

WHEN RECORDED, PLEASE MAIL TO:

MRP PAYSON, LLC
294 Interstate North Circle, Building 2, Suite 150
Atlanta, GA 30339

00-072-0001
00-072-0002

DECLARATION OF RECIPROCAL EASEMENTS

THIS DECLARATION OF RECIPROCAL EASEMENTS (this "**Declaration**") is made this 25 day of August, 2022 by MRP PAYSON, LLC, a Utah limited liability company ("**Declarant**").

RECITALS

A. Declarant is the fee owner of certain real property located at 1138 West 800 South, Payson City, Utah County, State of Utah, as described on Exhibit A attached hereto (the "**East Parcel**").

B. Declarant is the fee owner of certain real property located at 1142 West 800 South, Payson City, Utah County, State of Utah, as described on Exhibit B attached hereto (the "**West Parcel**").

C. Declarant desires to establish certain non-exclusive easements across the East Parcel and West Parcel to install, maintain, repair, replace and use the existing and proposed utility lines thereon.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant makes the following declarations, creates the following easements and establishes the following covenants, conditions and restrictions, all of which apply to, bind, affect and run with title to the East Parcel and West Parcel:

1. Definitions. Certain capitalized terms which are used in this Declaration are defined in this Declaration prior to this Section 1. In addition to those previously defined terms, the following capitalized terms shall have the meanings indicated.

a. "**Benefitted Parties**" means, with respect to a Parcel, the Owners and Occupants of that Parcel, and their respective employees, contractors, agents, tenants, subtenants, customers, guests and invitees.

b. "**Building**" means any building constructed on a Parcel (including, without limitation, all extensions or projections thereof, all structures or facilities accessory or

integral thereto, and any canopies or overhangs, porches, enclosed walkways, and similar items), but excluding a separately standing parking garage.

c. **“Detention Pond”** means the stormwater detention pond located on the East Parcel and the West Parcel, as identified on the site plan attached hereto as Exhibit D.

d. **“Drive Areas”** means the areas on the Parcels used as traffic lanes, curb cuts, driveways or similar areas for ingress and egress of vehicles and pedestrians, which exist at any time and from time to time. Drive Areas does not include any land on a Parcel on which a Building is located or which is used for landscaping or parking.

e. **“Governmental Restrictions”** means all laws, statutes, ordinances, codes, decrees, rulings, regulations, writs, injunctions, orders, rules, conditions of approval or authorization of any governmental entity, agency or political subdivision, whether now in force or which may hereafter be in force.

f. **“Mortgage”** means a recorded mortgage, deed of trust or other security agreement creating a lien on a Parcel or a portion of a Parcel as security for the payment of indebtedness.

g. **“Mortgagee”** means the mortgagee, beneficiary or other secured party under a Mortgage.

h. **“Occupant”** means any party that, by virtue of a contract to purchase, a lease, a rental arrangement, a license or any other instrument, agreement, contract, document, understanding or arrangement is entitled to or does occupy, possess or use any Parcel or portion of any Parcel.

i. **“Owner”** means the Person that, at the time concerned, is the owner of record in the office of the County Recorder of Utah County, Utah of a fee interest in any Parcel or portion of any Parcel. In the event that, at any time, more than one Person owns the fee interest in a Parcel, they shall constitute one (1) Owner, and liability of each such Person for performance or compliance with the applicable provisions of this Declaration shall be joint and several. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term “Owner” shall not mean or include a Mortgagee unless and until such Person has acquired fee title to the Parcel encumbered by a Mortgage pursuant to foreclosure, trustee's sale or any arrangement or proceeding in lieu thereof.

j. **“Parcel”** means any one of the Parcels.

k. **“Parcels”** means the East Parcel and the West Parcel; provided if either of the Parcels is further subdivided, the definition of “Parcels” shall be deemed to be amended to apply to each of the subdivided Parcels.

l. **“Person”** means a natural person, a legal entity or a trust.

m. **“Shared Cost Drive Areas”** means, collectively, the portions of the Drive Areas located on the East Parcel that are identified as “Shared Cost Drive Areas” on the site plan attached hereto as Exhibit E.

n. **“Utility Easement Area”** means the portions of the Parcels on which the utility facilities depicted on Exhibit C attached hereto are located.

2. Grant of Rights-of-Way and Easements. Declarant hereby creates the following easements and rights of way:

a. *Pedestrian Access Easement*. The Parcels shall each have appurtenant thereto and shall be benefitted by, and each Parcel shall be subject to and burdened by, a perpetual, non-exclusive right-of-way and easement across the sidewalks or walkways on each Parcel for use by pedestrians who are Benefitted Parties.

b. *Vehicular Access Easement*. The Parcels shall each have appurtenant thereto and shall be benefitted by, and each Parcel shall be subject to and burdened by, a perpetual, non-exclusive right-of-way and easement across the Drive Areas on each Parcel for the purpose of furnishing access and the right of access for the vehicles of the Benefitted Parties of each Parcel across the Drive Areas on the other Parcel.

c. *Utility Easement*. The Parcels shall each have appurtenant thereto and shall be benefitted by, and each Parcel shall be subject to and burdened by, a perpetual, non-exclusive easement for the installation, repair and maintenance of underground utilities, including, but not limited to, electrical power lines, natural gas lines, culinary water lines, sanitary sewer lines, storm water lines, internet and other telecommunication cables or fiber optics and related facilities (collectively, the **“Utility Lines”**) over, across and under the Utility Easement Area.

d. *Stormwater Easement*. The Parcels shall each have appurtenant thereto and shall be benefitted by, and each Parcel shall be subject to and burdened by, a perpetual, non-exclusive easement across each Parcel for the purpose of drainage of surface water on, over, across, under and through each Parcel.

3. Mortgagee Protection.

a. No amendment to this Declaration shall in any way affect the rights of any Mortgagee pursuant to a Mortgage that is recorded at the time of the recordation of the amendment, or the rights of any successor in interest or title to such Mortgagee, either before or after such Mortgagee or its successor enters into possession or acquires title pursuant to foreclosure, trustee's sale or any deed, arrangement or proceeding in lieu thereof, unless such Mortgagee consents or subordinates its lien in writing to such amendment.

b. A breach of any of the covenants, provisions, or requirements of this Declaration shall not result in any forfeiture or reversion of title or of any other interest in

the East Parcel or West Parcel. A breach of any of the covenants, provisions, or requirements of this Declaration shall not defeat, impair or render invalid the lien of or other rights under any Mortgage. Unless and until it enters into possession or acquires title pursuant to foreclosure, trustee's sale or any deed, arrangement or proceeding in lieu thereof, a Mortgagee shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, any of the covenants, provisions, or requirements of this Declaration except the obligation to subordinate its lien or security interest to this Declaration.

4. Maintenance.

a. *Maintenance of Drive Areas.* All Drive Areas situated on a Parcel shall be continuously maintained and kept clean and in good order, condition and repair and in full compliance with all Governmental Restrictions by the Owner of the Parcel on which the same are located.

b. *Maintenance of Utility Lines.* Regardless of which Parcel such Utility Lines are located on, all Utility Lines shall be continuously maintained in good order, condition and repair and in full compliance with all Governmental Restrictions by the Owner of the Parcel that is served by or otherwise benefitted by such Utility Lines, and such Owner shall use commercially reasonable efforts in the performance of such maintenance to avoid unreasonably disturbing the other Owner's use and enjoyment of such Owner's Parcel.

c. *Maintenance of Detention Pond.* Notwithstanding anything to the contrary in this Section 4, the Owner of the East Parcel and the Owner of the West Parcel shall share in the costs of maintaining, repairing, and keeping in compliance the Detention Pond. The Owner of the East Parcel shall be responsible for Forty-Seven and 51/100 Percent (47.51%) of such costs, and the Owner of the West Parcel shall be responsible for Fifty-Two and 49/100 Percent (52.49%) of such costs.

d. *Maintenance of Shared Cost Drive Areas.* Notwithstanding anything to the contrary in this Section 4, the Owner of the East Parcel and the Owner of the West Parcel shall share in the cost of capital repairs and replacement of the Shared Cost Drive Areas as shown on the attached Exhibit "E", provided the Owners shall not otherwise share in the cost of maintaining, repairing and keeping in compliance such Shared Cost Drive Areas.

e. *Maintenance Required Due to Owner.* Notwithstanding anything to the contrary in this Declaration, each Owner shall be responsible at its sole cost and expense to repair any damage to the Detention Pond, Drive Areas or the Utility Lines that is directly caused by the actions of such Owner, its tenants, employees, agents or contractors.

5. Alteration, Relocation or Changes to Drive Areas. The Owner of a Parcel shall not be permitted to alter, relocate or change the configuration of the Drive Areas on the Parcel which it owns until such Owner has received written permission from the Owner of the other parcel, which shall not be unreasonably withheld, conditioned, or delayed, and only upon strict compliance with the provisions of this Section.

a. The Owner proposing to make any alteration, relocation or change shall provide to the Owner of the other Parcel written notice of, and conceptual plans for, the proposed alteration, relocation or other change not less than thirty (30) days before any work commences.

b. Any proposed alteration, relocation or other change shall comply in all respects with all Governmental Restrictions.

c. Any proposed alteration, relocation or other change shall not adversely impact the rights of the Benefitted Parties of the other Parcel.

d. The Owner proposing to make any alteration, relocation or other change to the Drive Areas on its Parcel shall pay the entire cost of such alteration, relocation or change.

e. The Owner proposing to make such alteration, relocation or change to the Drive Areas on its Parcel may not perform any work on, or stage any work from the other Parcel without the consent of the Owner of the other Parcel, which consent shall not be unreasonably withheld, conditioned or delayed.

6. Amendment or Termination; Duration of Declaration. This Declaration may be amended or terminated, but only by an instrument filed for record in the office of the County Recorder of Utah County, Utah that is executed by all of the Owners of the Parcels. The term of this Declaration is perpetual; this Declaration shall be and remain in force and effect until terminated pursuant to this Section.

7. Covenants to Run with Land. This Declaration and the easements and covenants created by this Declaration are intended by the Declarants to be and shall constitute covenants running with the land as to each of the Parcels, and shall be binding upon and shall inure to the benefit of each Owner and any Person who acquires or comes to have any interest in any Parcel, and their respective grantees, transferees, lessees, heirs, devisees, personal representatives, successors, and assigns. This Declaration and all of the easements, covenants, provisions, and requirements hereof shall also inure to the benefit of each and each Person owning any interest in or occupying any portion of a Parcel. Each Owner shall comply with, and all interests in all Parcels shall be subject to, the terms of this Declaration. By acquiring, in any way coming to have an interest in, or occupying a Parcel, the Person so acquiring, coming to have such interest in, or occupying a Parcel, shall be deemed to have consented to, and shall be bound by, each and every provision of this Declaration.

8. Enforcement. The Owner of a Parcel or any portion of a Parcel shall have the right to enforce, through any permitted proceeding at law or in equity, the terms, provisions, restrictions and requirements of this Declaration as this Declaration may be amended from time to time pursuant to Section 6. Any failure to insist upon the strict performance of or compliance with any of the terms, provisions, covenants and requirements of this Declaration shall not result in or be construed to be an abandonment or termination of this Declaration or any waiver of the right to insist upon such performance or compliance with the terms of this Declaration in the future. If

any action or proceeding is brought because of a default under, or to enforce or interpret any of the covenants, provisions, or requirements of, this Declaration, the party prevailing in such action shall be entitled to recover from the unsuccessful party reasonable attorneys' fees (including those incurred in connection with any appeal), the amount of which shall be fixed by the court or the arbitrator and made a part of any judgment rendered.

9. Liens. Each Owner shall keep the Drive Areas free from any liens arising out of any work performed, materials furnished, or obligations incurred by, through, for, or under such Owner, and the Owner causing such work to be performed will indemnify, hold harmless and agree to defend the other Owner from any liens that may be placed on the Drive Areas pertaining to and/or arising from any work performed, materials furnished, or obligations incurred by, through, for, or under such causing Owner. Any such liens shall be released of record within thirty (30) days.

10. Indemnification. Each Owner shall indemnify, defend and hold harmless any other Owner, and such other Owner's agents, employees, officers, members, directors, managers, and/or affiliates, from and against any and all loss (including loss of use), claim, action, proceeding, liability, damage, demand, cost and expense (including reasonable attorneys' fees) arising out of the use of the Drive Areas by the indemnifying Owner or its agents, guests, employees, affiliates or invitees.

11. No Merger. The ownership of all the Parcels by the same party will not effect the termination of this Declaration.

12. Miscellaneous. This Declaration, any amendment or termination hereof, and any supplement hereto shall take effect upon its being filed for record in the office of the County Recorder of Utah County, Utah. All Section titles or captions in this Declaration are for convenience only, shall not be deemed part of this Declaration and in no way define, limit, extend or describe the scope or intent of any provisions of this Declaration. When this Declaration refers to a Section by number or other designation, such reference shall be deemed to be to the correspondingly numbered Section of this Declaration unless the context refers to another agreement, document or instrument. Whenever the contest may require, any pronoun used in this Declaration shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa. This Declaration shall be construed in accordance with and governed by the laws of the State of Utah, without reference to its choice of law rules. This Declaration may be executed in any number of counterparts. Each such counterpart of this Declaration shall be deemed to be an original instrument, and all such counterparts together shall constitute but one agreement. All exhibits annexed to this Declaration are expressly made a part of and incorporated in this Declaration as fully as though completely set forth in this Declaration. Time is of the essence of this Declaration.

[Signature page follows.]

IN WITNESS WHEREOF, the Declarant executed this Declaration as of the date first set forth above.

DECLARANT:

MRP PAYSON, LLC,
a Utah limited liability company

By: [Signature]
Name: Matt McWhirter
Title: Manager

STATE OF Utah)
COUNTY OF Salt Lake) : ss.

On this 22 day of August, 2022, before me, the undersigned, personally appeared Matt McWhirter an individual whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed that in his/her capacity as the Manager of MRP PAYSON, LLC, a Utah limited liability company, he/she signed the foregoing instrument on behalf of said limited liability company and he/she acknowledged to me that said limited liability company executed the same.

In witness whereof I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Signature]
NOTARY PUBLIC



EXHIBIT "A"

to

EASEMENT AGREEMENT

Legal Description of East Parcel

ALL OF LOT 1B, HENLINE SUBDIVISION PLAT C AMENDED, AS RECORDED WITH
THE OFFICE OF THE UTAH COUNTY RECORDER.
CONTAINS 38,785 SQ. FT. OR 0.890 ACRES

EXHIBIT "B"

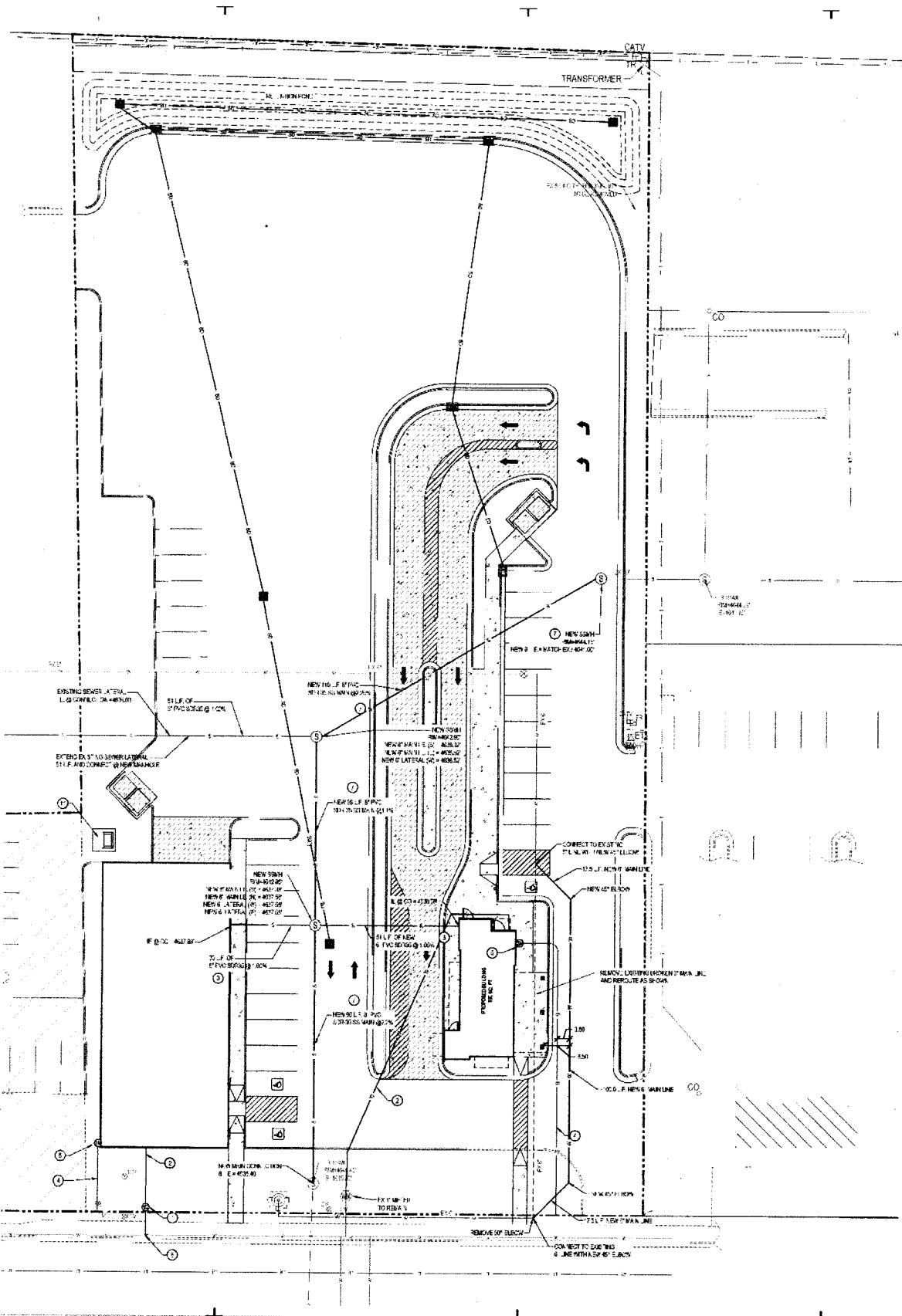
to

EASEMENT AGREEMENT

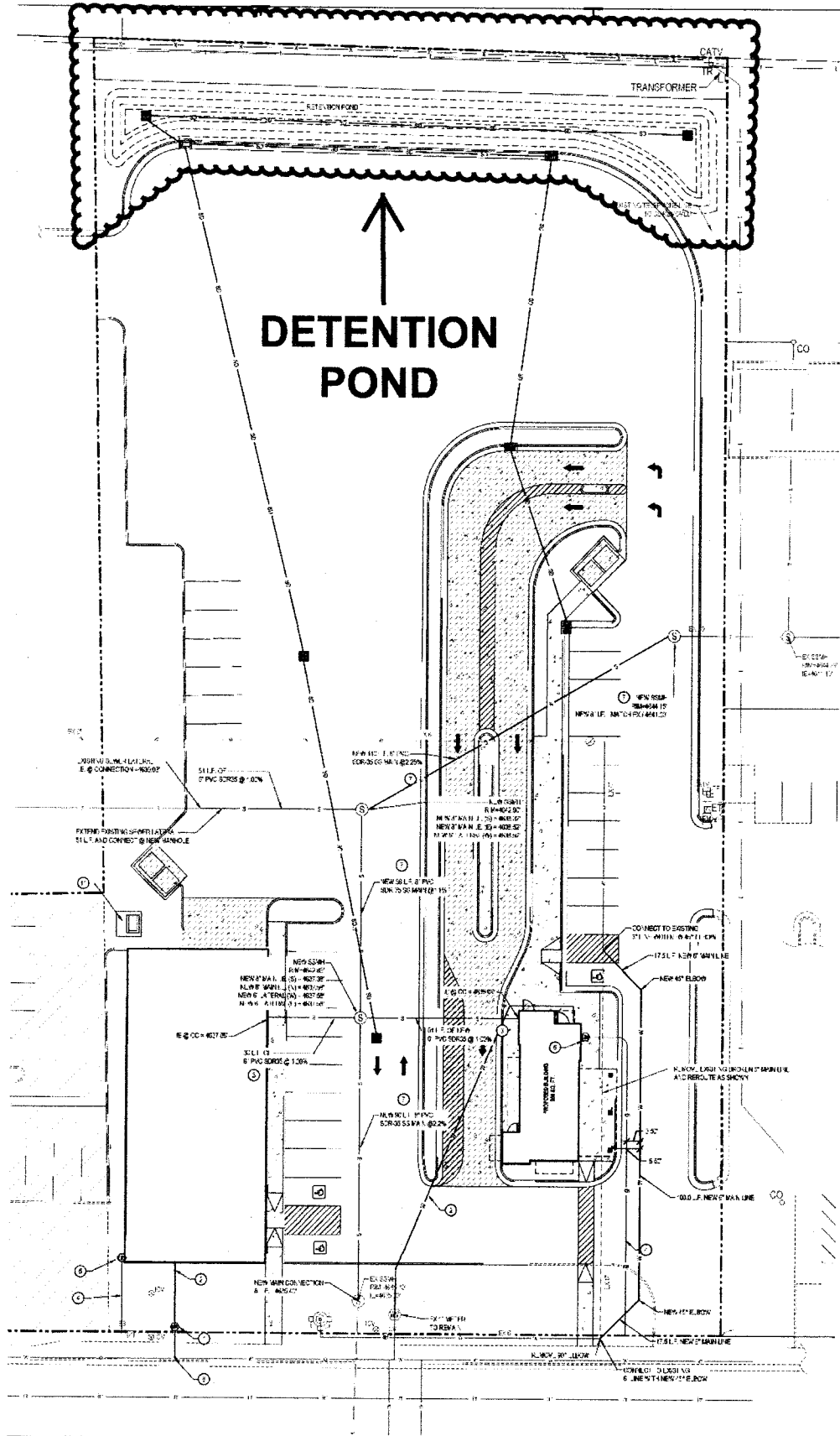
Legal Description of the West Parcel

ALL OF LOT 1A, HENLINE SUBDIVISION PLAT C AMENDED, AS RECORDED WITH
THE OFFICE OF THE UTAH COUNTY RECORDER.
CONTAINS 42,852 SQ FT OR 0.984 ACRES

to
EASEMENT AGREEMENT
Depiction of the Utility Easement Areas



to
EASEMENT AGREEMENT
Site Plan



To
EASEMENT AGREEMENT
Shared Cost Drive Areas

Shared Cost Drive Areas
East Parcel
&
West Parcel
shall equally share
(50% each) in capital
repairs & replacement
of these areas.

Shared Cost Drive Areas
East Parcel shall be
100% responsible for
capital repairs &
replacement in this area

