of Property. Grantor shall convey to Grantee by special warranty deed certain real property more particularly described and pursuant to the terms and conditions set forth on Exhibit F. The terms and conditions contained in such agreement shall survive the closing of this transaction and are intended to be covenants and conditions running with the subject property of that agreement.

16. Notice of Other Burdens and Concept Plan. Grantor quit claims the Construction and Maintenance Easements to Grantee and is not responsible for the existence of other easements, rights or ways, or similar interests that may be claimed by third parties. Notwithstanding, Grantee acknowledges that Grantor has disclosed, and Grantee acknowledges, the possible existence, whether recorded or unrecorded, of the following on or near the Construction and Maintenance Easement Property, which shall collectively be referred to as "Burdens": One or more dirt or paved roads; one or more electrical power easement; one or more fences; other access or utility easements or rights of way; and the grazing of livestock. Third party(ies) may claim rights in the Construction and Maintenance Easement Property based upon the Burdens. Grantor makes no representations or warranties as to the status (legal or equitable), ownership, or rights pertaining to the Burdens. Grantee is aware of the potential of such Burdens and has made, or has had the opportunity to make, independent inquiry and investigation of the Burdens and their potential impact on the Construction and Maintenance Easement Property, including but not limited to those referenced on the Alta report, prepared by Alpha Engineering, dated on or about August, 1997. (A copy of which shall be made available to Grantee upon request, with the understanding that Grantor makes no representations or warranties regarding such ALTA report and that such ALTA report was not prepared for Grantee or this Agreement.) Grantee further acknowledges the receipt and existence of Grantor's "Concept Plan Briefing Package", dated October 21, 1997, and prepared by EDAW, pertaining to the conceptual planning by Grantor of the Winding River South Property.

17. Indemnification. Grantee shall hold Grantor harmless from and against all liability, loss or costs incurred, including without limitation reasonable attorney's fees, arising out of, related to or caused by Grantee's acts or omissions to act, use of, installation, maintenance or repairs of the Water Pipelines and Subgrade Road, or occupancy of the Construction and Maintenance Easement Property. Such indemnification shall include, but not be limited to, mechanic's liens, environmental claims, personal injury or negligence claims, or other claims associated with the installation, maintenance and repair of the Water Pipelines or Subgrade Road or use of the Construction and Maintenance Easement Property.

18. Covenants Run With Land. Each right and obligation in this Agreement (whether affirmative or negative in nature) (a) shall constitute a covenant running with the land; (b) shall benefit and bind every person having any fee, leasehold or other interest in any portion of the Construction and Maintenance Easement Property to the extent that such portion is affected or bound by the easement, covenant or restriction in question, or to the extent that such easement, covenant or restriction is to be performed on such portion; and (c) shall benefit and be binding upon any person whose title is acquired by judicial foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise.

19. Limit on Benefit. The use of the Construction and Maintenance Easements is limited solely for the benefit of the Grantee as written and intended herein and cannot be used by, or transferred for the benefit of, any other party. Nothing contained in this Agreement shall be deemed a gift or dedication of any portion of the Construction and Maintenance Easement Property to the general public.

20. Miscellaneous

a. Should any party default in any of the covenants or agreements herein contained, that defaulting party shall pay all costs and expenses, including a reasonable attorney's fee, which may arise or accrue from enforcing this Agreement or in pursuing any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise. This obligation of the defaulting party

to pay costs and expenses includes, without limitation, all costs and expenses, including a reasonable attorney's fee, incurred on appeal and in bankruptcy proceedings.

- b. It is expressly agreed that the terms, covenants and conditions of this Agreement shall survive any legal act or conveyance required under this Agreement.
- c. The Recitals contained in this Agreement are incorporated into the Agreement.
- d. The section and other headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.
- e. At such time that they are prepared or modified, Grantee shall provide Grantor a complete set of as-built drawings of the Water Pipelines.

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

"GRANTOR":

WINDING RIVER ASSOCIATES, LLC

By: Timothy M. Inglis  
TIMOTHY M. INGLIS, Manager

"GRANTEE":

WASHINGTON COUNTY WATER CONSERVANCY DISTRICT

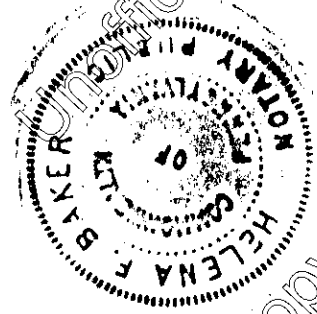
By: Ronald W. Thompson  
RONALD W. THOMPSON, Manager

COMMONWEALTH OF PENNSYLVANIA )  
 ) ss.  
COUNTY OF ALLEGHENY

On this 22nd day of August 2000, before me personally appeared TIMOTHY M. INGLIS 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 a manager of WINDING RIVER ASSOCIATES, LLC, a Utah Limited Liability Company, and that the foregoing document was signed by him on behalf of that company by authority of its declaration of membership and he acknowledged before me that the company executed the document and the document was the act of the company for its stated purpose.

Helena F. Baker  
NOTARY PUBLIC

Notarial Seal  
Helena F. Baker, Notary Public  
Pittsburgh, Allegheny County  
My Commission Expires July 16, 2002  
Member, Pennsylvania Association of Notaries



STATE OF UTAH )  
 ) ss.  
COUNTY OF WASHINGTON

On this 25 day of August, 2000, before me personally appeared RONALD W. THOMPSON 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 Manager the WASHINGTON COUNTY WATER CONSERVANCY DISTRICT, a political subdivision of the state of Utah, and that the foregoing document was signed by him on behalf of the Washington County Water Conservancy District by appropriate authority and he acknowledged before me that Washington County Water Conservancy District executed the document and the document was the act of the Washington County Water Conservancy Service District for its stated purpose.

Roberta D McMullin  
NOTARY PUBLIC

ROBERTA D MCMULLIN  
NOTARY PUBLIC - STATE of UTAH  
433 N. 55 WEST CIRCLE  
ST GEORGE, UT 84770  
COMM. EXP 8-19-2001

J:\winding river current; 268640\wcd\eamsmnt WRA final 081900

00696150 Bk 1379 Pg 2068

**Exhibit A**

**EXHIBIT A**

00696150 Bk 1379 Pg 2069

**PARCEL 1:**

A portion of Section 6, Township 42 South, Range 13 West, Salt Lake Base and Meridian, and Section 31, Township 41 South, Range 13 West, Salt Lake Base and Meridian more particularly described as follows:

Beginning at the Southwest Corner of said Section 6, Township 42 South, Range 13 West, Salt Lake Base and Meridian; thence North 00°12'46" East along the Section line 2634.89 feet to the West Quarter (W¼) Corner of said Section 6; thence North 00°15'07" East 2043.21 feet to a point in the Southerly right-of-way line of Highway SR-9; thence North 73°41'15" East 341.73 feet to a Highway right-of-way Marker; thence North 73°40'11" East 3268.39 feet to a point on the Center Section Line of said Section 31; thence North 01°11'00" East 51.49 feet to a right-of-way marker; thence North 73°39'25" East 214.52 feet to a right-of-way marker; thence North 16°36'56" West 36.32 feet to a right-of-way marker; thence North 73°40'00" East 350.33 feet to a right-of-way marker; thence North 84°57'08" East 254.78 feet to a right-of-way marker; Thence North 75°41'01" East 283.52 feet to a right-of-way marker; thence North 51°40'55" East 174.13 feet to a right-of-way marker; thence North 87°28'38" East 687.67 feet to a right-of-way marker; thence North 89°03'46" East 384.16 feet to a right-of-way marker; thence South 89°56'12" East 163.49 feet to a right-of-way marker; thence North 84°49'25" East 220.84 feet to a point on the East line of the Southeast Quarter (SE¼) of said Section 31; thence leaving said Highway right-of-way line and running South 00°17'34" West along the Section line 756.86 feet to the Southeast Corner of said Section 31; thence South 89°58'42" West 50.03 feet to the Northeast Corner of said Section 6; thence South 89°55'25" West 1298.32 feet to the Northeast Corner of Sectional Lot 2 of said Section 6; thence South 00°06'25" West 1688.51 feet; thence North 79°31'35" West 977.00 feet; thence South 31°22'25" West 1412.00 feet; thence South 07°16'25" West 2240.00 feet; thence South 495.70 feet, more or less, to a point on the South line of said Section 6; thence South 89°57'21" West 662.22 feet to the Southwest Corner of Sectional Lot 14, said Section 6; thence South 89°57'21" West 2138.30 feet to the Point of Beginning.

**LESS AND EXCEPTING, the following:**

Beginning at a point South 0°03'46" West 1396.00 feet from the Northwest Corner of said Section 7, and running thence South 89°56'14" East 1400.00 feet; thence South 0°03'46" West 1617.00 feet; thence North 89°56'14" West 1400.00 feet; thence North 0°03'46" East 1617.00 feet to the Point of Beginning.

Exhibit A

Page 1 of 6

**PARCEL 2:**

A portion of Sectional Lots 2, 3, 4, 5, 8 and 9 of Section 7, Township 42 South, Range 13 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the Northwest Corner of said Section 7, Township 42 South, Range 13 West, Salt Lake Base and Meridian, thence North 89°57'21" East along the Section line 2138.30 feet, to the Northeast Corner of Sectional Lot 2 said Section 7; thence South 00°00'11" West along the East line of Lots 2 and 5 of said Section 7, a distance of 2642.71 feet to the Southeast Corner of Lot 5 said Section 7;  
 Thence South 00°00'59" West 1319.81 feet to the Southeast Corner of Lot 8 said Section 7;  
 Thence South 89°51'10" West along the South line of Lots 8 and 9, 214.37 feet, to the Southwest Corner of said Lot 9; thence North 00°02'11" East along the West line of said Lot 9, 953.37 feet to the Southwest Corner of that parcel shown on Book 432, Page 838 of Official Washington County Records;  
 Thence South 89°56'09" East along the South line of said Parcel 1399.60 feet to the Southeast Corner of said Parcel; thence North 00°03'51" East 1617.00 feet; thence North 89°56'09" West 1400.00 feet to a point on the West line of Lot 4 said Section 7; thence North 00°03'51" East along the West line of Lots 3 and 4 of said Section 7, 1396.00 feet to the Point of Beginning.

**PARCEL 3:**

A portion of the West One-Half (W½) of Section 18, Township 42 South, Range 13 West, Salt Lake Base and Meridian, more particularly described as follows:

Commencing at the Northwest Corner of said Section 18, Township 42 South, Range 13 West, Salt Lake Base and Meridian, thence North 89°48'13" East along the Section line 636.75 feet to the Point of Beginning; thence North 89°48'13" East 1505.08 feet to the Northeast Corner of Sectional Lot 2 said Section 18; thence South 00°09'57" East along the East line of Sectional Lots 2 and 5, 2647.63 feet to the Southeast Corner of Sectional Lot 5; thence South 00°13'17" East along the East line of Sectional Lots 8 and 11 2643.84 feet to the Southeast Corner of Sectional Lot 11; thence South 89°51'44" West along the Section line 1840.24 feet to the boundary line of Dixie Spring Project as shown on the Official Washington County Records; thence following the boundary of said Dixie Springs project the following (9) nine courses as follows: North 00°08'16" West 352.39 feet; thence North 89°51'44" East 33.00 feet; thence North 00°08'16" West 660.00 feet; thence North 89°51'44" East 330.00 feet; thence North 00°08'16" West 660.00 feet; thence North 89°51'44" East 330.00 feet; thence North 00°08'16" West 2640.00 feet; thence South 89°51'44" West 660.00 feet; thence North 00°08'16" West 977.53 feet to the Point of Beginning.

Exhibit A

Page 2 of 6



**PARCEL 4:**

A portion of Section 1, Township 42 South, Range 14 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the Southwest Corner of said Section 1, Township 42 South, Range 14 West, Salt Lake Base and Meridian, thence North 00°12'57" East 2643.92 feet to the West Quarter (W¼) Corner of said Section 1; thence North 00°25'33" East 317.49 feet along the Section line to a point on the Southerly right-of-way line of Highway SR-9, said point being on a 2775.00 foot radius curve to the right, the radius point of which bears (South 36°33'27" East); thence Northeasterly along the arc of said curve 964.11 feet to the point of tangency; thence North 73°20'56" East 493.02 feet to a point on the East line of Sectional Lot 5 of said Section 1; thence leaving said Highway right-of-way line and running South 00°20'44" West 898.15 feet to the Southeast Corner of said Sectional Lot 5; thence South 89°34'39" East 1327.03 feet to the Center Section Corner of said Section 1; thence North 00°15'03" East 1350.84 feet to a point on the Southerly right-of-way line of said Highway SR-9, said point being a Highway right-of-way marker; thence South 89°46'06" East 345.51 feet; thence North 73°43'59" East 844.39 feet to a Highway-Right-of-Way marker; thence North 73°41'15" East 1122.76 feet; thence leaving said Highway-Right-of-Way line and running South 00°15'07" West 200.00 feet; thence North 73°41'15" East 435.60 feet to a point the East line of said Section 1; thence South 00°15'07" West along the Section line 1843.21 feet the East Quarter (E¼) Corner of said Section 1; thence South 00°12'46" West 2634.89 feet to the Southeast Corner of said Section 1; thence North 89°39'47" West 2651.15 feet; thence North 89°41'13" West 2651.73 feet to the Point of Beginning.

**PARCEL 5A:**

A portion of the Southwest Quarter (SW¼) of Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the South Quarter (S¼) Corner of said Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian, thence South 89°37'54" West 1939.60 feet, more or less, to the Easterly edge of the Virgin River; thence following along the meander of said Easterly edge of the Virgin River as follows: North 44°18'44" East 378.40 feet; thence North 13°38'11" West 235.86 feet; thence North 14°26'01" East 181.87; thence North 34°01'58" East 231.63 feet; thence North 33°53'06" East 527.20 feet; thence North 46°59'10" East 1016.05 feet; thence North 38°22'37" East 476.90 feet to a point on the Southerly Boundary of Highway SR-9, said point being a Highway right-of-way marker; thence leaving said Easterly edge of said river and running South 52°17'20" East 265.76 feet to a Highway right-of-way marker, said point being on a 1532.39 foot radius curve to the left, the radius point of which bears (North 36°22'39" East); thence Southerly along the arc of said curve 38.40 feet to a point on the Center Section line of said Section 2; thence leaving said Southerly right-of-way line and running South 00°29'14" West 2175.37 feet to the Point of Beginning.

Exhibit A

Page 3 of 6

**PARCEL 5B:**

A portion of the Northeast Quarter (NE $\frac{1}{4}$ ) of Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the East Quarter (E $\frac{1}{4}$ ) Corner of said Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian, thence South 89°50'15" West along the Center Section Line 366.22 feet to a point on the Southerly right-of-way line of Highway SR-9; thence North 47°16'54" East along said Highway right-of-way 189.07 feet to the point of curvature of a 2775.00 foot radius curve to the right, said point being a Highway right-of-way marker; thence Northeasterly along the arc of said curve 298.39 feet to a point on the East line of the Northeast Quarter (NE $\frac{1}{4}$ ) of said Section 2; thence South 00°25'33" East 317.49 feet to the Point of Beginning.

**PARCEL 5C:**

A portion of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the Southeast Corner of said Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian; thence North 89°59'50" West along the Section line 2657.12 feet to the South Quarter (S $\frac{1}{4}$ ) Corner of said Section 2; thence North 00°29'14" East along the Center Section line 2175.37 feet, to a point on the Southerly right-of-way line of Highway SR-9, said point being on a 1532.39 foot radius curve to the left, the radius point of which bears (North 34°56'31" East); thence along the arc of said curve 2077.05 feet to a Highway right-of-way marker; thence North 47°16'54" East 496.97 feet to a point on the Center Section line of said Section 2; thence North 89°50'15" East 366.22 feet to the East Quarter (E $\frac{1}{4}$ ) Corner of said Section 2; thence South 00°12'57" West 2643.92 feet to the Point of Beginning.

Less and excepting that parcel as described by Book 281, page 872-874 Official Washington County Records, for lease between 5M corporation and Ash-Creek Special Service District, dated June 23, 1981.

**PARCEL 5D:**

A portion of the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the West Quarter (W $\frac{1}{4}$ ) Corner of said Section 2, Township 42 South, Range 14 West, Salt Lake Base and Meridian, thence North 89°50'53" East 2035.32 feet to a point in the Westerly right-of-way line of Highway SR-9; thence South 35°15'46" East 49.87 feet to a Highway Right-of-way marker; thence South 40°30'50" East along said Highway right-of-way 282.13 feet to the Westerly edge of the Virgin River, thence following along the meander of the West edge of said River as follows: South 41°34'55" West 378.90 feet; thence South 46°59'10" West 1033.27 feet; thence South 33°53'06" West 544.43 feet; thence South 22°08'03" West 270.60 feet; thence South 14°26'01" West 206.87 feet; thence South 13°38'11" East 205.48 feet; thence South 44°18'44" West 421.92 feet, more or less, to the South Boundary line of said Section 2; thence leaving said Westerly edge of the Virgin River and running South 89°37'54"

Exhibit A

Page 4 of 6

West along the Section line 557.68 feet to the Southwest Corner of said Section 2; thence North  $00^{\circ}26'48''$  East 2646.31 feet to the Point of Beginning.

**PARCEL 7B:**

A portion of the East One-Half ( $E\frac{1}{2}$ ) of Section 11, Township 42 South, Range 14 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the Northeast Corner of said Section 11, Township 42 South, Range 14 West, Salt Lake Base and Meridian, thence South  $00^{\circ}00'50''$  East along the Section line 2642.14 feet to the East Quarter ( $E\frac{1}{4}$ ) Corner of said Section 11, said point being an existing BLM Brass Cap; thence South  $00^{\circ}05'00''$  East 2643.23 feet, to the Southeast Corner of said Section 11; thence South  $89^{\circ}48'52''$  West along the Section line 1327.34 feet, to the Southwest Corner of the Southeast Quarter of the Southeast Quarter ( $SE\frac{1}{4}SE\frac{1}{4}$ ), said Section 11; thence North  $00^{\circ}05'16''$  West 1321.22 feet; thence South  $89^{\circ}47'45''$  West 1327.78 feet, to the Southwest Corner of the Northwest Quarter of the Southeast Quarter ( $NW\frac{1}{4}SE\frac{1}{4}$ ), said Section 11; thence North  $00^{\circ}05'21''$  West 1320.55 feet to the Center Quarter ( $\frac{1}{4}$ ) Corner of said Section 11; thence North  $89^{\circ}46'09''$  East 1327.80 feet to the Northeast Corner, said Northwest Quarter of the Southeast Quarter ( $NW\frac{1}{4}SE\frac{1}{4}$ ), said point being an existing Ballard and Campbell rebar and cap; thence North  $00^{\circ}02'08''$  West 856.97 feet; thence North  $89^{\circ}53'11''$  East 467.32 feet; thence North  $00^{\circ}06'49''$  West 466.69 feet; thence South  $89^{\circ}53'11''$  West 128.34 feet; thence North  $00^{\circ}02'08''$  West 661.27 feet; thence South  $89^{\circ}57'52''$  West 338.35 feet; thence North  $00^{\circ}02'08''$  West 661.95 feet to the Northwest Corner of the Northeast Quarter of the Northeast Quarter ( $NE\frac{1}{4}NE\frac{1}{4}$ ), said Section 11; thence South  $89^{\circ}59'50''$  East 1328.56 feet along the Section line to the Point of Beginning.

**PARCEL 8:**

A portion of Section 12, Township 42 South, Range 14 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the Northwest Corner of said Section 12, Township 42 South, Range 14 West, Salt Lake Base and Meridian, said point being a Washington County Monument; thence South  $89^{\circ}41'13''$  East 2651.73 feet to the North Quarter ( $N\frac{1}{4}$ ) Corner of said Section 12, said point being an existing BLM Brass Cap; thence South  $89^{\circ}39'47''$  East 2651.15 feet, to the Northeast Corner of said Section 12, said point being an existing BLM Brass Cap; thence South  $00^{\circ}03'51''$  West 1322.01 feet to the Northeast Corner of the Southeast Quarter of the Northeast Quarter ( $SE\frac{1}{4}NE\frac{1}{4}$ ), said Section 12, said point being the Northeast Corner of that parcel shown on Book 1004, Page 455, Official Washington County Records; thence North  $89^{\circ}39'44''$  West 1324.79 feet to the Northwest Corner of the Southeast Quarter of the Northeast Quarter ( $SE\frac{1}{4}NE\frac{1}{4}$ ), said Section 12, said point being the Northwest Corner of said Parcel shown on Book 1004, Page 455; thence South  $00^{\circ}01'50''$  West 661.18 feet; thence South  $89^{\circ}39'15''$  East 622.26 feet; thence South  $00^{\circ}02'33''$  West 330.63 feet, to the Southwest Corner of that parcel shown on Book 748, Page 366, Official Washington County Records; thence South  $89^{\circ}38'59''$  East 702.19 feet to a point on the East line of the Northeast Quarter ( $NE\frac{1}{4}$ ), said Section 12; thence South  $00^{\circ}03'16''$  West 330.68 feet to the East Quarter ( $E\frac{1}{4}$ ) Corner of said Section 12; thence South  $00^{\circ}02'11''$  West 2643.28 feet to the Southeast Corner of said Section 12, said point being an existing BLM Brass Cap; thence North  $89^{\circ}37'51''$  West 1323.10 feet; thence North  $89^{\circ}39'02''$  West 1323.77 feet to the South Quarter ( $S\frac{1}{4}$ ) Corner of said Section 12, said point being an existing BLM Brass Cap;

Exhibit A

West 2647.13 feet; thence North 00°05'00" West 2643.23 feet to the West Quarter (W¼) Corner of said Section 12; thence North 00°00'50" West 2642.14 feet to the Point of Beginning.

**PARCEL 9:**

A portion of the North One-Half (N½) of Section 13, Township 42 South, Range 14 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the Northwest Corner of said Section 13, Township 42 South, Range 14 West, Salt Lake Base and Meridian, said point being an existing BLM Brass Cap; thence South 89°39'03" East 2647.13 feet to the North Quarter (N¼) Corner of said Section 13, said point being an existing BLM Brass Cap; thence South 89°39'02" East 1323.77 feet to the East 1/16 Corner between Sections 12 and 13, said point being an existing BLM Brass Cap; thence South 89°37'51" East 1315.65 feet; thence South 00°05'09" West 321.49 feet, to a point on the Boundary of Dixie Springs project, as shown on Official Washington County Records; thence following along the boundary of said Dixie Springs project the following (9) Nine courses as follows: North 89°54'51" West 1320.00 feet; thence South 00°05'09" West 660.00 feet; thence North 89°54'51" West 1320.20 feet; thence South 00°05'09" West 1320.00 feet; thence North 89°54'51" West 658.12 feet; thence North 00°05'09" East 1320.00 feet; thence North 89°54'51" West 660.00 feet; thence North 00°05'09" East 330.00 feet; thence North 89°32'37" West 1326.95 feet to a point on the West line of the Northwest Quarter (NW¼), said Section 13; thence leaving said boundary of Dixie Springs project and running North 00°01'19" West along the Section line 667.67 feet to the Point of Beginning.

**PARCEL 10:**

The North 20.2 acres of the Northeast Quarter of the Northeast Quarter (NE¼NE¼), Section 14, Township 42 South, Range 14 West, Salt Lake Base and Meridian, described as follows:

Beginning at the Northeast Corner of said Section 14, Township 42 South, Range 14 West, Salt Lake Base and Meridian, said point being an existing BLM Brass Cap; thence South 00°01'18" East 662.91 feet; thence South 89°48'52" West 1327.40 feet; thence North 00°00'59" West 662.91 feet to the Northwest Corner of the Northeast Quarter of the Northeast Quarter (NE¼NE¼), said Section 14, said point being an existing BLM Brass Cap; thence North 89°48'52" East 1327.34 feet, to the Point of Beginning.

**EXHIBIT B**

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A 106.00 foot Roadway and Utility easement, described as follows:

Commencing at the Northeast Corner of Section 1, Township 42 South, Range 14 West, Salt Lake Base and Meridian; Thence S 89° 53' 15" W along the Section line 1938.71 feet; Thence South 871.07 feet to the **Point of Beginning**, said point being on the Southerly right-of-way line of State Highway SR- 9; Thence N 73° 43' 59" E, a distance of 93.93 feet to the point of curvature of a non tangent curve to the left, of which the radius point lies S 16° 16' 01" E, a radial distance of 40.00 feet; thence southwesterly along the arc of said curve through a central angle of 91° 17' 31", a distance of 63.73 feet; Thence S 17° 33' 32" E, a distance of 363.25 feet to the point of curvature to the right having a radius of 1,053.00 feet and a central angle of 25° 13' 35"; thence southerly along the arc of said curve a distance of 463.62 feet; Thence S 07° 40' 03" W, a distance of 221.84 feet to the point of curvature to the left having a radius of 947.00 feet and a central angle of 19° 59' 26"; thence southerly along the arc of said curve a distance of 330.41 feet; Thence S 12° 19' 24" E, a distance of 447.22 feet to the point of curvature to the right having a radius of 2,053.00 feet and a central angle of 21° 20' 21"; thence southerly along the arc of said curve a distance of 764.62 feet; Thence S 09° 00' 57" W, a distance of 2,010.25 feet to the point of curvature to the left having a radius of 1,947.00 feet and a central angle of 08° 58' 21"; thence southerly along the arc of said curve a distance of 304.90 feet; Thence S 00° 02' 36" W, a distance of 4,527.59 feet, to a point on the south line of Section 12, Township 42 South, Range 14 West, Salt Lake Base and Meridian; Thence continue southerly along said line, S 00° 02' 36" W a distance of 990.80 feet; Thence N 89° 54' 51" W, a distance of 106.00 feet; Thence N 00° 02' 36" E, a distance of 991.29 feet, to a point on the south line of said Section 12; Thence continue northerly along said line, N 00° 02' 36" E a distance of 4,527.03 feet to the point of curvature to the right having a radius of 2053.00 feet and a central angle of 08° 58' 21", thence northerly along the arc of said curve a distance of 321.50 feet; Thence N 09° 00' 57" E, a distance of 2,010.25 feet to the point of curvature to the left having a radius of 1,947.00 feet and a central angle of 21° 20' 21"; thence northerly along the arc of said curve a distance of 725.14 feet; Thence N 12° 19' 24" W, a distance of 447.22 feet to the point of curvature to the right having a radius of 1,053.00 feet and a central angle of 19° 59' 26"; thence northerly along the arc of said curve a distance of 367.39 feet; Thence N 07° 40' 03" E, a distance of 221.84 feet to the point of curvature to the left having a radius of 947.00 feet and a central angle of 25° 13' 35"; thence northerly along the arc of said curve a distance of 416.95 feet; Thence N 17° 33' 32" W, a distance of 367.45 feet to the point of curvature to the left having a radius of 40.00 feet and a central angle of 88° 42' 29"; thence northwesterly along the arc of said curve a distance of 61.93 feet; thence N 73° 43' 59" E, a distance of 92.12 feet to the **POINT OF BEGINNING**.

Containing 25.45 acres, more or less.

**Exhibit B**

**EXHIBIT B**

A 106.00 foot construction easement, described as follows:

Commencing at the Northeast Corner of Section 1, Township 42 South, Range 14 West, Salt Lake Base and Meridian; Thence S 89°53'15" W along the Section line 1938.71 feet; Thence South 871.07 feet to the Point of Beginning, said point being on the Southerly right-of-way line of State Highway SR- 9; Thence N 73°43'59" E, a distance of 93.93 feet to the point of curvature of a non tangent curve to the left, of which the radius point lies S 16°16'01" E, a radial distance of 40.00 feet; thence southwesterly along the arc of said curve through a central angle of 91°17'31", a distance of 63.73 feet; Thence S 17°33'32" E, a distance of 363.25 feet to the point of curvature to the right having a radius of 1,053.00 feet and a central angle of 25°13'35"; thence southerly along the arc of said curve a distance of 463.62 feet; Thence S 07°40'03" W, a distance of 221.84 feet to the point of curvature to the left having a radius of 947.00 feet and a central angle of 19°59'26"; thence southerly along the arc of said curve a distance of 330.41 feet; Thence S 12°19'24" E, a distance of 447.22 feet to the point of curvature to the right having a radius of 2,053.00 feet and a central angle of 21°20'21"; thence southerly along the arc of said curve a distance of 764.62 feet; Thence S 09°00'57" W, a distance of 2,010.25 feet to the point of curvature to the left having a radius of 1,947.00 feet and a central angle of 08°58'21"; thence southerly along the arc of said curve a distance of 304.90 feet; Thence S 00°02'36" W, a distance of 4,527.59 feet, to a point on the south line of Section 12, Township 42 South, Range 14 West, Salt Lake Base and Meridian; Thence continue southerly along said line, S 00°02'36" W a distance of 990.80 feet; Thence N 89°54'51" W, a distance of 106.00 feet; Thence N 00°02'36" E, a distance of 991.29 feet, to a point on the south line of said Section 12; Thence continue northerly along said line, N 00°02'36" E a distance of 4,527.03 feet to the point of curvature to the right having a radius of 2053.00 feet and a central angle of 08°58'21"; thence northerly along the arc of said curve a distance of 321.50 feet; Thence N 09°00'57" E, a distance of 2,010.25 feet to the point of curvature to the left having a radius of 1,947.00 feet and a central angle of 21°20'21"; thence northerly along the arc of said curve a distance of 725.14 feet; Thence N 12°19'24" W, a distance of 447.22 feet to the point of curvature to the right having a radius of 1,053.00 feet and a central angle of 19°59'26"; thence northerly along the arc of said curve a distance of 367.39 feet; Thence N 07°40'03" E, a distance of 221.84 feet to the point of curvature to the left having a radius of 947.00 feet and a central angle of 25°13'35"; thence northerly along the arc of said curve a distance of 416.95 feet; Thence N 17°33'32" W, a distance of 367.45 feet to the point of curvature to the left having a radius of 40.00 feet and a central angle of 88°42'29"; thence northwesterly along the arc of said curve a distance of 61.93 feet; thence N 73°43'59" E, a distance of 92.12 feet to the POINT OF BEGINNING.

Containing 25.45 acres, more or less.

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**Exhibit C**

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# ALPHA ENGINEERING COMPANY

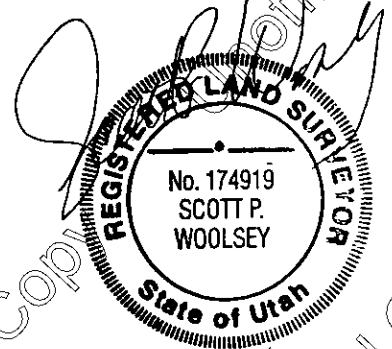
148 East Tabernacle, St. George, UT 84770 • (435) 628-6500 • Fax: (435) 628-6553

## LEGAL DESCRIPTION FOR 50' WIDE MAINTENANCE EASEMENT FOR SAND HOLLOW PIPE LINE (August 9, 2000)

A 50.00-foot wide pipe line maintenance easement, described as follows:

Commencing at the Northeast Corner of Section 1, Township 42 South, Range 14 West, Salt Lake Base and Meridian; **Thence** N 89°52'11" W along the Section line 1914.75 feet; **Thence** South 867.36 feet to the **POINT OF BEGINNING**, said point being on the Southerly right-of-way line of Highway SR-9; **Thence** S 15°48'33" E, a distance of 436.87 feet to the point of curvature to the right having a radius of 1,002.00 feet and a central angle of 23°28'36"; **thence** southerly along the arc of said curve a distance of 410.56 feet; **Thence** S 07°40'03" W, a distance of 220.69 feet to the point of curvature to the left having a radius of 998.00 feet and a central angle of 19°59'26"; **thence** southerly along the arc of said curve a distance of 348.20 feet; **Thence** S 12°19'24" E, a distance of 447.22 feet to the point of curvature to the right having a radius of 2,002.00 feet and a central angle of 21°20'21"; **thence** southerly along the arc of said curve a distance of 745.62 feet; **Thence** S 09°00'57" W, a distance of 2,010.25 feet to the point of curvature to the left having a radius of 1,998.00 feet and a central angle of 08°58'21"; **thence** southerly along the arc of said curve a distance of 312.89 feet; **Thence** S 00°02'36" W, a distance of 4,486.99 feet; **Thence** S 45°00'00" E, a distance of 104.34 feet; **Thence** N 89°39'02" W, a distance of 22.84 feet; **Thence** S 00°02'36" W, a distance of 47.98 feet; **Thence** N 45°00'00" W, a distance of 142.73 feet; **Thence** N 00°02'36" E, a distance of 4,507.72 feet to the point of curvature to the right having a radius of 2,048.00 feet and a central angle of 08°58'21"; **thence** northerly along the arc of said curve a distance of 320.72 feet; **Thence** N 09°00'57" E, a distance of 2,010.25 feet to the point of curvature to the left having a radius of 1,952.00 feet and a central angle of 21°20'21"; **thence** northerly along the arc of said curve a distance of 727.00 feet; **Thence** N 12°19'24" W, a distance of 447.22 feet to the point of curvature to the right having a radius of 1,048.00 feet and a central angle of 19°59'26"; **thence** northerly along the arc of said curve a distance of 365.65 feet; **Thence** N 07°40'03" E, a distance of 220.69 feet to the point of curvature to the left having a radius of 952.00 feet and a central angle of 23°28'36"; **thence** northerly along the arc of said curve a distance of 390.08 feet; **Thence** N 15°48'33" W, a distance of 436.47 feet to a point on the southerly right-of-way of said Highway SR-9; **Thence** N 73°43'59" E, along said right-of-way line a distance of 50.00 feet to the **Point of Beginning**.

**Containing: 10.95 acres, more or less.**



8/9/00

**Exhibit D**

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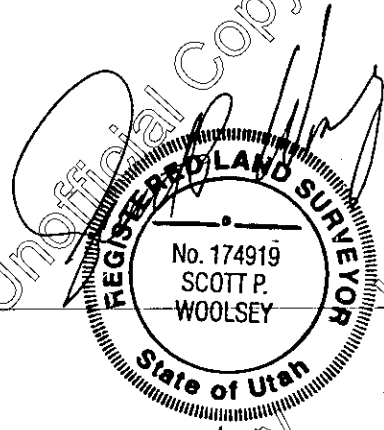
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# ALPHA ENGINEERING COMPANY

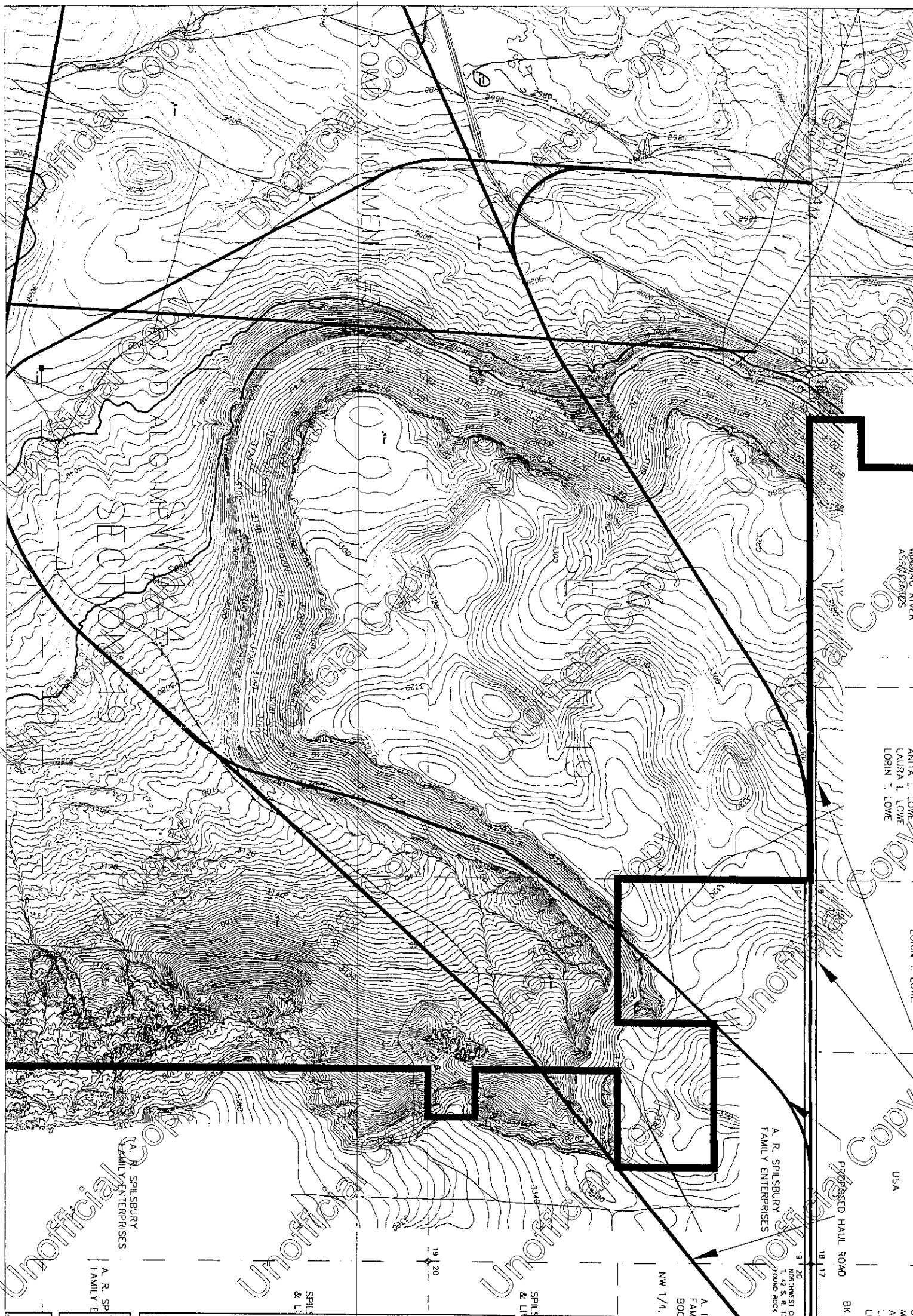
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## LEGAL DESCRIPTION FOR RIGHT OF FIRST REFUSAL PARCEL IN SECTION 19, T. 42 S. R. 13 W. SLB&M. (August 9, 2000)

All of the Northwest ¼ and the Southwest ¼ of Section 19, Township 42 south, Range 13 West, Salt Lake Base and Meridian, lying above elevation 3270.00. With the basis of elevation being the top of brass cap for the Northwest Corner of section 19, T. 42 S. R. 13 W. SLB&M, (Elevation being 3014.31).



8/9/00



<p>1</p>	<p><b>EXHIBIT</b></p> <p>FOR RIGHT-OF-FIRST REFUSAL SAND HOLLOW AREA</p>	<p><b>ALPHA &amp; ENGINEERING COMPANY</b></p> <p>101 E. UNIVERSITY ST. SUITE 111 DENVER, CO 80202</p>	<table border="1"> <tr> <td>DATE</td> <td>BY</td> <td>REVISION</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	DATE	BY	REVISION						
DATE	BY	REVISION										

**Exhibit E**

**ADDENDUM NO. 1**

THIS ADDENDUM to the AGREEMENT dated February 4, 1999, by and between Toquerville Secondary Water System ("TSWS"), the Washington County Water Conservancy District ("WCWCD") and Winding River Associates, LLC ("WRA").

WHEREAS, pursuant to the AGREEMENT, WCWCD agreed to reserve for WRA and its successors and assigns 1,500 Hook-ups to the WCWCD system pursuant to the terms and conditions set forth therein; and

WHEREAS, the AGREEMENT provided that WRA would begin to lose the right to Hook-ups if it failed to make certain payments beginning on January 1, 2001; and

WHEREAS, the parties desire to extend the deadlines for payment provided for in the AGREEMENT.

NOW, THEREFORE, for the mutual promises of the parties and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

The deadlines for payment of monthly Standby Fees specified in paragraph 1, including all subparagraphs thereof, shall be extended for a period of two (2) years. As a result, payments shall begin on January 1, 2003, and the water hook-up standby fee schedule shall be as shown on Exhibit A, attached hereto and incorporated herein by this reference.

- 2. All other terms and conditions of the AGREEMENT shall remain in full force and effect.

WATER HOOK-UP STANDBY FEE SCHEDULE			
	Monthly Fee	Hook-Ups Paying Standby Fee	Hook-Ups Reserved
January, 2003	\$1,500	150	1,500
January, 2004	\$3,000	300	1,500
January, 2005	\$4,500	450	1,500
January, 2006	\$6,000	600	1,500
January, 2007	\$7,500	750	1,500
January, 2008	\$9,000	900	1,500
January, 2009	\$10,500	1,050	1,500
January, 2010	\$12,000	1,200	1,500

January, 2011	\$13,500	1,350	1,500
January, 2012	\$15,000	1,500	1,500

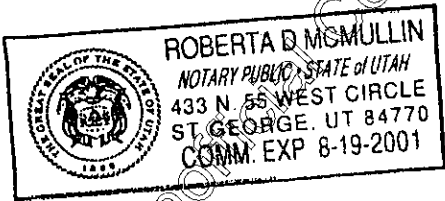
In witness hereof, the Parties have executed this Agreement on the date first above written.

WASHINGTON COUNTY WATER CONSERVANCY DISTRICT (WCWCD)

*Ronald W. Thompson*  
Ronald W. Thompson, District Manager

STATE OF UTAH )  
 )ss:  
COUNTY OF WASHINGTON )

On the 25 day of Aug, 2000, Ronald W. Thompson, the signer of the above instrument, personally appeared before me and acknowledged to me that he executed the same.



*Roberta D McMullin*  
Notary Public

WINDING RIVER ASSOCIATES, LLC

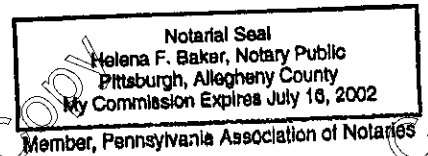
STATE OF PENNSYLVANIA )  
 )ss:  
COUNTY OF ALLEGHENY )

On the 22nd day of August, 2000, Timothy M. Inglis, the signer of the above instrument, personally appeared before me and acknowledged to me that he executed the same.

*Timothy M. Inglis*  
Timothy M. Inglis, Manager

*Melena F. Baker*  
Notary Public

(signatures continue on following page)



**TOQUERVILLE SECONDARY  
WATER SYSTEM (TSWS)**

\_\_\_\_\_  
**Charles Wahlquist, President**

**STATE OF UTAH                    )**  
**)ss:**  
**COUNTY OF WASHINGTON        )**

On the \_\_\_\_\_ day of June, 2000, Charles Wahlquist, the signer of the above instrument, personally appeared before me and acknowledged to me that he executed the same.

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



**Exhibit F**

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**REAL ESTATE PURCHASE AGREEMENT**

THIS AGREEMENT made and entered into the below stated date by and between WINDING RIVER ASSOCIATES, LLC, a Utah Limited Liability Company, hereinafter referred to as "Seller," and THE WASHINGTON COUNTY WATER CONSERVANCY DISTRICT, a political subdivision of the state of Utah, hereinafter referred to as "Buyer;"

## WITNESSETH:

WHEREAS, Seller and Buyer have entered into an Easement Agreement, hereinafter "Easement Agreement" pertaining to easements on property located in Hurricane, Utah on or about August 25, 2000; and

WHEREAS, as part of the Easement Agreement, Seller agrees to transfer that certain two (2) acre parcel of property, which is located in Washington County, Utah, as more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, Buyer intends to use the Property for a pump station, electrical substation and related facilities necessary to the construction and maintenance of the Sand Hollow Reservoir Project; and

WHEREAS, Seller desires that the Property be used in a manner compatible with Winding River's concept plan for adjacent property retained by Winding River, prepared by EDAW and dated October 21, 1997, and incorporated herein by reference; and

WHEREAS, it is intended by the Parties that this Agreement survives the closing to which this Agreement has been made an exhibit and that the provisions and obligations herein shall be binding upon the Parties, or their assigns or transferees; and

WHEREAS, Buyer has agreed to grant Seller the exclusive right to repurchase the Property upon Buyer's discontinuance of use of the Property for Buyer's intended use; and

WHEREAS, Seller and Buyer wish to reduce their agreement to writing;

NOW THEREFORE, in consideration of the premises and the mutual covenants of Seller and Buyer herein contained, it is mutually agreed as follows:

1. Seller hereby agrees to sell to Buyer, and Buyer hereby agrees to purchase from Seller, for a total price of TWENTY THOUSAND DOLLARS (\$20,000.00) the following described real estate, hereinafter referred to as the "Property," located in Washington County, State of Utah, containing Two (2.0) acres, more or less, to-wit:

See Exhibit A--Property Description,  
attached hereto and incorporated herein by reference.

2. Buyer agrees to purchase the Property for the sum of TWENTY THOUSAND DOLLARS (\$20,000.00) payable to Seller on or before closing, in lawful money of the United States.

3. Within a reasonable time following the full execution of this Agreement, Buyer shall obtain, at Buyer's expense, a title insurance commitment for a standard coverage owner's policy of title insurance. After receipt of the title insurance commitment and prior to closing (which must occur on or prior to September 1, 2000), Buyer may request Seller to attempt to cure any defects in title identified by Buyer and if title cannot be made so insurable or if Seller elects not to cure such defects, unless Buyer elects to waive such defects or encumbrances, such shall not be considered a default, but Buyer shall have the right to declare this Agreement void, and thereupon, both parties shall be released from any obligations under this Agreement and neither party having any rights, claims for damages or causes of action against the other. Such request by Buyer must be made in writing to Seller and Buyer's failure to make such request shall be deemed a waiver thereto. After closing, Buyer takes Property subject to all exceptions contained in the title insurance commitment without recourse against Seller.

4. At closing, Buyer shall pay or cause to be paid to Seller the said purchase price upon delivery by the Seller of its special warranty deed conveying the Property to Buyer. Seller agrees to deliver possession of the Property to Buyer within two (2) days of closing. All escrow costs of this Agreement shall be shared and borne equally by the parties, unless otherwise specifically provided herein. Buyer shall pay for a standard coverage owner's policy of title

insurance. "Closing" shall occur only when the following have been completed: (a) Buyer and Seller have signed and delivered to each other or to the escrow/closing office all documents required by this Agreement, by written escrow instructions or by applicable law; and (b) any monies required to be paid by Buyer under these documents have been delivered by Buyer to Seller or to the escrow/closing office in the form of collected or cleared funds and escrow/closing office has delivered purchase price to Seller in accordance with this Agreement and any addenda hereto and any escrow instructions. Seller and Buyer shall each pay one-half (1/2) of the fee charged by the escrow/closing office.

5. Seller agrees to pay normal expenses associated with the Property until closing at which time real estate taxes, assessments and any other expenses of the Property for the current year only shall be prorated between Seller and Buyer, except that assessments resulting from a change in use or tax status of the Property effected by the sale of the Property or change in use of the Property, including, without limitation, any roll-back taxes payable for periods prior to closing, which specifically shall be the responsibility and obligation of Buyer. After closing, Buyer specifically assumes all remaining obligations whatsoever of the Property for any applicable assessments associated with the Property and Buyer agrees to indemnify Seller and to save it harmless from all claims, loss and expense, including but not limited to attorney fees, for claims by any person or entity in connection with or related to said roll-back taxes or assessments. Prior to closing, all risk of loss and destruction of the Property shall be borne by the Seller.

6. Seller conveys the Property "as is" and Seller makes no warranties or representations regarding the condition of the Property, the condition of the soils thereon, or the existence of or legitimacy of potential claims for prescriptive rights-of-way or easements, or other claims, for roadways or other uses. Buyer shall make independent inquiry prior to closing and undertake environmental and soils audits, surveys, inspections or tests for, among other things, the presence of any hazardous substances, the suitability of the soils on the Property for Buyer's intended or actual use of the Property, the presence of any endangered or threatened species, or the presence of roadways or other rights-of-way or easements. Buyer shall have until closing under this Agreement to obtain any such desired audits, surveys, inspections or tests of the Property. After receipt of any such desired audits, surveys, inspections or tests and prior to closing, Buyer may object in writing to Seller of any findings in any such desired audits, surveys, inspections or tests. Seller may thereafter, and at Seller's sole option, elect to attempt to cure or address such objections, and if the objections cannot be cured or addressed to Buyer's satisfaction, or if Seller elects not to cure such objections, unless Buyer elects to waive such objections, such shall not be considered a default, but this Agreement shall be considered void, both parties being released from any obligations under this Agreement and neither party having any rights, claims for damages or causes of action against the other. Such objections must be made in writing to Seller and Buyer's failure to make such objection shall be deemed a waiver thereto. Seller shall allow Buyer reasonable access to the Property in order to undertake or perform said audits, surveys, inspections or tests of the Property. Buyer shall be liable for and agrees to indemnify and hold Seller harmless for any damages, injuries or claims, including but not limited to attorneys fees, resulting from such audits, surveys, inspections or tests. The cost of any such audits, surveys, inspections or tests of the Property will be at the sole expense of Buyer.

7. Seller transfers no water or water rights under this Agreement.

8. Buyer shall provide to Seller copies of its plans for the pump station, electrical substation, related facilities and any other improvements planned by Buyer. Buyer shall implement design features requested by Seller which are reasonable and necessary to maintain compatibility with Seller's intended use of adjacent property retained by Seller as shown on the "Concept Plan Briefing Package" dated October 21, 1997, and prepared by EDAW pertaining to the conceptual planning for Seller's retained property. Buyer intends to construct, or cause to be constructed, a wall around the Property which will be designed to secure buildings, equipment and any other property contained within. Additional design features may include setbacks, landscaping and choice of building materials, but in no event shall such design features result in extraordinary cost for construction or maintenance. Furthermore, in no event shall the Buyer be obligated to implement design features pursuant to this Paragraph, which in any way hamper the operation of the pump station, electrical substation or other related improvements made by Buyer.

9. Seller's interest conveyed under this Agreement may not include any mineral, coal, gas, oil or other subsurface rights of the Property and Seller does not represent or warrant that it has any interest in or to mineral, coal, gas, oil or other subsurface rights of the Property. Buyer has made, or has had the opportunity to make, independent inquiry and investigation prior to their execution of this Agreement and closing to determine Seller's interest in such mineral, coal, gas, oil or other subsurface rights and waives any claims against Seller if the Property is conveyed without mineral, coal, gas, oil or other subsurface rights.

10. Buyer has made, or has had the opportunity to make, independent inquiry and investigation prior to execution of this Agreement and closing regarding zoning and other land use regulations and legislation pertaining to the Property, including requirements pertaining to land use and development permits. Seller makes no warranties or representations regarding the current or future zoning designation of the Property or suitability of the Property for Buyer's intended or actual use. Seller further makes no representations regarding land use regulations and legislation and Seller assumes no responsibility in assisting Buyer in obtaining any land use and development permits or in obtaining municipal or governmental approval for developing the Property either before or after closing of the sale of the Property under this Agreement.

11. Buyer acknowledges that Seller has disclosed, and Buyer acknowledges its knowledge of, the existence and location of one or more dirt or paved roads and one or more fences on the Property. Third-party(ies) may have easements, rights-of-way or other similar-type interests evidenced by the dirt or paved road(s), OR third-party(ies) may claim rights in the Property based upon boundary by acquiescence, or other claims in law or equity, because of the fences (such potential rights or claims by third-party(ies) referred to herein collectively as the "Burden"). Seller makes no representations or warranties as to the status (legal or equitable), ownership, or rights pertaining to the Burden. Buyer is aware of the Burden and has made, or has had the opportunity to make, independent inquiry and investigation of the Burden prior to execution of this Agreement and, at closing, Buyer shall take title to the Property subject to the Burden. After closing, Buyer assumes all responsibility for the Burden, including without limitation any claims made by third-party(ies) relating to the Burden. By closing, Buyer waives any claims against Seller resulting from the Burden and Buyer agrees to indemnify Seller and to save it harmless from all claims, loss and expense, including but not limited to attorney fees, relating to the Burden.

12. At the signing of this Agreement Winding River Realty, LC represents Seller as the Listing Agent in this transaction. No real estate agent or broker represents the Buyer in this transaction. Buyer and Seller confirm that prior to signing this Agreement written disclosure of the agency relationship was provided.

Buyer's Initials:      Seller's Initials:     

13. Buyer agrees to indemnify Seller and to save it harmless from all claims, loss and expense, including but not limited to reasonable attorneys fees and costs, for claims by any real estate agents or brokers to pay commissions, or other claims by such real estate agents or brokers, in connection with or related to the sale of the Property based upon actions or representations by Buyer to such real estate agents or brokers.

14. Buyer agrees to cooperate with Seller's reasonable future requests for utility, signage, landscaping and other aesthetic alterations upon the Property, which do not unreasonably interfere with Buyer's use of the Property as set forth herein. Buyer shall not be compensated for such reasonable uses on the Property; however, all costs for installation of improvements associated with such uses shall be the responsibility of Seller.

15. Seller and Buyer agree that the provisions of this Agreement shall be binding upon, apply to and inure to the benefit of Seller and Buyer and their respective heirs, legal representatives, successors and assigns.

16. If Buyer or Seller is a corporation, partnership, limited liability company, trust, estate, political subdivision or other entity, the person executing this Agreement on its behalf warrants his or her authority to do so and to bind Buyer or Seller.

17. Buyer hereby agrees to sell to Seller and Seller shall have the right to repurchase the Property from Buyer in accordance with the following:

(a) The Buyer hereby grants to the Seller the exclusive right to purchase the Property from Buyer, if Buyer discontinues use of the Property for pump station, electrical substation and related facilities operations as stated herein, upon the terms and conditions as provided hereinafter.

(b) Seller shall have the exclusive right, at its sole option, to purchase the Property at ten thousand and no/100ths dollars (\$10,000.00) per acre upon Buyer's discontinuance of use of the Property for pump station and electrical substation operations. Seller may exercise its right to repurchase the Property at any time after such discontinuance of use; however, Seller's right to repurchase the Property under subparagraphs 17.(a) and 17.(b) must be exercised within sixty (60)

days if at any time after discontinuing use of the Property for its intended purposes, Buyer gives a "Notice of Discontinuance of Use" to Seller notifying Seller that it may exercise its rights under this Paragraph 17.

(c) The Seller shall give the Buyer written notice of exercise of its option to purchase at any time after such discontinuance of use or within sixty (60) days if "Notice of Discontinuance of Use" has been given by Buyer. After notice of exercise has been given by Seller, the Parties shall cooperate in preparing reasonably acceptable documents to facilitate the transaction. Seller's right to repurchase the Property shall terminate if Seller fails to give notice of exercise within sixty (60) days of Seller's "Notice of Discontinuance of Use".

18. This document constitutes the entire and exclusive agreement between the parties related to the Property and supersedes and cancels any and all prior negotiations, representations, warranties, understandings or agreements between the parties. There are no verbal agreements, which modify or affect this Agreement. This Agreement cannot be changed, amended or modified except by mutual written agreement of the parties.

19. The operative and contractual provisions of this Agreement shall be governed by the laws of Utah and any actions brought hereunder shall be brought in the Fifth District Court, State of Utah. Any provisions hereof not enforceable under the laws of the State of Utah shall not affect the validity of other provisions hereof.

20. This Agreement may be executed in counterparts, each of which shall be an original and all of which together shall constitute one instrument.

21. All notices or communications to be given under this Agreement shall be given in writing and shall be deemed given when deposited in the mail to the address shown below of the party entitled to receive notice, postage prepaid, registered or certified. Nothing herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process. The address of either party may be changed by written notice to the other party.

**TO SELLER:**

Timothy M. Inglis  
 Winding River Associates, LLC  
 Two Gateway Center, Suite 1800  
 Pittsburgh, Pennsylvania 15222

**COPY TO:**

Jeffrey N. Starkey  
 Snow Nuffer  
 192 East 200 North, 3<sup>rd</sup> Floor  
 St. George, Utah 84770

**TO BUYER:**

Ronald W. Thompson  
 Washington County Water Conservancy District  
 136 North 100 East  
 St. George, Utah 84770

**COPY TO:**

Barbara Hjelle  
 Washington County Water Conservancy District  
 136 North 100 East  
 St. George, Utah 84770

22. It is expressly agreed that the terms, covenants and conditions of this Agreement shall survive any legal act or conveyance required under this Agreement. The special warranty deed conveying title of the Property may contain conditions of this Agreement intended to be covenants and conditions running with the Property.

23. Time is of the essence regarding the dates set forth in this transaction. Seller offers to sell the Property on the above conditions and closing must occur on or before September 1, 2000, unless extended by mutual written agreement by Buyer and Seller.

IN WITNESS WHEREOF, the Seller and Buyer have signed, sealed and delivered this Agreement on the day and year below written.

"SELLER":

DATED this 22nd day of August, 2000

WINDING RIVER ASSOCIATES, LLC

By: Timothy M. Inglis  
TIMOTHY M. INGLIS, Manager

"BUYER":

DATED this 25 day of August, 2000

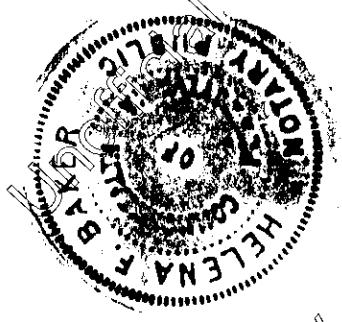
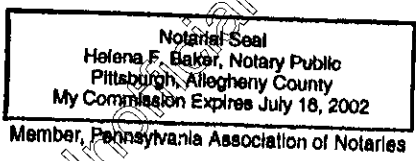
WASHINGTON COUNTY WATER CONSERVANCY DISTRICT

By: Ronald W. Thompson  
RONALD W. THOMPSON, Manager

COMMONWEALTH OF PENNSYLVANIA )  
 ) ss.  
COUNTY OF ALLEGHENY )

On this 22nd day of August 2000, before me personally appeared TIMOTHY M. INGLIS 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 a manager of WINDING RIVER ASSOCIATES, LLC, a Utah Limited Liability Company, and that the foregoing document was signed by him on behalf of that company by authority of its declaration of member and he acknowledged before me that the company executed the document and the document was the act of the company for its stated purpose.

Helena F. Baker  
NOTARY PUBLIC

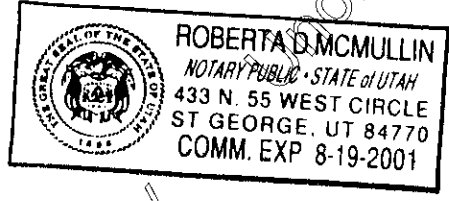


STATE OF UTAH )  
 ) ss.  
COUNTY OF WASHINGTON )

On this 25 day of August, 2000, before me personally appeared RONALD W. THOMPSON 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 Manager the WASHINGTON COUNTY WATER CONSERVANCY DISTRICT, a political subdivision of the state of Utah, and that the foregoing document was signed by him on behalf of the Washington County Water Conservancy District by appropriate authority and he acknowledged before me that Washington County Water Conservancy District executed the document and the document was the act of the Washington County Water Conservancy Service District for its stated purpose.

Roberta D. McMullin  
NOTARY PUBLIC

Js:winding river; 2686.40/wcwcdd/sales agt/sale agt final 081900 jns



**ADDENDUM NO. 1**  
**TO**  
**REAL ESTATE PURCHASE AGREEMENT**

This is Addendum No. 1 to that REAL ESTATE PURCHASE AGREEMENT between WINDING RIVER ASSOCIATES, LLC, a Utah Limited Liability Company, hereinafter referred to as "Seller", and WASHINGTON COUNTY WATER CONSERVANCY DISTRICT, a political subdivision of the state of Utah, hereinafter referred to as "Buyer", regarding 2.0 acres of real property (the "Property") located in Hurricane City, Washington County, Utah.

**A. Modifications To Real Estate Purchase Agreement.**

The following terms and provisions of the Real Estate Purchase Agreement are hereby modified and thereby incorporated and made a part of the Real Estate Purchase Agreement to reflect an extension of the closing deadline from September 1, 2000, until September 15, 2000:

1. Paragraph 3. shall be modified and shall read and be incorporated and made a part of the Real Estate Purchase Agreement as follows:

3. Within a reasonable time following the full execution of this Agreement, Buyer shall obtain, at Buyer's expense, a title insurance commitment for a standard coverage owner's policy of title insurance. After receipt of the title insurance commitment and prior to closing (which must occur on or prior to **September 15, 2000**), Buyer may request Seller to attempt to cure any defects in title identified by Buyer and if title cannot be made so insurable or if Seller elects not to cure such defects, unless Buyer elects to waive such defects or encumbrances, such shall not be considered a default, but Buyer shall have the right to declare this Agreement void, and thereupon, both parties shall be released from any obligations under this Agreement and neither party having any rights, claims for damages or causes of action against the other. Such request by Buyer must be made in writing to Seller and Buyer's failure to make such request shall be deemed a waiver thereto. After closing, Buyer takes Property subject to all exceptions contained in the title insurance commitment without recourse against Seller.

2. Paragraph 23. shall be modified and shall read and be incorporated and made a part of the Real Estate Purchase Agreement as follows:

23. Time is of the essence regarding the dates set forth in this transaction. Seller offers to sell the Property on the above conditions and closing must occur on or before **September 15, 2000**, unless extended by mutual written agreement by Buyer and Seller.

**B. Executed In Counterparts.**

This Addendum No. 1 to Real Estate Purchase Agreement may be executed in counterparts, both of which together shall constitute one instrument.

**C. Effect of Addendum.**

To the extent that the terms of this Addendum No. 1 modify or conflict with any provisions of the Real Estate Purchase Agreement, the terms of this Addendum No. 1 shall control. All other terms of the Real Estate Purchase Agreement, which are not modified by this Addendum, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this ADDENDUM NO. 1 TO REAL ESTATE PURCHASE AGREEMENT as of the 1st day of September 2000.

"SELLER":

WINDING RIVER ASSOCIATES, LLC

"BUYER":

WASHINGTON COUNTY WATER CONSERVANCY DISTRICT

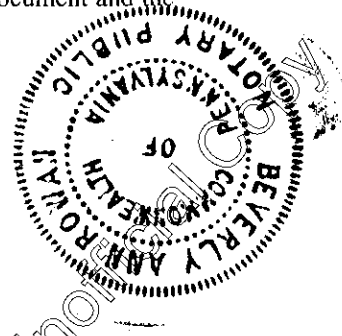
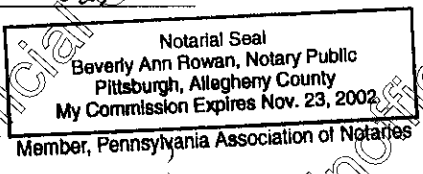
By: Timothy M. Inglis  
TIMOTHY M. INGLIS, Manager

By: Ronald W. Thompson  
RONALD W. THOMPSON, Manager

COMMONWEALTH OF PENNSYLVANIA )  
 ) ss.  
COUNTY OF ALLEGHENY )

On this 6th day of September, 2000, before me personally appeared TIMOTHY M. INGLIS 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 a manager of WINDING RIVER ASSOCIATES, LLC, a Utah Limited Liability Company, and that the foregoing document was signed by him on behalf of that company by authority of its declaration of member and he acknowledged before me that the company executed the document and the document was the act of the company for its stated purpose.

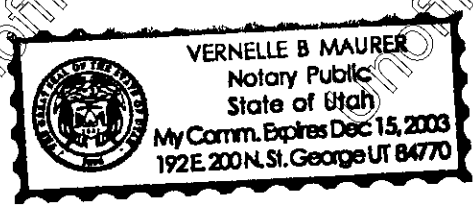
Beverly Ann Rowan  
NOTARY PUBLIC



STATE OF UTAH )  
 ) ss.  
COUNTY OF WASHINGTON )

On this 8th day of September, 2000, before me personally appeared BARBARA HJELLE ~~RONALD W. THOMPSON~~ 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 Manager the WASHINGTON COUNTY WATER CONSERVANCY DISTRICT, a political subdivision of the state of Utah, and that the foregoing document was signed by him on behalf of the Washington County Water Conservancy District by appropriate authority and he acknowledged before me that Washington County Water Conservancy District executed the document and the document was the act of the Washington County Water Conservancy Service District for its stated purpose.

Vernelle B. Maurer  
NOTARY PUBLIC  
Js:winding river; 2686 40/wcwcld/sales/sgdada.no. 1 to agt 090500 jms





**Exhibit A to Exhibit F**

# ALPHA ENGINEERING COMPANY

148 East Tabernacle, St. George, UT 84770 • (435) 628-6500 • Fax: (435) 628-6553

## LEGAL DESCRIPTION FOR PUMP STATION PARCEL (August 9, 2000)

Commencing at the North 1/4 Corner of Section 13, Township 42 South, Range 14 West,  
Salt Lake Base and Meridian;

Thence S 89°39'02" E along the Section line 714.70 feet;

Thence S 00°02'36" W 33.00 feet to the Point of Beginning;

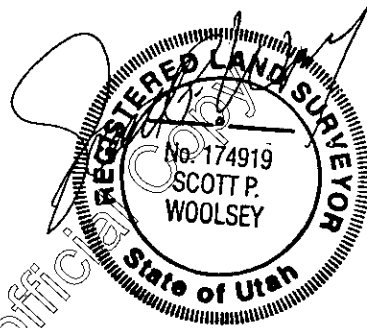
Thence S 89°39'02" E, a distance of 435.60 feet;

Thence S 00°02'36" W, a distance of 200.00 feet;

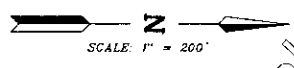
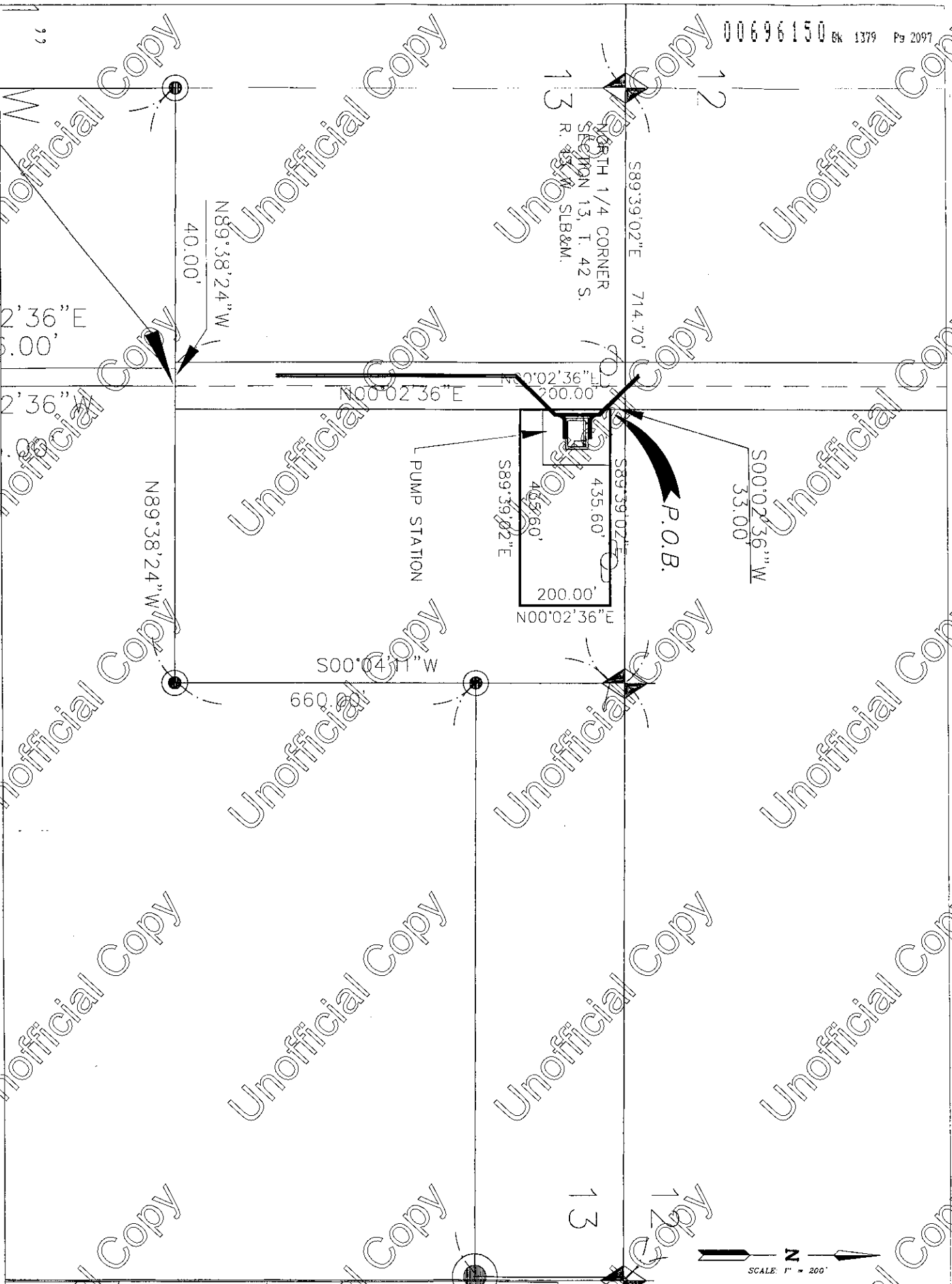
Thence N 89°39'02" W, a distance of 435.60 feet;


Thence N 00°02'36" E, a distance of 200.00 feet to the Point of Beginning.

Containing 87,120 square feet or 2.00 acres.



8/9/00



1	<b>PUMP STATION EXHIBIT</b> WASHINGTON COUNTY WATER CONSERVANCY DISTRICT, SANDHOLLOW RESERVOIR	<b>ALPHA</b>  <b>ENGINEERING COMPANY</b> <small>1411 UNIVERSITY BLVD, SUITE 100, WASHINGTON, DC 20004</small>	DRAWN BY: CHECKED BY: DATE:	PROJECT NO.: SHEET NO.:
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When Recorded Return To:	WCWCD 136 North 100 East St. George UT 84770 (435) 673-3617
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**AMENDED RIGHT-OF-WAY EASEMENT**

KNOW ALL MEN BY THESE PRESENTS:

That in consideration of One Dollar (\$1.00) and other good and valuable consideration paid to WINDING RIVER PROPERTIES, INC., hereinafter referred to as GRANTOR, by WASHINGTON COUNTY WATER CONSERVANCY DISTRICT, hereinafter referred to as GRANTEE, the receipt of which is hereby acknowledged, the GRANTOR does hereby grant, bargain, sell, transfer, and convey unto the GRANTEE, its successors and assigns, a temporary easement with the right to erect, construct, install, and lay, and thereafter, a perpetual easement to use, operate, inspect, repair, maintain, replace and remove one or more water pipelines over, across and through the hereinafter described land owned by GRANTOR, situated in Washington County, Utah, together with the right of ingress and egress over the adjacent lands of the GRANTOR, his successors and assigns, for the purposes of this easement.

The above-mentioned temporary easement shall be 300 feet in width during the period(s) of construction of said water pipeline(s) and shall terminate upon completion of construction, or one year from the date hereof, whichever is shorter. Upon completion of said water pipeline(s), the perpetual easement shall be fifty (50) feet in width, twenty-five (25) feet on each side of the following described centerline:

Beginning at a point 25.00 feet north and 200 feet east from the S¼ Corner of Section 30, T41S, R13W, SLB&M; thence N89°59'02"W, 2,667.52 feet; thence S26°53'43"W, 1,130.16 feet; thence S63°51'40"W, 500 feet more or less to a point on the west line of Section 31, T41S, R13W, SLB&M.

The consideration hereinabove recited shall constitute payment in full for any damages to the land of the GRANTOR, his successors and assigns, by reason of the installation, operation and maintenance of the structures or improvements referred to herein. The GRANTEE covenants to maintain the easement in good repair so that no unreasonable damage will result from its use to the adjacent land of the GRANTOR, his successors and assigns.

The grant and other provisions of this easement shall constitute a covenant running with the land for the benefit of the GRANTEE, its successors and assigns.

This AMENDED RIGHT-OF-WAY EASEMENT is an amendment to that certain RIGHT-OF-WAY EASEMENT dated July 18, 1983, and recorded in the Washington County Recorder's Office on September 8, 1983, in Book 334, Pages 871-872, Document 253144.

IN WITNESS WHEREOF, the GRANTOR has executed this instrument this 22<sup>nd</sup> day of August, 2000.

WINDING RIVER PROPERTIES, INC.

By Timothy M. Inglis  
President

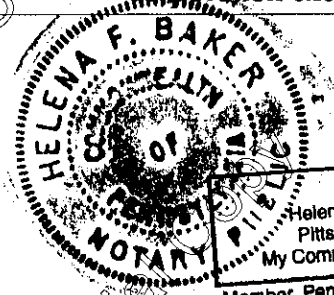
Attest:

Secretary

STATE OF Pennsylvania ) ss.  
COUNTY OF Allegheny )

On the 22<sup>nd</sup> day of August, 2000, personally appeared before me Timothy M. Inglis, and \_\_\_\_\_, who being by me duly sworn did say that he is the president and that he \_\_\_\_\_ is the secretary of WINDING RIVER PROPERTIES, INC., and that said instrument was signed on behalf of said corporation by authority of its bylaws or a resolution of its board of directors and said \_\_\_\_\_ and \_\_\_\_\_ acknowledged to me that said corporation executed the same.

Helena F. Baker  
NOTARY PUBLIC



Notarial Seal  
Helena F. Baker, Notary Public  
Pittsburgh, Allegheny County  
My Commission Expires July 18, 2002  
Member, Pennsylvania Association of Notaries

When Recorded Return To:

Jeffrey N. Starkey

Snow Nuffer

192 East 200 North, 3<sup>rd</sup> Floor

P. O. Box 400

St. George, Utah 84771-0400

00696150 Pg 2100

### **RIGHT OF FIRST REFUSAL AGREEMENT**

THIS RIGHT OF FIRST REFUSAL AGREEMENT is made and executed as of the 25<sup>th</sup> day of August, 2000 by and between Winding River Associates, LLC, a Utah Limited Liability Company ("Buyer"), and Washington County Water Conservancy District, a political subdivision of the State of Utah ("Seller").

#### **Recitals**

WHEREAS, Seller and Buyer have entered into an Easement Agreement, hereinafter "Easement Agreement" pertaining to easements on property located in Hurricane, Utah on or about August 25, 2000; and

WHEREAS, as part of the Easement Agreement, Buyer has granted Seller a right of first refusal in the form hereof with respect to that certain parcel of property, or any portion thereof, which is located in Washington County, Utah, as more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "First Right Property"); and

WHEREAS, it is intended by the Parties that this Agreement survive the closing to which this Agreement has been made an exhibit and that the provisions and obligations herein shall be binding upon Buyer, and its assigns or transferees, and enforceable by Seller, and its assigns or transferees; and

Whereas, Seller desires to provide a right of first refusal in the form hereof on the First Right Property.

#### **Agreement**

NOW, THEREFORE, in consideration of the above premises and for good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. **Right of First Refusal.**

a. **Grant of Right.** The Seller hereby grants to the Buyer a right of first refusal to purchase from the Seller the First Right Property, or any portion thereof, upon the terms and conditions as provided herein. In the event that the Seller shall receive a bona fide and enforceable written offer acceptable to it, or shall enter into a bona fide and enforceable written contract, for the purchase by a ready, willing and able third person (the "First Offeror") of the First Right Property, or any portion thereof, the Seller shall promptly give written notice thereof to the Buyer and shall deliver to the Buyer a complete and correct copy of such offer or contract along with customary and usual due diligence material including but not limited to title research, and other due diligence items to be supplied by Seller in the written offer. The date that both such notice and such copy have been received by the Buyer is referred to herein as the "Notice Date." An Offer under this Agreement shall include offers to purchase a larger parcel of property, which includes the First Right Property, or any portion thereof. An Offer under this Agreement shall also include offers to exchange, trade, lease, or any other transfer of an interest in the First Right Property, or any portion thereof, to a third party.

b. **Exercise of Right.** If the Buyer receives notice of an Offer, the Buyer shall have the right, at its option, to purchase the First Right Property at the same price and upon the same terms and conditions contained in such offer. The Buyer shall give the Seller written notice of exercise of its option to purchase within ninety (90) days after the Notice Date. The date that the notice of exercise has been received by the Seller is referred to herein as the "Exercise Date."

c. Execution of Sales Agreement. Buyer shall execute a real estate purchase agreement using a Board of Realtor or similar form containing permissions customary in Washington County, Utah with the Seller containing the offered or contracted price and terms and conditions within fifteen (15) days of the Exercise Date.

d. Failure to Purchase. If the Buyer does not (a) within one hundred twenty (120) days after the Notice Date give written notice to Seller that it will purchase the First Right Property, and (b) within fifteen (15) days after the Exercise Date execute such a purchase agreement, then the Seller shall be free to complete the sale of the First Right Property to the First Offeror upon the same terms and conditions contained in such offer or contract. If the proposed sale to the First Offeror is not completed as provided therein upon the same terms and conditions contained in such offer or contract, then the rights of the Buyer under this Agreement shall be fully restored and reinstated as if such offer or contract had never been presented to the Buyer as herein required.

e. Retain Rights for Remaining Property. If an offer or contract is received by Buyer for less than the entire First Right Property for which Buyer does not exercise its option to purchase under Paragraph 1 of this Agreement AND Seller completes the sale with First Offeror for the less than entire First Right Property parcel, Buyer shall retain all rights as provided herein for the remaining portion of the First Right Property.

2. Notices. All notices or communications to be given under this Agreement shall be given in writing and shall be deemed given when deposited in the mail to the address shown below of the party entitled to receive notice, postage prepaid, registered or certified. Nothing herein shall be construed to preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process, in which case such notice shall be deemed given on date of personal delivery. The address of either party may be changed by written notice to the other party.

TO SELLER:

Timothy M. Inglis  
Winding River Associates, LLC  
Two Gateway Center, Suite 1800  
Pittsburgh, PA 15222

COPY TO:

Jeffrey N. Starkey  
SNOW NUFFER  
192 East 200 North, 3<sup>rd</sup> Floor  
St. George, Utah 84770

TO BUYER:

Ronald W. Thompson, Manager  
Washington County Water Conservancy District  
136 North 100 East  
St. George, Utah 84770

COPY TO:

Barbara G. Hjelle, Esq.  
Washington County Water Conservancy District  
136 North 100 East  
St. George, Utah 84770

3. Run with the Land. The Seller intends, declares and covenants that the agreements and covenants set forth in this Agreement shall run with the land and shall bind, and the benefits and burdens shall inure to, the Seller and the Buyer, and their respective successors and assigns.

4. Entire Agreement. This Right of First Refusal Agreement constitutes the entire agreement between the parties with respect to the right of first refusal on the First Right Property. There are no promises, representations, warranties, covenants or undertakings other than those expressly set forth or referred to herein. This Right of First Refusal Agreement may be amended only in a writing signed by each of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this RIGHT OF FIRST REFUSAL AGREEMENT as of the day and year first above set forth.

"BUYER":

WINDING RIVER ASSOCIATES, LLC

"SELLER":

WASHINGTON COUNTY WATER CONSERVANCY DISTRICT

By: Timothy M. Inglis  
TIMOTHY M. INGLIS, Manager

By: Ronald W. Thompson  
RONALD W. THOMPSON, Manager

COMMONWEALTH OF PENNSYLVANIA )  
 ) ss.  
COUNTY OF ALLEGHENY )

On this 22nd day of August 2000, before me personally appeared TIMOTHY M. INGLIS 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 a manager of WINDING RIVER ASSOCIATES, LLC, a Utah Limited Liability Company, and that the foregoing document was signed by him on behalf of that company by authority of its declaration of member and he acknowledged before me that the company executed the document and the document was the act of the company for its stated purpose.

Helena F. Baker  
NOTARY PUBLIC

Notarial Seal  
Helena F. Baker, Notary Public  
Pittsburgh, Allegheny County  
My Commission Expires July 18, 2002  
Member, Pennsylvania Association of Notaries



STATE OF UTAH )  
 ) ss.  
COUNTY OF WASHINGTON )

On this 25 day of August, 2000, before me personally appeared RONALD W. THOMPSON 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 Manager the WASHINGTON COUNTY WATER CONSERVANCY DISTRICT, a political subdivision of the state of Utah, and that the foregoing document was signed by him on behalf of the Washington County Water Conservancy District by appropriate authority and he acknowledged before me that Washington County Water Conservancy District executed the document and the document was the act of the Washington County Water Conservancy Service District for its stated purpose.

Roberta D McMullin  
NOTARY PUBLIC

ROBERTA D MCMULLIN  
NOTARY PUBLIC - STATE OF UTAH  
433 N. 55 WEST CIRCLE  
ST GEORGE, UT 84770  
COMM. EXP. 8/19/2001

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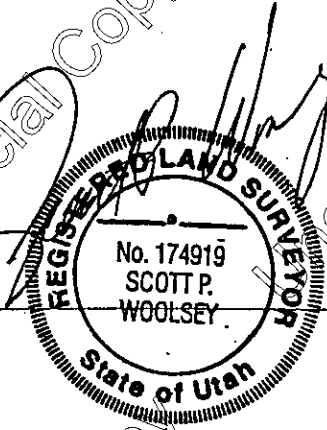
# ALPHA ENGINEERING COMPANY

148 East Tabernacle St. George, UT 84770 • (435) 628-6500 • Fax: (435) 628-6553

## EXHIBIT A -- To Right of First Refusal Agreement

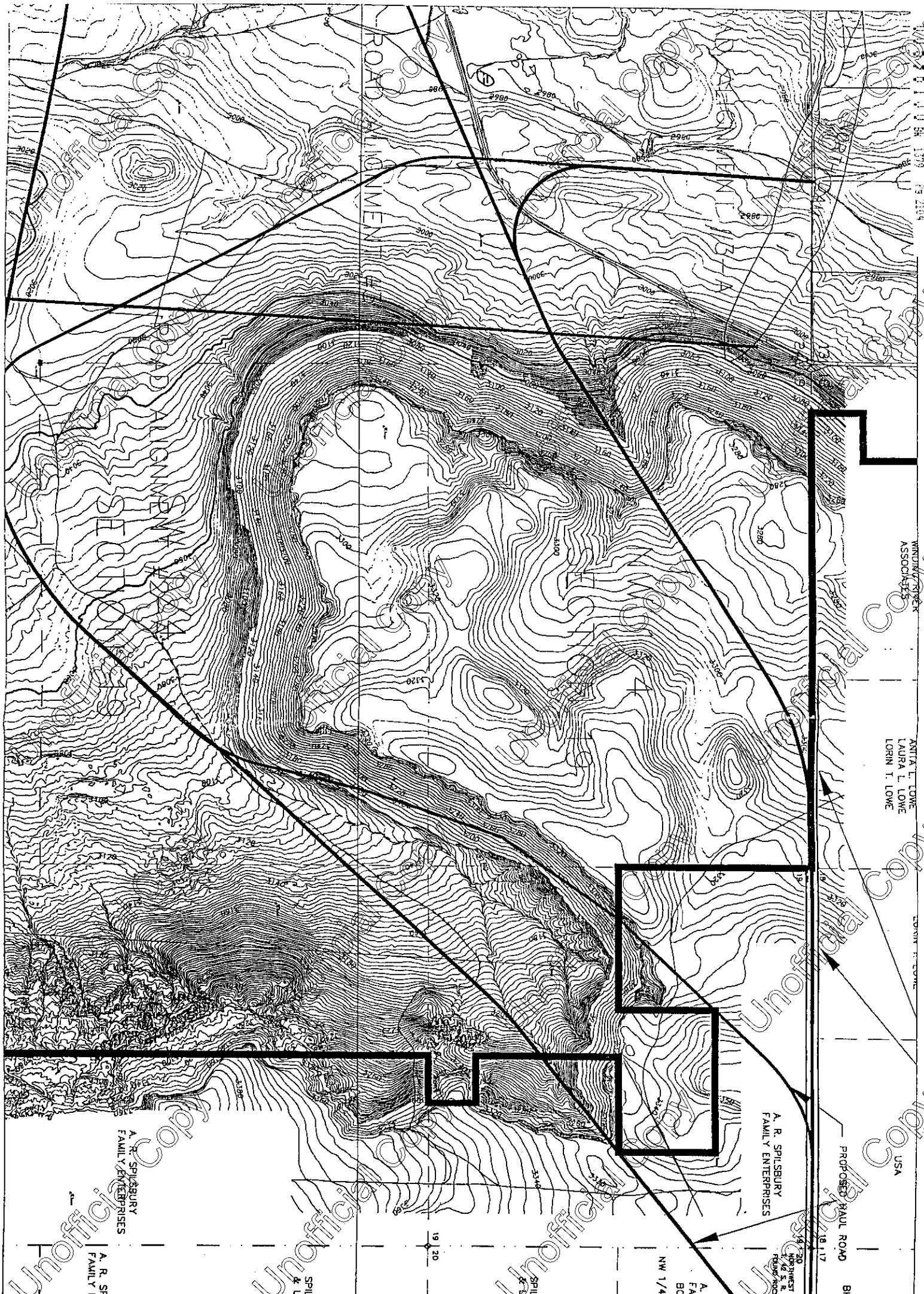
### LEGAL DESCRIPTION FOR RIGHT OF FIRST REFUSAL PARCEL IN SECTION 19, T. 42 S. R. 13 W. SLB&M. (August 9, 2000)

All of the Northwest ¼ and the Southwest ¼ of Section 19, Township 42 south, Range 13 West, Salt Lake Base and Meridian, lying above elevation 3270.00. With the basis of elevation being the top of brass cap for the Northwest Corner of section 19, T. 42 S. R. 13 W. SLB&M, (Elevation being 3014.31).



8/9/00

2025 08 17 09 23 2104



WINNING BROTHER ASSOCIATES  
 ANITA L. LOWE  
 LAURA L. LOWE  
 LORIN T. LOWE

LOREN T. LOWE

USA  
 BK.  
 LD.

PROPOSED HAUL ROAD

A. R. SPILSBURY  
 FAMILY ENTERPRISES

A. R. SPILSBURY  
 FAMILY ENTERPRISES

A. R. SPILSBURY  
 FAMILY ENTERPRISES

A. R. SPILSBURY  
 FAMILY ENTERPRISES

**EXHIBIT**

**FOR RIGHT-OF-FIRST REFUSAL  
 SAND HOLLOW AREA**

**ALPHA**  
  
**ENGINEERING  
 COMPANY**

NO.	DESCRIPTION	DATE
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