

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE UTAH TRANSIT
AUTHORITY AUTHORIZING THE SALE OF APPROXIMATELY 1.45 ACRES
OF REAL PROPERTY LOCATED IN THE CLEARFIELD TRANSIT-ORIENTED
DEVELOPMENT TO ROCKY FIELDS, LLC**

R2021-11-01

November 10, 2021

WHEREAS, the Utah Transit Authority (the "Authority") is a large public transit district organized under the laws of the State of Utah and was created to transact and exercise all of the powers provided for in the Utah Limited Purpose Local Government Entities – Local Districts Act and the Utah Public Transit District Act; and

WHEREAS, the Board of Trustees (the "Board") approved on January 13, 2021 Resolution R2021-01-01 adopting the Clearfield Master Development Agreement and Master Plan for the Clearfield Transit-Oriented Development ("Clearfield Station"); and

WHEREAS, an important land use described in the Master Plan was an anchor tenant that would attract additional office, retail, and residential tenants and uses in the surrounding area, thereby promoting increased ridership of the Authority's transit services at Clearfield Station; and

WHEREAS, the Authority and its development partners, Stack Development and Hamilton Partners, have selected Rocky Fields, LLC *dba* The Front Climbing Gym as an anchor tenant ("Anchor Tenant") for Clearfield Station based on the Anchor Tenant satisfying the purposes and functions described in the Master Plan; and

WHEREAS, Anchor Tenant has agreed to purchase approximately 1.45 acres of real property ("Sale Property") centrally situated at Clearfield Station in order to construct a recreational facility and retail facility consistent with the Master Plan; and


WHEREAS, staff for Authority has negotiated a purchase price of \$19.00 per square foot for the property, as detailed in the Purchase and Sale Agreements ("Agreements") for Lot 3, attached hereto as Exhibit "A," and for Lot 20, attached hereto as Exhibit "B," respectively, for the combined acreage of approximately 1.45 acres; and

WHEREAS, the Board finds the Anchor Tenant's business to be a suitable use for the Sale Property and that it will contribute to the overall aesthetic, development, and transit uses of Clearfield Station:

NOW, THEREFORE, BE IT RESOLVED by the Board of the Authority:

1. That the Board hereby authorizes the Executive Director or her designee(s) to execute the necessary documents to effectuate the sale and disposition of Sale Property to Anchor Tenant pursuant to the terms of the Agreement.
2. That the Board hereby ratifies any and all actions previously taken by the Authority's management, staff, and legal counsel with regard to sale of the Property.
3. That the corporate seal be attached hereto.

Approved and adopted this 10th day of November, 2021.

DocuSigned by:

 86E38485ACBE4D0...
 Carlton Christensen, Chair
 Board of Trustees

ATTEST:

DocuSigned by:

 8D8A6B67F3AA459...
 Secretary to the Authority



(Corporate Seal)

Approved as to form:

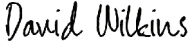
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 UTA Legal Counsel

Exhibit "A"

Purchase and Sale Agreement: Lot 3

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this “*Agreement*”) is entered into as of the day of _____ 2021 by and between Utah Transit Authority, a large public transit district of the State of Utah, (“*Seller*”), and Rocky Fields LLC, a Utah limited liability company (“*Buyer*”).

In consideration of the covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. Definitions. As used in this Agreement, each of the following capitalized terms shall have the indicated meaning:

1.1. “*Building-Ready Condition*” means that the Property has been improved as a building-ready pad, with utilities (culinary and fire suppression water, sewer, power, phone and fiber optic line, and gas) being stubbed to the Property and all curb, gutter, and streets fronting the Property having been completed.

1.2. “*Buyer’s Conditions*” means all of the matters set forth in Paragraph 4.1.

1.3. “*Closing*” means the closing of the purchase and sale of the Property between Seller and Buyer pursuant to the provisions of this Agreement.

1.4. “*Closing Date*” means the date on which the Closing actually occurs.

1.5. “*Code*” means the Internal Revenue Code, as amended.

1.6. “*Deed*” means a special warranty deed, in form and substance reasonably satisfactory to Seller and Buyer, dated as of the Closing Date and conveying title to the Property to Buyer, subject to the Permitted Title Exceptions.

1.7. “*Development*” means the proposed approximately 56-acre development near the UTA Clearfield FrontRunner station, to be known as “Clearfield Station.”

1.8. “*Documents*” means the documents and materials described in Paragraph 3.2

1.9. “*Due Diligence Period*” means the period of time commencing on the date of this Agreement and expiring on the date six (6) months later.

1.10. “*Earnest Money*” means the sum of Fifteen Thousand Dollars (\$15,000.00) in cash, together with all accrued interest on such sum after the date of deposit with the Title Company pursuant to Paragraph 2.2.

1.11. “*Exception Documents*” means all documents identified or referred to as exceptions to title in the Title Commitment.

1.12. “*Facility*” means the retail building, to be constructed by Buyer on the Property after the Closing Date.

1.13. “**Improvements**” means all structures, landscaping, parking lots and walkways on, and fixtures attached to, the Land and other physical improvements located on or affixed to the Land, to the extent such improvements constitute real property under the laws of the State of Utah.

1.14. “**Land**” means Lot 20 parcel of real property, as depicted in Exhibit A, located near the center of the Development having the exact final location and configuration as determined by Seller and approved by Buyer in Buyer’s sole discretion. As of the date of this Agreement, the proposed location and configuration of the Land is set forth on the plat map attached hereto as Exhibit A. Seller agrees to coordinate with Buyer on the design of the pathway between Lot 3 and Lot 20 to ensure a cohesive, contiguous design occurs.

1.15. “**Parking and Exclusivity Agreement**” shall have the meaning set forth in Paragraph 6.5.

1.16. “**Permitted Title Exceptions**” means the exceptions to title that Buyer approves or is deemed to have approved under Paragraph 4.1.1.

1.17. “**Property**” means the Land and the Improvements.

1.18. “**Purchase Price**” means the amount determined by multiplying the aggregate square footage of the Land (once finally determined pursuant to this Agreement) by \$19.00.

1.19. “**Seller’s Conditions**” means all of the matters set forth in Paragraph 5.1.

1.20. “**Title Commitment**” means an ALTA commitment for standard coverage title insurance covering the Property, issued by the Title Company, together with complete and legible copies of the Vesting Documents and the Exception Documents.

1.21. “**Title Company**” means Artisan Title Insurance Agency, Inc., 6340 South 3000 East, Suite #650, Cottonwood Heights, Utah 84121, contact person: Dave Delahunty, telephone: (801) 613-3955.

1.22. “**Title Policy**” means an ALTA owner’s standard coverage title insurance policy issued by the Title Company pursuant to the Title Commitment, with the Land described in the Title Policy as finally determined by Seller and approved by Buyer, having liability limits equal to the Purchase Price, insuring indefeasible fee simple title to the Property as being vested in Buyer, subject only to the Permitted Title Exceptions.

1.23. “**Transit Supportive Uses**” means those uses that are consistent with transit-oriented development and that promote increased ridership and utilization of the transit infrastructure and system of Clearfield Station. Transit Supportive Uses include uses that integrate the characteristics of walkable neighborhoods with mixed-use development, including the retail building being proposed by Buyer. Uses that are not compatible with Transit Supportive Uses include, but are not limited to, industrial uses, gas stations, storage facilities, car washes, warehousing or distribution facilities, low density commercial or residential uses, and cemeteries.

1.24. “**UTA**” means Utah Transit Authority.

1.25. “*Vesting Documents*” means all documents of record vesting fee title to the Land in Seller.

2. Agreement of Sale; Earnest Money; Form of Funds.

2.1. Agreement of Sale. In consideration of Buyer’s Earnest Money, Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller the Land for the Purchase Price, subject to all of the provisions of this Agreement.

2.2. Earnest Money. Within two (2) business days after the full execution and delivery of this Agreement, Buyer shall deposit the Earnest Money in an escrow established at the Title Company. At the Closing, the Earnest Money shall be delivered to Seller and credited against the Purchase Price. The escrow for the Earnest Money shall be opened and maintained solely for the purpose of holding and disbursing the Earnest Money, and the Title Company is directed to disburse the Earnest Money in accordance with the provisions of this Agreement, or as otherwise directed in a writing signed by both Seller and Buyer. Unless this Agreement is terminated by Buyer pursuant to an express right of termination set forth herein (in which case the Title Company shall promptly return the Earnest Money to Buyer), the Earnest Money shall be delivered to Seller if this Agreement is terminated prior to the Closing. The Earnest Money may be invested in certificates of deposit, short-term money market accounts or bank repurchase contracts, as determined with the consent of both Seller and Buyer, and only in such manner as to make the Earnest Money available immediately upon termination by Buyer or on the Closing Date, as the case may be.

2.3. Form of Funds. At Buyer’s option, funds to be delivered in cash under this Agreement may be in the form of cash, cashier’s check or same day federal funds wire-transferred.

3. Due Diligence.

3.1. Property Access. Seller shall assist and cooperate with Buyer and Buyer’s representatives in obtaining access to the Property from time to time during reasonable hours for the purpose of making studies and inspections of the Property as reasonably requested by Buyer.

3.2. Delivery of Documents. Seller shall deliver or cause to be delivered to Buyer, at no cost or expense to Buyer, within ten (10) days after the date of this Agreement, the following documents and information:

3.2.1. Legal Description of the Land. No later than 30 days after the full execution and delivery of this Agreement, Seller shall provide Buyer the legal description for the Land, which shall be set forth in an Exhibit B addendum to this Agreement.

3.2.2. Title Commitment. The Title Commitment.

3.2.3. Survey. Any survey of the Property in Seller’s possession.

3.2.4. Engineering; Hazardous Materials. Copies of all engineering studies and reports (including, without limitation, soil, structural, seismological, environmental, and geological tests and reports) in Seller’s possession or within Seller’s control. In addition, any data or documents in Seller’s possession or within Seller’s control relating to any underground tanks located on or near

the Land or any potentially hazardous substances used, manufactured, transported, located or disposed of on the Property and a statement of the disposal practices followed with respect to such substances.

3.2.5. Inspection Reports. Inspection reports prepared by an engineer or other representative of any federal, state or local governmental entity or agency relating or referring to the Property in the possession of Seller or within Seller's control.

3.2.6. Other Information. Upon reasonable request by Buyer, such other information and legible copies of any additional documents, instruments or agreements in Seller's possession or within Seller's control that are related to the economic or physical condition of the Property. Seller shall also provide Buyer documents and information related to the plans for the Development, restrictions or requirements on the uses, and building and landscape design for the Property (including but not limited to applicable CC&Rs), any obligation which may result in prorations pursuant to Section 7.6, and any updates to the foregoing, on an ongoing basis, and as reasonably requested by Buyer, until Closing.

3.3.Disclaimer of Warranties. With respect to all Documents and other information and materials delivered by or on behalf of Seller to Buyer, to the extent such Documents and other information and materials have been prepared by third parties, Seller makes no representation or warranty to Buyer concerning the accuracy or completeness of such Documents, information or materials.

3.4.Return of Documents. If this Agreement is terminated, Buyer shall promptly return to Seller all of the Documents, unless directed not to do so by Seller.

4. Buyer's Conditions to Closing.

4.1.Buyer's Conditions to Closing. Buyer's obligation to acquire the Property and consummate the Closing shall be conditioned on the satisfaction or Buyer's waiver of Buyer's Conditions, described as follows:

4.1.1. Certain Approvals. On or before the expiration of the Due Diligence Period, Buyer shall have approved and accepted the condition of the Property and the Documents. If Buyer fails, at or prior to the expiration of the Due Diligence Period, to disapprove the condition of the Property or the Documents, such matters shall be deemed to be approved by Buyer. If Buyer timely gives Seller written notice of disapproval of the condition of the Property or the Documents or any item revealed by the Documents, Seller shall have a period of five (5) days in which to cure the disapproved matter(s). If Seller is unable or unwilling to cure such matter(s) within such five (5) day period, Buyer may, by written notice to Seller within ten (10) days after the earlier of (a) the expiration of such five (5) day period, or (b) written notice from Seller to Buyer that Seller is unable or unwilling to cure such matter(s), either (y) terminate this Agreement and receive a return of the Earnest Money, in which event this Agreement shall terminate and neither Seller nor Buyer shall have any further obligation to each other, or (z) waive such matter(s) and proceed to the Closing. The failure of Buyer to timely terminate this Agreement pursuant to Paragraph 4.1.1(y) shall be deemed to be a waiver of such matter(s) by Buyer and an irrevocable election by Buyer to proceed to the Closing, in which event such matter(s) shall be deemed to be approved. (Notwithstanding any

other provision of this Agreement to the contrary, the Permitted Title Exceptions shall not include, and Seller shall convey and warrant the Property to Buyer free and clear of, any lien or encumbrance on the Property that secures the payment of money, or that may be removed or satisfied by the payment of money, but not including the lien of taxes or assessments not yet due and payable on the Closing Date.) If the Due Diligence Period would otherwise expire, the Due Diligence Period shall be extended during the time periods set forth in this Paragraph 4.1.1.

4.1.2. Pre-Closing Covenants. Seller shall have complied with all of its pre-closing covenants set forth in Paragraph 6.

4.1.3. Seller's Items. Seller shall have delivered to Buyer or the Title Company (as applicable) all of the items to be delivered by Seller, as described in Paragraph 7.2.

4.1.4. Representations and Warranties. Seller's representations and warranties, set forth in Paragraph 8, shall be true and accurate in all material respects as of the date of this Agreement (except with respect to representations and warranties that are expressly stated to be true as of a different date) and as of the Closing Date.

4.1.5. Building-Ready Condition. The Property shall have been improved by Seller, at Seller's cost, to Building-Ready Condition. Seller will provide Buyer notice when it begins the improvements for the Building-Ready Condition. If Seller has not completed the Building-Ready Condition improvements within 18 months of providing notice pursuant to the preceding sentence, Buyer will have the option to terminate this Agreement and receive the return of its Earnest Money.

4.1.6. Buyer Financing Contingency. Buyer and Seller expressly acknowledge and agree that Buyer's obligations to pay the Purchase Price and otherwise consummate the Closing are fully conditioned upon: (a) Buyer's ability to obtain an unconditional binding written commitment for financing to purchase the Property during the Due Diligence Period, whether by way of debt financing, equity investment, or otherwise, on terms acceptable to Buyer in its sole discretion; and (b) the funding of such financing on or before the Closing (collectively, the "Loan Financing"). If Buyer does not receive the Loan Financing on or before the Closing, then Buyer shall have the right to terminate this Agreement by giving written notice to Seller on or before the Closing. If Buyer elects to terminate this Agreement as provided in this Section 4.1.6 during the Due Diligence Period, the Title Company shall return the Earnest Money to Buyer, and upon such refund being made this Agreement shall terminate. If Buyer elects to terminate this Agreement as provided in this Section 4.1.6 after the expiration of the Due Diligence Period, the Title Company shall release the Earnest Money to Seller, and upon such release of funds being made this Agreement shall terminate. If Buyer fails to give notice as provided in this Section 4.1.6, Buyer shall be deemed to have elected to proceed to Closing pursuant to the terms of this Agreement.

4.1.7. Buyer Development and Property Plan Notice. Any material changes to the Property (including any portions thereof not being purchased by Buyer), the Documents, or the Development as depicted in Exhibit C, for a period of five (5) years after the Due Diligence Period, will be notified to Buyer in writing.

4.2. Failure of Buyer's Conditions. If any of Buyer's Conditions are not satisfied, deemed satisfied or waived by Buyer prior to the expiration of the applicable period for satisfaction or waiver,

Buyer may, on written notice to Seller, (a) terminate all of Buyer's obligations under this Agreement, and receive a return in full of the Earnest Money, or (b) on a failure of any of Buyer's Conditions set forth in Paragraphs 4.1.2, 4.1.3, 4.1.4, or 4.1.5, require from Seller specific performance by Seller of this Agreement and all of Seller's obligations under this Agreement and reimbursement in full for all costs and expenses (including attorneys' fees and costs) incurred by Buyer by reason of Seller's default under this Agreement and any diminution in the value of the Property as a result of such default.

4.3. Due Diligence Termination. In addition to the rights of Buyer set forth in Paragraph 4.2, on or before the expiration of the Due Diligence Period, Buyer may give Seller and the Title Company written notice that Buyer desires to terminate this Agreement, which Buyer may do in its sole and absolute discretion. If Buyer timely gives such written notice, this Agreement shall terminate, neither Seller nor Buyer shall have any further obligation to each other and Buyer shall receive a return of the Earnest Money.

5. Seller's Conditions to Closing.

5.1. Seller's Conditions to Closing. Seller's obligation to sell the Property and consummate the Closing shall be conditioned on the satisfaction or Seller's waiver of Seller's Conditions, described as follows:

5.1.1. Pre-Closing Covenants. Buyer shall have complied with all of the pre-closing covenants set forth in Paragraph 6.

5.1.2. Buyer's Items. At or prior to the Closing, Buyer shall have delivered to Seller or the Title Company (as applicable) all of the items to be delivered by Buyer, as described in Paragraph 7.3.

5.1.3. Representations and Warranties. Buyer's representations and warranties, set forth in Paragraph 9, shall be true and accurate in all respects as of the date of this Agreement and as of the Closing Date.

5.2. Failure of Seller's Conditions. If any of Seller's Conditions are not satisfied or waived by Seller on or prior to the Closing Date, Seller may, as Seller's sole and exclusive remedy, terminate this Agreement and retain the Earnest Money as liquidated and agreed-upon damages under this Agreement.

6. Pre-Closing Covenants.

6.1. New Contracts. From the date of this Agreement until the Closing, Seller shall not enter into any contract relating to or affecting the Property, including the Property uses or building or landscaping designs, that will continue in effect and be binding upon the Property or Buyer after the Closing (the "***Continuing Contracts***"), or amend, modify or terminate any Continuing Contract, unless Seller has obtained Buyer's written consent to do so, which consent shall not be unreasonably withheld, conditioned, or delayed. Seller shall submit to Buyer a copy of any Continuing Contract that Seller proposes to enter into after the date of this Agreement, and Buyer shall approve of the same within ten (10) business days after receipt of the same. If Buyer fails to notify Seller in writing of Buyer's approval of the same within such ten (10)-business-day period, such contract shall be

deemed approved for purposes of this Agreement. Notwithstanding any of the provisions herein, Seller is permitted to enter into agreements with Clearfield City relating to Development and may record CC&R's for Development.

6.2.Cooperation. Seller and Buyer shall cooperate in good faith with each other with respect to the matters set forth in this Agreement, provided that this sentence shall not limit any right or discretion of a party contained herein.

6.3.Operation and Management. From the date of this Agreement until the Closing, Seller shall manage the Property in the normal and ordinary course in a prudent and businesslike fashion, shall use commercially reasonable efforts to improve the Property as contemplated in Paragraph 4.1.5, and shall not permit any waste or nuisance on the Property. Seller shall not deviate from Seller's ordinary and customary management of the Property and shall promptly provide Buyer with written notice of any damage or adverse change in condition to the Property, which notice shall indicate the extent of the damage or change in condition and the anticipated cost and time necessary to make such repairs. Nothing contained in this Agreement shall prevent Seller from acting to prevent loss of life, personal injury or damage to the Property in emergency situations, or prevent Seller from performing any act with respect to the Property which may be required by any applicable law, ordinance, rule or regulation.

6.4.Performance of Obligations. From the date of this Agreement until the Closing, Seller shall timely pay all taxes, assessments and any utility charges affecting the Property, if any.

6.5.Parking and Exclusivity Agreement. Within sixty days of execution of this Agreement, Seller shall draft and shall deliver to Buyer an agreement (the "***Parking and Exclusivity Agreement***"), pursuant to which (a) Seller shall grant to Buyer, for the benefit of the Property, certain parking rights and responsibilities upon certain parcels of real property adjacent to the Property, and (b) so long as Buyer or its successors in interest to the Property continue to operate the Property as a retail building. Buyer shall promptly review and provide to Seller any comments Buyer has to the draft of the Parking and Exclusivity Agreement. Upon receiving such comments, Buyer and Seller shall cooperate in good faith to resolve any outstanding issues under the proposed Parking and Exclusivity Agreement until the Parking and Exclusivity Agreement is in a form acceptable to Buyer and Seller. If the Parking and Exclusivity Agreement is not in a form acceptable prior to the expiration of the Due Diligence Period, (x) Buyer may terminate this Agreement pursuant to Paragraph 4.3, in which case the Earnest Money shall be refunded to Buyer, or (y) if Buyer fails to terminate this Agreement prior to the expiration of the Due Diligence Period, the parties shall proceed hereunder without a Parking and Exclusivity Agreement being executed by the parties at the Closing (notwithstanding anything to the contrary in Paragraphs 7.2 and 7.3), and this Paragraph 6.5 shall thereafter have no force or effect.

6.6.Change in Representations and Warranties.

6.6.1. Seller's Representations and Warranties. From the date of this Agreement until the Closing, if Seller learns of any fact or circumstance which causes, or has a reasonable likelihood of causing, a representation or warranty made by Seller under this Agreement to be untrue or misleading, or which may cause an adverse change with respect to the Property, Seller shall notify Buyer within five (5) days after Seller learns of such fact or circumstance.

6.6.2. Buyer's Representations and Warranties. From the date of this Agreement until the Closing, if Buyer learns of any fact or circumstance which causes, or has a reasonable likelihood of causing, a representation or warranty made by Buyer under this Agreement to be untrue or misleading, Buyer shall notify Seller within five (5) days after Buyer learns of such fact or circumstance.

7. Closing.

7.1.Date of Closing. The Closing shall be within forty-five (45) days after the Property has been improved to the point of Building-Ready Condition and no sooner than the expiration of the Due Diligence Period. The specific Closing Date shall be selected by the parties by mutual agreement. The Closing shall be held at the offices of the Title Company. If such date falls on a holiday or other day on which the Title Company is not open for business, the Closing shall be held on the next business day. At 10:00 a.m. on the first business day prior to the Closing Date, at the offices of Seller's counsel, or at such other time, date and place as Seller and Buyer may agree, a pre-closing meeting between Seller and Buyer and their respective representatives shall be held for the purposes of reviewing documents and satisfying Seller and Buyer that the deliveries required pursuant to Paragraphs 7.2 and 7.3 will be made at the Closing.

7.2.Items to be Delivered by Seller. At the Closing, Seller shall deliver or cause to be delivered to Buyer the following:

7.2.1. Deed. The Deed, duly executed and acknowledged by Seller.

7.2.2. Parking and Exclusivity Agreement. The Parking and Exclusivity Agreement, duly executed by Seller.

7.2.3. Non-Foreign Affidavit. An affidavit in form and substance reasonably satisfactory to Seller and Buyer, dated as of the Closing Date and establishing that Seller is not a "foreign person" within the meaning of Section 1445 of the Code, duly executed and acknowledged by Seller.

7.2.4. Title Policy. The Title Policy; provided, however, that such obligation shall be fully satisfied if the Title Company is unconditionally committed at the Closing to issue the Title Policy within a reasonable time after the Closing.

7.2.5. Other Materials. If reasonably requested by Buyer, such additional documents as may reasonably be required to consummate the transaction described in this Agreement.

7.3.Items to be Delivered by Buyer. At the Closing, Buyer shall deliver or cause to be delivered to Seller the following:

7.3.1. Purchase Price. The Purchase Price due from Buyer hereunder, after taking into account all credits to which Buyer is entitled pursuant to this Agreement.

7.3.2. Prorations. The amount due Seller, if any, in addition to the Purchase Price, after the prorations are computed in accordance with Paragraph 7.6.

7.3.3. Parking and Exclusivity Agreement. The Parking and Exclusivity Agreement, duly executed by Buyer.

7.3.4. Other Materials. If reasonably requested by Seller, such additional documents as may reasonably be required to consummate the transaction described in this Agreement.

7.4. Additional Items. Seller and Buyer shall deliver to the Title Company such further documents and instruments as may be reasonably necessary or appropriate to consummate the transactions contemplated by this Agreement.

7.5. Instructions to Title Company. At the Closing, Seller and Buyer shall instruct the Title Company to record the Deed in favor of Buyer, and to record all other documents, including, without limitation, restrictive covenants related to Section 6.5(b), deeds of reconveyance and releases of liens, necessary for title to the Property to be conveyed to Buyer free and clear of all liens, encumbrances and other matters, except for the Permitted Title Exceptions, on satisfaction of all of the conditions of, and requirements for, the Closing set forth in this Agreement. In connection with the Closing, Seller and Buyer shall provide to the Title Company or other closing agent any information and materials reasonably necessary to enable such closing agent to comply with the real estate transaction reporting requirements of Section 6045 of the Code.

7.6. Prorations. Seller and Buyer shall prorate, adjust, charge or credit the following items between Seller and Buyer as of 12:01 a.m. on the Closing Date, with the effect that Seller shall bear the costs and expenses and receive revenues for periods prior to the Closing Date, and Buyer shall bear the costs and expenses and receive revenues for periods on and after the Closing Date:

7.6.1. Taxes. Ad valorem and any other general or special taxes on or allocable to the Property that are due and payable in the calendar year in which the Closing Date falls shall be prorated as of the Closing Date. The parties understand that Seller is a tax-exempt governmental entity, and therefore is not required to pay taxes. Any general or special assessments that are a lien against or allocable to the Property shall be paid in full by Seller on or prior to the Closing Date.

7.6.2. Other Amounts. All other income, accounts payable and ordinary operating expenses of the Property, including, without limitation, utility and other deposits, utility, maintenance and service charges, and amounts due under any landscaping, maintenance or other service contracts relating to the Property, shall be prorated and appropriate and customary adjustments and credits shall be made between Seller and Buyer as of the Closing Date.

7.7. Proration Guidelines. Prorations and adjustments called for in Paragraph 7.6 shall be made on the basis of thirty (30) day months and the number of days actually elapsed in any partial month. Not less than three (3) business days prior to the Closing Date, Seller shall deliver or cause to be delivered to Buyer a tentative proration schedule setting forth the preliminary determination of the foregoing prorations, accompanied by detail which will enable Buyer to confirm such preliminary proration schedule.

7.8. Items Not Prorated. No proration shall be made for insurance premiums, unless the insurance policies are assumed by Buyer, for management fees or for salaries, benefits, bonuses, payroll taxes or other costs of Seller's employees. Unless otherwise agreed by Buyer in writing,

Seller shall terminate and pay for all insurance, management, leasing and other such services relating to the Property as of the Closing.

7.9. Reprorations. If taxes or any other items are prorated as of the Closing on any basis other than actual amounts charged for the current period, or if a reassessment of taxes occurs which relates to the calendar period in which the Closing Date occurs, such items shall be reprorated on receipt of such actual amounts or on such reassessment and the party owing funds to the other shall promptly remit such funds to the other. If the party owing such funds to the other fails to remit such funds within thirty (30) days after demand, such funds shall bear interest, commencing on the date such demand is made, at the rate of ten percent (10%) per annum. The foregoing provisions of this Paragraph 7.9 shall survive the Closing.

7.10. Closing Costs. Seller shall pay for the Title Policy, Buyer shall pay the incremental cost for any upgrades or endorsements to the Title Policy requested by Buyer, Seller and Buyer shall evenly divide all escrow costs, and all recording costs shall be customarily allocated.

7.11. Possession; Risk of Loss. Possession of the Property shall be transferred by Seller to Buyer on the Closing Date. Until the Closing is consummated, the risk of loss to the Property shall be borne solely by Seller.

8. Seller's Representations and Warranties.

8.1. Representations and Warranties. Seller makes the following representations, warranties, covenants and guaranties for the benefit of Buyer and Buyer's members and managers and their respective successors and assigns:

8.1.1. Documents. To Seller's knowledge, the Documents are complete, accurate and genuine. The information set forth in the Documents is fairly presented in a manner that is not misleading.

8.1.2. Consents. All necessary approvals, authorizations and consents have been obtained in connection with the execution by Seller of this Agreement and all other documents to be delivered at the Closing, and with the performance by Seller of Seller's obligations under this Agreement. Buyer understands that this Agreement is subject to approval by the UTA Board of Trustees. The execution of this Agreement by Seller, the performance by Seller of Seller's obligations under this Agreement and the sale, transfer, conveyance and assignments contemplated by this Agreement do not require the consent of any third party.

8.1.3. No Leases or Other Rights. As of the Closing, no lease, sublease, tenancy or occupancy agreement pertaining to or affecting the use or occupancy of the Property will be in effect.

8.1.4. Hazardous Wastes. To Seller's knowledge, no hazardous substances, hazardous wastes, pollutants or contaminants are or have at any time been used, deposited, stored, disposed of, placed or otherwise located in or on, or released from, the Property or any facility operated on the Property, in violation of any environmental law. Seller has received no notice, and is not aware that any notice to any other person has been given, of any violation or claimed violation of any law, ordinance, rule or regulation relating to hazardous substances, hazardous wastes,

pollutants or contaminants, and, to Seller's knowledge, neither Seller nor the Property is in violation of any such law, ordinance, rule or regulation.

8.1.5. Authority. Seller is a political subdivision of the State of Utah, validly existing and in good standing under the laws of the State of Utah, and that Seller's Board of Trustees has been duly and validly authorized to enter into this Agreement and to sell and convey the Property to Buyer pursuant to the provisions of this Agreement. The person or persons executing and delivering this Agreement on behalf of Seller have been duly authorized to execute and deliver this Agreement and to take such other actions as may be necessary or appropriate to consummate the transactions contemplated by this Agreement.

8.1.6. Title. Seller is the sole owner of the Property. At the Closing, Seller will convey to Buyer all of Seller's right, title and interest in and to the Property. On consummation of the Closing, Buyer will have received good, marketable, indefeasible and insurable title to the Property.

8.1.7. Taxes. No delinquent tax, assessment or bond of any nature affecting the Property exists, except as disclosed in the Title Commitment. All real and personal property taxes and assessments which are a lien on the Property will have been paid in full, except the taxes for the year in which the Closing occurs to the extent not yet due and payable, such taxes to be prorated as of the Closing Date.

8.1.8. Liens. Amounts due for all work done and materials furnished to the Property that would give rise to a mechanic's, materialman's or laborer's lien, have been paid in full, all necessary waivers of rights to a mechanic's, materialman's or laborer's lien have been obtained and no basis exists for the filing of any such lien against the Property.

8.1.9. Public Access. Upon the Closing, the Property will have free and adequate access to and from public highways and roads, and no fact or condition will, as of the Closing, exist that could result in the termination of such access, subject to the Right of Entry approval's limitations, indemnifications and insurance requirements.

8.1.10. Litigation. Seller is not a party to any pending suit or proceeding by or before any tribunal (whether judicial, administrative or otherwise) which could have an adverse effect on the use or operation of the Property, Seller's performance of Seller's obligations under this Agreement or the transactions contemplated under this Agreement (any of the foregoing, an "Adverse Effect"), nor to Seller's knowledge are any claims or actions threatened which may become the subject of litigation which might have an Adverse Effect. No action, suit or proceeding is pending, contemplated or threatened by Seller which may have any Adverse Effect (including, without limitation, tax reduction proceedings). On and after the date of this Agreement, Seller shall not commence or allow to be commenced on Seller's behalf any action, suit or proceeding that may have an Adverse Effect without the prior written consent of Buyer.

8.1.11. Various Defaults. Neither the provisions of this Agreement nor of any document executed in connection with the Closing conflict with or will result in the breach of any of the provisions of, or constitute a default under, any of agreement or document, indenture, instrument or undertaking to which Seller is a party or by which Seller is bound, including, without

limitation, all items potentially affecting transferability of the Property or an interest in the Property, including such items as due on sale clauses, rights of first refusal, transfer restrictions and all similar items. No option agreement, right of first refusal or other similar agreement relating to the Property exists. Seller has not committed or obligated itself to sell the Property to any person other than Buyer.

8.1.12. No Condemnation or Other Proceedings. No pending condemnation, environmental, zoning or other land use regulation proceeding relating to or affecting the Property exists, and Seller has no knowledge that any such action is presently threatened or contemplated.

8.2. Nature of Representations and Warranties. Seller covenants that the representations, warranties, covenants and guaranties set forth in Paragraph 8.1 are true as of the date of this Agreement (except with respect to representations and warranties that are expressly stated to be true as of a different date) and shall be true as of the Closing Date.

9. Buyer's Representations and Warranties.

9.1. Representations and Warranties. Buyer makes the following representations, warranties, covenants and guaranties for the benefit of Seller and Seller's members and managers and their respective successors and assigns:

9.1.1. Consents. All necessary third party approvals, authorizations and consents have been or will be obtained by the Closing in connection with the execution by Buyer of this Agreement and all other documents to be delivered at the Closing, and with the performance by Buyer of Buyer's obligations under this Agreement. The execution of this Agreement by Buyer and the performance by Buyer of Buyer's obligations under this Agreement does not require the consent of any third party.

9.1.2. Authority. Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Utah, and has been duly and validly authorized to enter into this Agreement and to purchase the Property from Seller pursuant to the provisions of this Agreement. The person or persons executing and delivering this Agreement on behalf of Buyer have been duly authorized to execute and deliver this Agreement and to take such other actions as may be necessary or appropriate to consummate the transactions contemplated by this Agreement. All requisite limited liability company action has been taken to make this Agreement and all documents to be delivered by Buyer at the Closing valid and binding on Buyer.

9.1.3. Litigation. Buyer is not a party to any pending suit or proceeding by or before any tribunal (whether judicial, administrative or otherwise) which could have an adverse effect on Buyer's performance of Buyer's obligations under this Agreement or the transactions contemplated under this Agreement, nor to the best of Buyer's knowledge are any claims or actions threatened which may become the subject of litigation which might have a similar adverse effect.

9.1.4. Judgment. No adverse or unpaid judgment is outstanding against Buyer that might affect the ability of Buyer to perform Buyer's obligations under this Agreement.

9.1.5. No Violation of Law by Buyer. Buyer is not in violation of, and the execution by Buyer of this Agreement and the performance by Buyer of Buyer's obligations under this

Agreement will not violate, any judicial order or governmental law, ordinance, rule or regulation in any respect which could have an adverse effect on the validity, performance or enforceability of this Agreement or any document referred to in or contemplated by this Agreement.

9.1.6. Various Defaults. Neither the provisions of this Agreement nor of any document executed in connection with the Closing conflict with or will result in the breach of any of the provisions of, or constitute a default under, Buyer's certificate of organization or operating agreement or any agreement, indenture, instrument or undertaking to which Buyer is a party or by which Buyer is bound.

9.2. Nature of Representations and Warranties. Buyer covenants that the representations, warranties, covenants and guaranties set forth in Paragraph 9.1 are true as of the date of this Agreement and shall be true as of the Closing Date.

10. Facility Construction, Completion, Design Review, and Rights of Re-Purchase.

10.1.1. Construction Precedents. Subject to the Property being in Building-Ready Condition, Buyer shall begin construction of the Facility within nine months of receiving written notice from Seller of both: (i) the substantial completion of the vertical construction of the buildings planned for building Lot 10 (MUR A), Lot 7, 6, and 5 (Office B), Lot 8 (Office A), and Lot 9 (MUR C) *or* Lot 11 and 12 (MUR B), as depicted in Exhibit A, and (ii) the completion of the parking improvements for the Property to which Buyer has rights under the Parking and Exclusivity Agreement (together "***Construction Precedents***"). Buyer shall make commercially reasonable efforts to complete construction (evidenced by application for certificate of occupancy) of the Facility on the Property within two years after the Construction Precedents.

10.1.2. Seller's Rights to Re-Purchase the Property.

- (a) If within nine (9) months from the Construction Precedents Buyer does not begin construction of the Facility, Seller shall have the right to purchase the Property from Buyer at the Purchase Price.
- (b) If Buyer lists the Property for sale prior to making any improvements on the Property, then Seller shall have the right of first refusal upon a proposed sale of the Property by Buyer to purchase the Property from Buyer at the Purchase Price.
- (c) If the Facility is not substantially complete within 2 years and 9 months of the Construction Precedents or Buyer lists the Property for sale after making improvements on the Property, then Seller shall have the right to purchase the Property at the appraised value, as determined through the following process. Buyer shall obtain and pay for an appraisal of the Property. If Seller does not agree with the appraised value received by Buyer, Seller shall obtain and pay for an appraisal, at which time the two appraisals will be averaged. If the parties do not agree to the purchase price being the average of the two appraisals, then the two appraisers shall select a third appraiser to value the Property, which third appraisal shall be final and binding on the parties. For purpose of this Section 10.1.2(c), "substantially complete" means 85% percent complete, as determined by invoice

or other construction progress schedule used by the general contractor for the Facility.

10.1.3. Transit Supportive Uses. Property shall be used only for Transit Supportive Uses. A material condition of Seller's decision to sell Property to Buyer is that Buyer shall construct the Facility on the Property, which Seller acknowledges is a Transit Supportive Use. The parties agree that the Deed shall contain language limiting uses of the Property to Transit Supportive Uses and that the proposed Facility to be constructed by Buyer is a permitted Transit Supportive Use.

10.1.4. Plans and Specifications.

- (a) Buyer and Seller acknowledge and agree that their intent and agreement is that the height, architectural features, and other design elements of the Facility shall be consistent with Buyer's other buildings, taking into consideration the other buildings and design elements of the Development. Accordingly, no improvements of any kind on the Property shall be made, including without limitation any alterations to the exterior of the Facility, shall be erected, altered, refinished or repainted (unless of the same finish or color as the original), or removed from the Property, nor shall any excavating, clearing, removal of trees or shrubs, landscaping or other alteration of existing site conditions be done on the Property after the Closing, unless the complete plans and specifications therefor (the "*Plans and Specifications*") are approved by Seller prior to the commencement of such work.
- (b) Two copies of the complete Plans and Specifications must be submitted to Seller for approval or disapproval by it in writing within fourteen (14) days after submission to the UTA Design Review Committee. In the event Seller fails to take any action within such specified periods, it shall be deemed to have rejected the material submitted.

10.1.5. Construction. Once begun, any construction, landscaping, or alterations approved by Seller shall be diligently prosecuted to completion, and all such construction work shall be consistent with the approved Plans and Specifications. Seller shall have the authority and right at any time and from time to time at any reasonable hour to inspect construction or other activities authorized for the purpose of determining whether the same comply in all respects with the applicable Plans and Specifications as approved by Seller, but it shall have no duty to make such inspections.

10.1.6. Additional Approvals. All of Buyer's improvements to the Property must also comply with all applicable zoning ordinances, building codes, and other applicable laws, ordinances, rules, and regulations. All approvals required from Clearfield City, UTA, or any other governmental or quasi-governmental authority having jurisdiction over the Property or the Facility shall be obtained by Buyer at Buyer's expense.

10.1.7. Intentionally Omitted.

10.1.8. Survival. Buyer's obligations under this Paragraph 10 shall survive the Closing. In order to place third parties on notice of Seller's design approval rights hereunder, as well as the restriction that Property be used for Transit Supportive Uses, the Deed shall contain provisions substantially similar to this Paragraph 10.

11. General Provisions.

11.1. Brokers. Seller represents and warrants to Buyer that Seller has not retained a broker or real estate agent in connection with the transaction contemplated by this Agreement. Buyer represents and warrants to Seller that Buyer has not retained a broker or real estate agent in connection with the transaction contemplated by this Agreement. Seller shall indemnify, defend and hold harmless Buyer against any claim for a brokerage commission or similar fee in connection with the transaction contemplated by this Agreement based on an actual or alleged agreement made by Seller. Buyer shall indemnify, defend and hold harmless Seller against any claim for a brokerage commission or similar fee in connection with the transaction contemplated by this Agreement based on an actual or alleged agreement made by Buyer.

11.2. Attorneys' Fees. If either Seller or Buyer brings suit to enforce or interpret this Agreement or any document, instrument or agreement delivered pursuant to this Agreement, for damages because of the breach of a representation, warranty or covenant contained in this Agreement or in any document, instrument or agreement (subject to conflicting attorneys' fees provisions in any such agreement, which shall govern breaches of representations, warranties, and covenants contained therein) delivered pursuant to this Agreement, or with respect to any other issue related to this Agreement, the prevailing party shall be entitled to recover from the other party the prevailing party's reasonable attorneys' fees and costs incurred in any such action or in any appeal from such action, in addition to the other relief to which the prevailing party is entitled. As used in the preceding sentence, "***prevailing party***" shall include, without limitation, a party who retains legal counsel or brings an action against the other party and subsequently obtains all or part of the relief sought, whether by compromise, settlement or judgment. The provisions of this Paragraph 11.2 shall survive the Closing.

11.3. Notices. Any notice or demand to be given by or on behalf of Seller or by or on behalf of Buyer to the other shall be given in writing by personal service, Federal Express, DHL or any other similar form of courier or delivery service, or mailing in the United States mail, postage prepaid, certified and return receipt requested, and addressed to such party as follows:

If to Seller:

Utah Transit Authority
Attn: Property Management
669 West 200 South
Salt Lake City, Utah 84101

STACK Real Estate
2801 North Thanksgiving Way Suite 100
Lehi, UT 84043

Hamilton Partners
222 South Main Street Suite 1760
Salt Lake City, UT 84010

If to Buyer:

Rocky Fields LLC
1470 South 400 West
Salt Lake City, Utah 84115
Attention: Dustin Buckthal

Either Seller or Buyer may change the address at which such party desires to receive notice on written notice of such change to the other party. Any such notice shall be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the party to which the notice is directed; provided, however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of a notice.

11.4. Time of Essence. Time is of the essence with respect to each provision of this Agreement. Whenever the last day for the exercise of any privilege or the discharge of any duty under this Agreement falls on a Saturday, Sunday or any public or legal holiday generally recognized by banks in Salt Lake City, Utah, the party having such privilege or duty shall have until 5:00 p.m. on the next succeeding day to exercise such privilege or to discharge such duty.

11.5. Effectiveness; Modification. A modification of, or amendment to, any provision contained in this Agreement shall be effective only if the modification or amendment is in writing and signed by both Seller and Buyer. Any oral representation or modification concerning this Agreement shall be of no force or effect.

11.6. Successors and Assigns. This Agreement shall inure to the benefit of, and shall be binding on, Seller and Buyer and their respective successors and assigns. Upon notice of such assignment to Seller, Buyer may assign its rights under this Agreement to an affiliated entity under the control of or under common control with Buyer, but to no other third party without Seller's prior written consent, which will not be unreasonably withheld. Buyer's assignment of its rights under this Agreement shall not relieve Buyer of any obligation hereunder.

11.7. Applicable Law; Jurisdiction; Construction. This Agreement shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the State of Utah. Seller and Buyer subject themselves to the exclusive jurisdiction of the courts of the State of Utah and agree to commence and maintain any lawsuit related to this Agreement in such courts. Seller and Buyer further agree that such courts are a convenient forum. Unless otherwise provided, references in this Agreement to Paragraphs are to paragraphs in this Agreement. This Agreement shall be construed according to its fair meaning and not strictly for or against Seller or Buyer, as if both Seller and Buyer had prepared it. Except as otherwise provided in this Agreement, no remedy provided in this Agreement shall be exclusive of any other remedy at law or in equity (whether existing on or created after the date of this Agreement), and all remedies under this Agreement may be exercised concurrently, independently or successively from time to time. The failure on the part of Seller or Buyer to enforce promptly any right under this Agreement shall not operate as a waiver of such right, and the waiver of any default shall not constitute a waiver of any subsequent or other default.

11.8. Integration of Other Agreements. This Agreement constitutes the entire agreement of Seller and Buyer and supersedes all previous contracts, correspondence and documentation relating to the subject matter of this Agreement.

11.9. Counterparts. This Agreement may be executed in separate counterparts, each of which will be an original and all of which taken together shall constitute one and the same agreement, and any party hereto may execute this Agreement by signing any such counterpart. Delivery of a copy of this Agreement bearing an original signature by facsimile transmission or by electronic mail in “portable document format” form shall have the same effect as physical delivery of the paper document bearing the original signature.

11.10. Further Actions. Seller and Buyer shall execute such additional documents and take such further actions as may reasonably be required to carry out each of the provisions and the intent of this Agreement. From time to time following the Closing Seller shall, on Buyer’s request, furnish Buyer with access to and with copies of all books, records, documents and information which Buyer may reasonably request that are within the possession of, under the control of, available to or obtainable by, Seller, and that relate to the Property.

11.11. Titles and Headings. Titles and headings of Paragraphs of this Agreement are for convenience of reference only and shall not affect the construction of any provision of this Agreement.

11.12. Pronouns. All pronouns shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the person to whom reference is made may require.

11.13. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be valid under applicable law; but, if any provision of this Agreement shall be invalid, unenforceable, or prohibited under applicable law, such provision shall be ineffective to the extent of such invalidity, unenforceability or prohibition without invalidating the remainder of such provision or the remaining provisions of this Agreement.

11.14. No Merger. Neither the occurrence of the Closing nor the execution or delivery of the various documents (including, without, limitation, the Deed) that are contemplated by this Agreement to be executed and delivered prior to, in connection with or after the Closing shall result in the termination or extinguishment of this Agreement or the merger of this Agreement into such documents. Each provision of this Agreement shall survive all of such matters.

11.15. Authorization. Each individual executing this Agreement represents and warrants that such individual has been duly authorized to execute and deliver this Agreement in the capacity and for the entity set forth where such individual signs.

[Remainder of page intentionally left blank.]

SELLER AND BUYER have executed this Agreement to be effective as of the date first set forth above.

SELLER:

UTAH TRANSIT AUTHORITY

Mary DeLoretto
Interim Executive Director

Paul Drake
Director of Real Estate and TOD

BUYER:

ROCKY FIELDS LLC

By: _____
Name: _____
Title: _____

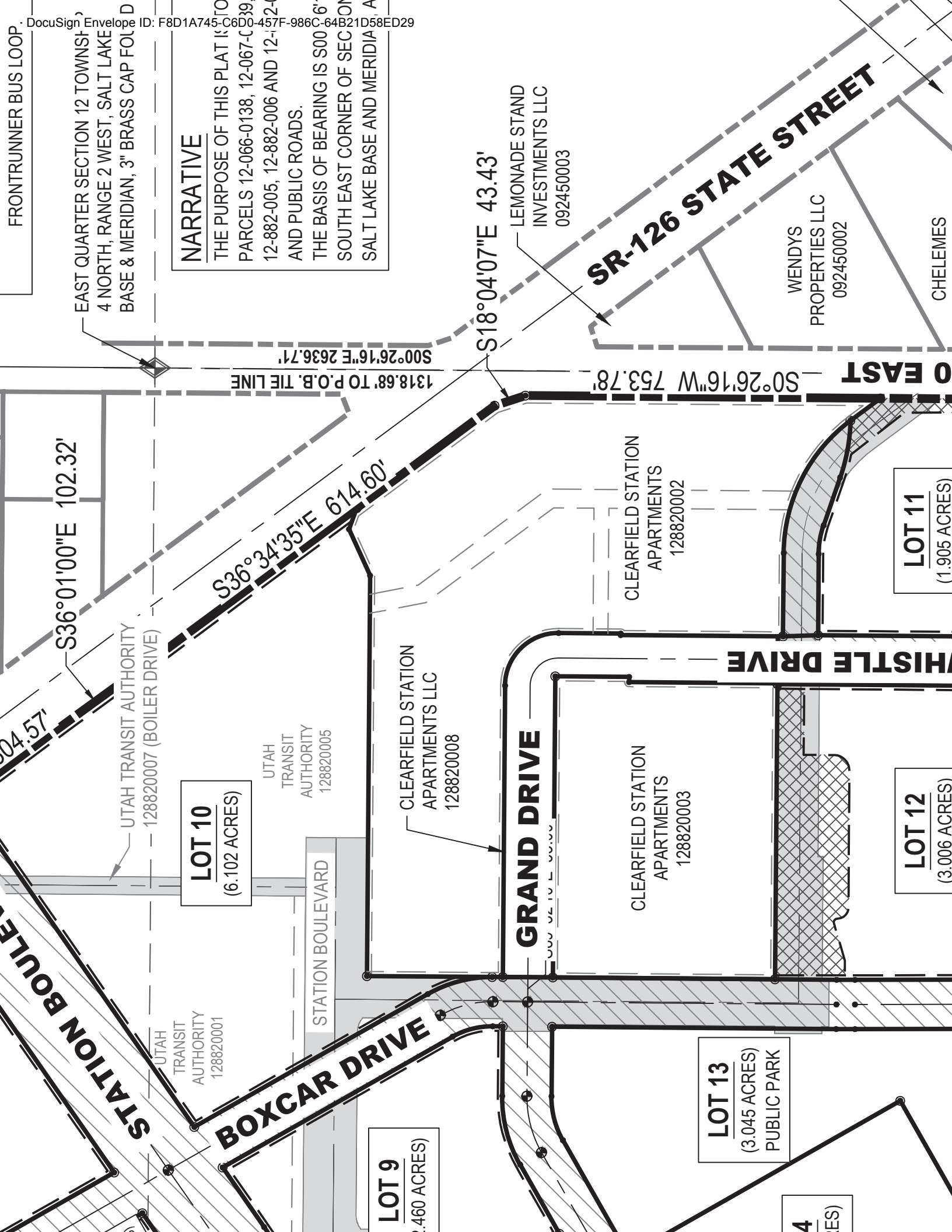
APPROVED AS TO FORM:



Timothy G. Merrill
Assistant Attorney General

EXHIBIT A

**PLAT MAP SHOWING
LOCATION AND CONFIGURATION OF LAND**



NARRATIVE

THE PURPOSE OF THIS PLAT IS TO
PARCELS 12-066-0138, 12-067-C-39,
12-882-005, 12-882-006 AND 12-12-1-
AND PUBLIC ROADS.
THE BASIS OF BEARING IS S00° 6'
SOUTH EAST CORNER OF SECTION
SALT LAKE BASE AND MERIDIAN, A

EAST QUARTER SECTION 12 TOWNSHIP
4 NORTH, RANGE 2 WEST, SALT LAKE
BASE & MERIDIAN, 3" BRASS CAP FOLD

FRONT RUNNER BUS LOOP

LEMONADE STAND
INVESTMENTS LLC
092450003

WENDYS
PROPERTIES LLC
092450002

CHELEMES

SR-126 STATE STREET

S00°26'16"E 2636.71'
1318.68' TO P.O.B. TIE LINE

S18°04'07"E 43.43'

S0°26'16"W 753.78'

0 EAST

S36°01'00"E 102.32'

S36°34'35"E 614.60'

CLEARFIELD STATION
APARTMENTS
128820002

LOT 11
(1.905 ACRES)

UTAH TRANSIT AUTHORITY
(BOILER DRIVE)
128820007

UTAH
TRANSIT
AUTHORITY
128820005

CLEARFIELD STATION
APARTMENTS LLC
128820008

WHISTLE DRIVE

GRAND DRIVE

CLEARFIELD STATION
APARTMENTS
128820003

LOT 12
(3.006 ACRES)

LOT 10
(6.102 ACRES)

UTAH
TRANSIT
AUTHORITY
128820001

STATION BOULEVARD

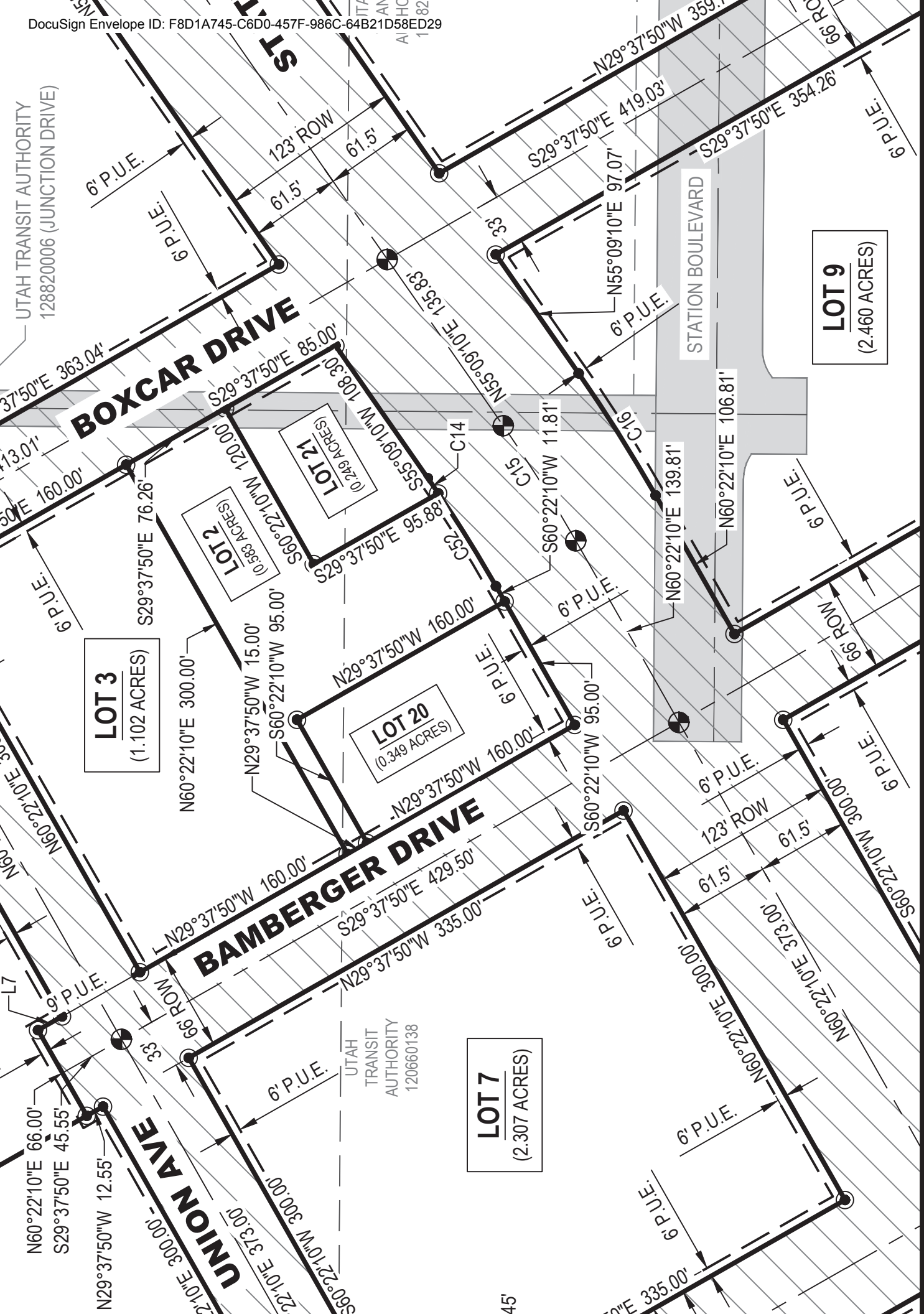
BOXCAR DRIVE

LOT 9
(.460 ACRES)

LOT 13
(3.045 ACRES)
PUBLIC PARK

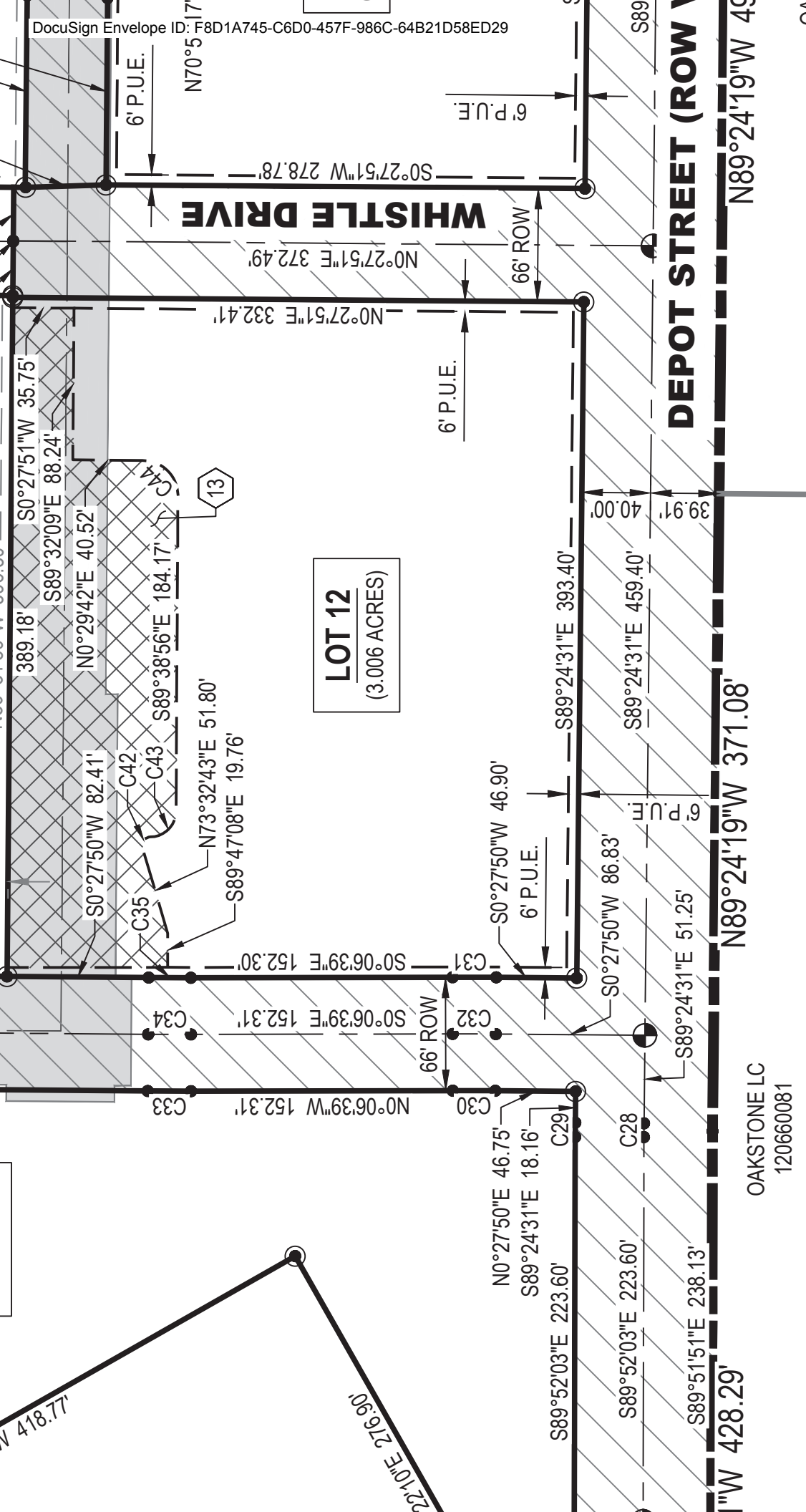
4
(ES)

STATION BOULEVARD



MATCHLINE SEE SHEET 3 OF 3

PROPERTY AND EASEMENT KEYED NOTES



LINE TABLE

LINE #	LENGTH	DIRECTION
L1	10.00'	S37° 19' 31"W
L2	10.00'	N20° 40' 19"E
L3	14.33'	S23° 29' 24"W
L4	14.94'	N23° 29' 24"E
L5	7.10'	N00° 00' 00"E
L6	5.06'	N90° 00' 00"W

CURVE TABLE

CURVE #	LENGTH	RADIUS	CHORD	ANGLE
C28	8.01'	1000.00'	S89° 38' 17"E 8.01'	000°27'32"
C29	8.33'	1040.00'	S89° 38' 17"E 8.33'	000°27'32"
C30	24.76'	2467.04'	N00° 10' 35"E 24.76'	000°34'30"
C31	25.42'	2533.02'	S00° 10' 35"W 25.42'	000°34'30"
C32	25.09'	2500.02'	S00° 10' 35"W 25.09'	000°34'30"
C33	25.20'	2495.31'	N00° 11' 00"E 25.20'	000°34'43"

E TABLE

CHORD	ANGLE
S43° 01' 06"E 75.83'	019°18'46"
S61° 11' 34"E 69.92'	017°02'10"
S68° 12' 23"E 9.14'	003°09'23"
S49° 28' 45"E 108.65'	039°41'51"
S49° 28' 45"E 135.82'	039°41'51"
S49° 28' 45"E 162.98'	039°41'51"

EXHIBIT B

LEGAL DESCRIPTION OF THE LAND

To be determined at time of conveyance

EXHIBIT C

**ILLUSTRATIVE MASTER PLAN DEPICTING PROPOSED USES WITHIN THE
DEVELOPMENT**



Exhibit "B"

Purchase and Sale Agreement: Lot 20

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this “*Agreement*”) is entered into as of the day of _____ 2021 by and between Utah Transit Authority, a large public transit district of the State of Utah, (“*Seller*”), and Rocky Fields LLC, a Utah limited liability company (“*Buyer*”).

In consideration of the covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. Definitions. As used in this Agreement, each of the following capitalized terms shall have the indicated meaning:

1.1. “*Building-Ready Condition*” means that the Property has been improved as a building-ready pad, with utilities (culinary and fire suppression water, sewer, power, phone and fiber optic line, and gas) being stubbed to the Property and all curb, gutter, and streets fronting the Property having been completed.

1.2. “*Buyer’s Conditions*” means all of the matters set forth in Paragraph 4.1.

1.3. “*Closing*” means the closing of the purchase and sale of the Property between Seller and Buyer pursuant to the provisions of this Agreement.

1.4. “*Closing Date*” means the date on which the Closing actually occurs.

1.5. “*Code*” means the Internal Revenue Code, as amended.

1.6. “*Deed*” means a special warranty deed, in form and substance reasonably satisfactory to Seller and Buyer, dated as of the Closing Date and conveying title to the Property to Buyer, subject to the Permitted Title Exceptions.

1.7. “*Development*” means the proposed approximately 56-acre development near the UTA Clearfield FrontRunner station, to be known as “Clearfield Station.”

1.8. “*Documents*” means the documents and materials described in Paragraph 3.2

1.9. “*Due Diligence Period*” means the period of time commencing on the date of this Agreement and expiring on the date six (6) months later.

1.10. “*Earnest Money*” means the sum of Fifty Thousand Dollars (\$50,000.00) in cash, together with all accrued interest on such sum after the date of deposit with the Title Company pursuant to Paragraph 2.2.

1.11. “*Exception Documents*” means all documents identified or referred to as exceptions to title in the Title Commitment.

1.12. “*Facility*” means the climbing gym facility, to be operated as The Front Climbing Club or related brand thereof, to be constructed by Buyer on the Property after the Closing Date.

1.13. “**Improvements**” means all structures, landscaping, parking lots and walkways on, and fixtures attached to, the Land and other physical improvements located on or affixed to the Land, to the extent such improvements constitute real property under the laws of the State of Utah.

1.14. “**Land**” means Lot 3 parcel of real property, as depicted in Exhibit A, located near the center of the Development having the exact final location and configuration as determined by Seller and approved by Buyer in Buyer’s sole discretion. As of the date of this Agreement, the proposed location and configuration of the Land is set forth on the plat map attached hereto as Exhibit A, with Buyer’s current intent to purchase the real property underlying the land comprising Lot 3 (Gym) and Lot 20 (Retail C), as depicted in Exhibit A. The purchase of Lot 20 will be provided for in a separate agreement, but upon the same price per square foot and substantially the same terms as this Agreement. Seller agrees to coordinate with Buyer on the design of the pathway between Lot 3 and Lot 20 to ensure a cohesive, contiguous design occurs.

1.15. “**Parking and Exclusivity Agreement**” shall have the meaning set forth in Paragraph 6.5.

1.16. “**Permitted Title Exceptions**” means the exceptions to title that Buyer approves or is deemed to have approved under Paragraph 4.1.1.

1.17. “**Property**” means the Land and the Improvements.

1.18. “**Purchase Price**” means the amount determined by multiplying the aggregate square footage of the Land (once finally determined pursuant to this Agreement) by \$19.00.

1.19. “**Seller’s Conditions**” means all of the matters set forth in Paragraph 5.1.

1.20. “**Title Commitment**” means an ALTA commitment for standard coverage title insurance covering the Property, issued by the Title Company, together with complete and legible copies of the Vesting Documents and the Exception Documents.

1.21. “**Title Company**” means Artisan Title Insurance Agency, Inc., 6340 South 3000 East, Suite #650, Cottonwood Heights, Utah 84121, contact person: Dave Delahunty, telephone: (801) 613-3955.

1.22. “**Title Policy**” means an ALTA owner’s standard coverage title insurance policy issued by the Title Company pursuant to the Title Commitment, with the Land described in the Title Policy as finally determined by Seller and approved by Buyer, having liability limits equal to the Purchase Price, insuring indefeasible fee simple title to the Property as being vested in Buyer, subject only to the Permitted Title Exceptions.

1.23. “**Transit Supportive Uses**” means those uses that are consistent with transit-oriented development and that promote increased ridership and utilization of the transit infrastructure and system of Clearfield Station. Transit Supportive Uses include uses that integrate the characteristics of walkable neighborhoods with mixed-use development, including the climbing gym facility being proposed by Buyer. Uses that are not compatible with Transit Supportive Uses include, but are not limited to, industrial uses, gas stations, storage facilities, car washes, warehousing or distribution facilities, low density commercial or residential uses, and cemeteries.

1.24. “*UTA*” means Utah Transit Authority.

1.25. “*Vesting Documents*” means all documents of record vesting fee title to the Land in Seller.

2. Agreement of Sale; Earnest Money; Form of Funds.

2.1. Agreement of Sale. In consideration of Buyer’s Earnest Money, Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller the Land for the Purchase Price, subject to all of the provisions of this Agreement.

2.2. Earnest Money. Within two (2) business days after the full execution and delivery of this Agreement, Buyer shall deposit the Earnest Money in an escrow established at the Title Company. At the Closing, the Earnest Money shall be delivered to Seller and credited against the Purchase Price. The escrow for the Earnest Money shall be opened and maintained solely for the purpose of holding and disbursing the Earnest Money, and the Title Company is directed to disburse the Earnest Money in accordance with the provisions of this Agreement, or as otherwise directed in a writing signed by both Seller and Buyer. Unless this Agreement is terminated by Buyer pursuant to an express right of termination set forth herein (in which case the Title Company shall promptly return the Earnest Money to Buyer), the Earnest Money shall be delivered to Seller if this Agreement is terminated prior to the Closing. The Earnest Money may be invested in certificates of deposit, short-term money market accounts or bank repurchase contracts, as determined with the consent of both Seller and Buyer, and only in such manner as to make the Earnest Money available immediately upon termination by Buyer or on the Closing Date, as the case may be.

2.3. Form of Funds. At Buyer’s option, funds to be delivered in cash under this Agreement may be in the form of cash, cashier’s check or same day federal funds wire-transferred.

3. Due Diligence.

3.1. Property Access. Seller shall assist and cooperate with Buyer and Buyer’s representatives in obtaining access to the Property from time to time during reasonable hours for the purpose of making studies and inspections of the Property as reasonably requested by Buyer.

3.2. Delivery of Documents. Seller shall deliver or cause to be delivered to Buyer, at no cost or expense to Buyer, within ten (10) days after the date of this Agreement, the following documents and information:

3.2.1. Legal Description of the Land. No later than 30 days after the full execution and delivery of this Agreement, Seller shall provide Buyer the legal description for the Land, which shall be set forth in an Exhibit B addendum to this Agreement.

3.2.2. Title Commitment. The Title Commitment.

3.2.3. Survey. Any survey of the Property in Seller’s possession.

3.2.4. Engineering; Hazardous Materials. Copies of all engineering studies and reports (including, without limitation, soil, structural, seismological, environmental, and geological

tests and reports) in Seller's possession or within Seller's control. In addition, any data or documents in Seller's possession or within Seller's control relating to any underground tanks located on or near the Land or any potentially hazardous substances used, manufactured, transported, located or disposed of on the Property and a statement of the disposal practices followed with respect to such substances.

3.2.5. Inspection Reports. Inspection reports prepared by an engineer or other representative of any federal, state or local governmental entity or agency relating or referring to the Property in the possession of Seller or within Seller's control.

3.2.6. Other Information. Upon reasonable request by Buyer, such other information and legible copies of any additional documents, instruments or agreements in Seller's possession or within Seller's control that are related to the economic or physical condition of the Property. Seller shall also provide Buyer documents and information related to the plans for the Development, restrictions or requirements on the uses, and building and landscape design for the Property (including but not limited to applicable CC&Rs), any obligation which may result in prorations pursuant to Section 7.6, and any updates to the foregoing, on an ongoing basis, and as reasonably requested by Buyer, until Closing.

3.3. Disclaimer of Warranties. With respect to all Documents and other information and materials delivered by or on behalf of Seller to Buyer, to the extent such Documents and other information and materials have been prepared by third parties, Seller makes no representation or warranty to Buyer concerning the accuracy or completeness of such Documents, information or materials.

3.4. Return of Documents. If this Agreement is terminated, Buyer shall promptly return to Seller all of the Documents, unless directed not to do so by Seller.

4. Buyer's Conditions to Closing.

4.1. Buyer's Conditions to Closing. Buyer's obligation to acquire the Property and consummate the Closing shall be conditioned on the satisfaction or Buyer's waiver of Buyer's Conditions, described as follows:

4.1.1. Certain Approvals. On or before the expiration of the Due Diligence Period, Buyer shall have approved and accepted the condition of the Property and the Documents. If Buyer fails, at or prior to the expiration of the Due Diligence Period, to disapprove the condition of the Property or the Documents, such matters shall be deemed to be approved by Buyer. If Buyer timely gives Seller written notice of disapproval of the condition of the Property or the Documents or any item revealed by the Documents, Seller shall have a period of five (5) days in which to cure the disapproved matter(s). If Seller is unable or unwilling to cure such matter(s) within such five (5) day period, Buyer may, by written notice to Seller within ten (10) days after the earlier of (a) the expiration of such five (5) day period, or (b) written notice from Seller to Buyer that Seller is unable or unwilling to cure such matter(s), either (y) terminate this Agreement and receive a return of the Earnest Money, in which event this Agreement shall terminate and neither Seller nor Buyer shall have any further obligation to each other, or (z) waive such matter(s) and proceed to the Closing. The failure of Buyer to timely terminate this Agreement pursuant to Paragraph 4.1.1(y) shall be

deemed to be a waiver of such matter(s) by Buyer and an irrevocable election by Buyer to proceed to the Closing, in which event such matter(s) shall be deemed to be approved. (Notwithstanding any other provision of this Agreement to the contrary, the Permitted Title Exceptions shall not include, and Seller shall convey and warrant the Property to Buyer free and clear of, any lien or encumbrance on the Property that secures the payment of money, or that may be removed or satisfied by the payment of money, but not including the lien of taxes or assessments not yet due and payable on the Closing Date.) If the Due Diligence Period would otherwise expire, the Due Diligence Period shall be extended during the time periods set forth in this Paragraph 4.1.1.

4.1.2. Pre-Closing Covenants. Seller shall have complied with all of its pre-closing covenants set forth in Paragraph 6.

4.1.3. Seller's Items. Seller shall have delivered to Buyer or the Title Company (as applicable) all of the items to be delivered by Seller, as described in Paragraph 7.2.

4.1.4. Representations and Warranties. Seller's representations and warranties, set forth in Paragraph 8, shall be true and accurate in all material respects as of the date of this Agreement (except with respect to representations and warranties that are expressly stated to be true as of a different date) and as of the Closing Date.

4.1.5. Building-Ready Condition. The Property shall have been improved by Seller, at Seller's cost, to Building-Ready Condition. Seller will provide Buyer notice when it begins the improvements for the Building-Ready Condition. If Seller has not completed the Building-Ready Condition improvements within 18 months of providing notice pursuant to the preceding sentence, Buyer will have the option to terminate this Agreement and receive the return of its Earnest Money.

4.1.6. Buyer Financing Contingency. Buyer and Seller expressly acknowledge and agree that Buyer's obligations to pay the Purchase Price and otherwise consummate the Closing are fully conditioned upon: (a) Buyer's ability to obtain an unconditional binding written commitment for financing to purchase the Property during the Due Diligence Period, whether by way of debt financing, equity investment, or otherwise, on terms acceptable to Buyer in its sole discretion; and (b) the funding of such financing on or before the Closing (collectively, the "Loan Financing"). If Buyer does not receive the Loan Financing on or before the Closing, then Buyer shall have the right to terminate this Agreement by giving written notice to Seller on or before the Closing. If Buyer elects to terminate this Agreement as provided in this Section 4.1.6 during the Due Diligence Period, the Title Company shall return the Earnest Money to Buyer, and upon such refund being made this Agreement shall terminate. If Buyer elects to terminate this Agreement as provided in this Section 4.1.6 after the expiration of the Due Diligence Period, the Title Company shall release the Earnest Money to Seller, and upon such release of funds being made this Agreement shall terminate. If Buyer fails to give notice as provided in this Section 4.1.6, Buyer shall be deemed to have elected to proceed to Closing pursuant to the terms of this Agreement.

4.1.7. Buyer Development and Property Plan Notice. Any material changes to the Property (including any portions thereof not being purchased by Buyer), the Documents, or the Development as depicted in Exhibit C, for a period of five (5) years after the Due Diligence Period, will be notified to Buyer in writing.

4.2. Failure of Buyer's Conditions. If any of Buyer's Conditions are not satisfied, deemed satisfied or waived by Buyer prior to the expiration of the applicable period for satisfaction or waiver, Buyer may, on written notice to Seller, (a) terminate all of Buyer's obligations under this Agreement, and receive a return in full of the Earnest Money, or (b) on a failure of any of Buyer's Conditions set forth in Paragraphs 4.1.2, 4.1.3, 4.1.4, or 4.1.5, require from Seller specific performance by Seller of this Agreement and all of Seller's obligations under this Agreement and reimbursement in full for all costs and expenses (including attorneys' fees and costs) incurred by Buyer by reason of Seller's default under this Agreement and any diminution in the value of the Property as a result of such default.

4.3. Due Diligence Termination. In addition to the rights of Buyer set forth in Paragraph 4.2, on or before the expiration of the Due Diligence Period, Buyer may give Seller and the Title Company written notice that Buyer desires to terminate this Agreement, which Buyer may do in its sole and absolute discretion. If Buyer timely gives such written notice, this Agreement shall terminate, neither Seller nor Buyer shall have any further obligation to each other and Buyer shall receive a return of the Earnest Money.

5. Seller's Conditions to Closing.

5.1. Seller's Conditions to Closing. Seller's obligation to sell the Property and consummate the Closing shall be conditioned on the satisfaction or Seller's waiver of Seller's Conditions, described as follows:

5.1.1. Pre-Closing Covenants. Buyer shall have complied with all of the pre-closing covenants set forth in Paragraph 6.

5.1.2. Buyer's Items. At or prior to the Closing, Buyer shall have delivered to Seller or the Title Company (as applicable) all of the items to be delivered by Buyer, as described in Paragraph 7.3.

5.1.3. Representations and Warranties. Buyer's representations and warranties, set forth in Paragraph 9, shall be true and accurate in all respects as of the date of this Agreement and as of the Closing Date.

5.2. Failure of Seller's Conditions. If any of Seller's Conditions are not satisfied or waived by Seller on or prior to the Closing Date, Seller may, as Seller's sole and exclusive remedy, terminate this Agreement and retain the Earnest Money as liquidated and agreed-upon damages under this Agreement.

6. Pre-Closing Covenants.

6.1. New Contracts. From the date of this Agreement until the Closing, Seller shall not enter into any contract relating to or affecting the Property, including the Property uses or building or landscaping designs, that will continue in effect and be binding upon the Property or Buyer after the Closing (the "***Continuing Contracts***"), or amend, modify or terminate any Continuing Contract, unless Seller has obtained Buyer's written consent to do so, which consent shall not be unreasonably withheld, conditioned, or delayed. Seller shall submit to Buyer a copy of any Continuing Contract that Seller proposes to enter into after the date of this Agreement, and Buyer shall approve of the

same within ten (10) business days after receipt of the same. If Buyer fails to notify Seller in writing of Buyer's approval of the same within such ten (10)-business-day period, such contract shall be deemed approved for purposes of this Agreement. Notwithstanding any of the provisions herein, Seller is permitted to enter into agreements with Clearfield City relating to Development and may record CC&R's for Development.

6.2.Cooperation. Seller and Buyer shall cooperate in good faith with each other with respect to the matters set forth in this Agreement, provided that this sentence shall not limit any right or discretion of a party contained herein.

6.3.Operation and Management. From the date of this Agreement until the Closing, Seller shall manage the Property in the normal and ordinary course in a prudent and businesslike fashion, shall use commercially reasonable efforts to improve the Property as contemplated in Paragraph 4.1.5, and shall not permit any waste or nuisance on the Property. Seller shall not deviate from Seller's ordinary and customary management of the Property and shall promptly provide Buyer with written notice of any damage or adverse change in condition to the Property, which notice shall indicate the extent of the damage or change in condition and the anticipated cost and time necessary to make such repairs. Nothing contained in this Agreement shall prevent Seller from acting to prevent loss of life, personal injury or damage to the Property in emergency situations, or prevent Seller from performing any act with respect to the Property which may be required by any applicable law, ordinance, rule or regulation.

6.4.Performance of Obligations. From the date of this Agreement until the Closing, Seller shall timely pay all taxes, assessments and any utility charges affecting the Property, if any.

6.5.Parking and Exclusivity Agreement. Within sixty days of execution of this Agreement, Seller shall draft and shall deliver to Buyer an agreement (the "***Parking and Exclusivity Agreement***"), pursuant to which (a) Seller shall grant to Buyer, for the benefit of the Property, certain parking rights and responsibilities upon certain parcels of real property adjacent to the Property, and (b) so long as Buyer or its successors in interest to the Property continue to operate the Property as a climbing or exercise gym, Seller shall agree that with respect to the real property within the Development, other than the Property, such real property shall include recorded, negative covenants that run with the land prohibiting all such real property for use as a climbing gym or exercise facility so long as Buyer fulfills the conditions of this Section 6.5(b); notwithstanding the preceding negative covenants, such negative covenants shall not prohibit the use of apartment clubhouses, apartment fitness facilities, or office fitness facilities on the real property within the Development that are for use only by the respective buildings' tenants and not otherwise open to the public. Buyer shall promptly review and provide to Seller any comments Buyer has to the draft of the Parking and Exclusivity Agreement. Upon receiving such comments, Buyer and Seller shall cooperate in good faith to resolve any outstanding issues under the proposed Parking and Exclusivity Agreement until the Parking and Exclusivity Agreement is in a form acceptable to Buyer and Seller. If the Parking and Exclusivity Agreement is not in a form acceptable prior to the expiration of the Due Diligence Period, (x) Buyer may terminate this Agreement pursuant to Paragraph 4.3, in which case the Earnest Money shall be refunded to Buyer, or (y) if Buyer fails to terminate this Agreement prior to the expiration of the Due Diligence Period, the parties shall proceed hereunder without a Parking and Exclusivity Agreement being executed by the parties at the Closing (notwithstanding anything to the contrary in Paragraphs 7.2 and 7.3), and this Paragraph 6.5 shall thereafter have no force or effect.

6.6. Change in Representations and Warranties.

6.6.1. Seller's Representations and Warranties. From the date of this Agreement until the Closing, if Seller learns of any fact or circumstance which causes, or has a reasonable likelihood of causing, a representation or warranty made by Seller under this Agreement to be untrue or misleading, or which may cause an adverse change with respect to the Property, Seller shall notify Buyer within five (5) days after Seller learns of such fact or circumstance.

6.6.2. Buyer's Representations and Warranties. From the date of this Agreement until the Closing, if Buyer learns of any fact or circumstance which causes, or has a reasonable likelihood of causing, a representation or warranty made by Buyer under this Agreement to be untrue or misleading, Buyer shall notify Seller within five (5) days after Buyer learns of such fact or circumstance.

7. Closing.

7.1. Date of Closing. The Closing shall be within forty-five (45) days after the Property has been improved to the point of Building-Ready Condition and no sooner than the expiration of the Due Diligence Period. The specific Closing Date shall be selected by the parties by mutual agreement. The Closing shall be held at the offices of the Title Company. If such date falls on a holiday or other day on which the Title Company is not open for business, the Closing shall be held on the next business day. At 10:00 a.m. on the first business day prior to the Closing Date, at the offices of Seller's counsel, or at such other time, date and place as Seller and Buyer may agree, a pre-closing meeting between Seller and Buyer and their respective representatives shall be held for the purposes of reviewing documents and satisfying Seller and Buyer that the deliveries required pursuant to Paragraphs 7.2 and 7.3 will be made at the Closing.

7.2. Items to be Delivered by Seller. At the Closing, Seller shall deliver or cause to be delivered to Buyer the following:

7.2.1. Deed. The Deed, duly executed and acknowledged by Seller.

7.2.2. Parking and Exclusivity Agreement. The Parking and Exclusivity Agreement, duly executed by Seller.

7.2.3. Non-Foreign Affidavit. An affidavit in form and substance reasonably satisfactory to Seller and Buyer, dated as of the Closing Date and establishing that Seller is not a "foreign person" within the meaning of Section 1445 of the Code, duly executed and acknowledged by Seller.

7.2.4. Title Policy. The Title Policy; provided, however, that such obligation shall be fully satisfied if the Title Company is unconditionally committed at the Closing to issue the Title Policy within a reasonable time after the Closing.

7.2.5. Other Materials. If reasonably requested by Buyer, such additional documents as may reasonably be required to consummate the transaction described in this Agreement.

7.3.Items to be Delivered by Buyer. At the Closing, Buyer shall deliver or cause to be delivered to Seller the following:

7.3.1. Purchase Price. The Purchase Price due from Buyer hereunder, after taking into account all credits to which Buyer is entitled pursuant to this Agreement.

7.3.2. Prorations. The amount due Seller, if any, in addition to the Purchase Price, after the prorations are computed in accordance with Paragraph 7.6.

7.3.3. Parking and Exclusivity Agreement. The Parking and Exclusivity Agreement, duly executed by Buyer.

7.3.4. Other Materials. If reasonably requested by Seller, such additional documents as may reasonably be required to consummate the transaction described in this Agreement.

7.4.Additional Items. Seller and Buyer shall deliver to the Title Company such further documents and instruments as may be reasonably necessary or appropriate to consummate the transactions contemplated by this Agreement.

7.5.Instructions to Title Company. At the Closing, Seller and Buyer shall instruct the Title Company to record the Deed in favor of Buyer, and to record all other documents, including, without limitation, restrictive covenants related to Section 6.5(b), deeds of reconveyance and releases of liens, necessary for title to the Property to be conveyed to Buyer free and clear of all liens, encumbrances and other matters, except for the Permitted Title Exceptions, on satisfaction of all of the conditions of, and requirements for, the Closing set forth in this Agreement. In connection with the Closing, Seller and Buyer shall provide to the Title Company or other closing agent any information and materials reasonably necessary to enable such closing agent to comply with the real estate transaction reporting requirements of Section 6045 of the Code.

7.6.Prorations. Seller and Buyer shall prorate, adjust, charge or credit the following items between Seller and Buyer as of 12:01 a.m. on the Closing Date, with the effect that Seller shall bear the costs and expenses and receive revenues for periods prior to the Closing Date, and Buyer shall bear the costs and expenses and receive revenues for periods on and after the Closing Date:

7.6.1. Taxes. Ad valorem and any other general or special taxes on or allocable to the Property that are due and payable in the calendar year in which the Closing Date falls shall be prorated as of the Closing Date. The parties understand that Seller is a tax-exempt governmental entity, and therefore is not required to pay taxes. Any general or special assessments that are a lien against or allocable to the Property shall be paid in full by Seller on or prior to the Closing Date.

7.6.2. Other Amounts. All other income, accounts payable and ordinary operating expenses of the Property, including, without limitation, utility and other deposits, utility, maintenance and service charges, and amounts due under any landscaping, maintenance or other service contracts relating to the Property, shall be prorated and appropriate and customary adjustments and credits shall be made between Seller and Buyer as of the Closing Date.

7.7. Proration Guidelines. Prorations and adjustments called for in Paragraph 7.6 shall be made on the basis of thirty (30) day months and the number of days actually elapsed in any partial month. Not less than three (3) business days prior to the Closing Date, Seller shall deliver or cause to be delivered to Buyer a tentative proration schedule setting forth the preliminary determination of the foregoing prorations, accompanied by detail which will enable Buyer to confirm such preliminary proration schedule.

7.8. Items Not Prorated. No proration shall be made for insurance premiums, unless the insurance policies are assumed by Buyer, for management fees or for salaries, benefits, bonuses, payroll taxes or other costs of Seller's employees. Unless otherwise agreed by Buyer in writing, Seller shall terminate and pay for all insurance, management, leasing and other such services relating to the Property as of the Closing.

7.9. Reprorations. If taxes or any other items are prorated as of the Closing on any basis other than actual amounts charged for the current period, or if a reassessment of taxes occurs which relates to the calendar period in which the Closing Date occurs, such items shall be reprorated on receipt of such actual amounts or on such reassessment and the party owing funds to the other shall promptly remit such funds to the other. If the party owing such funds to the other fails to remit such funds within thirty (30) days after demand, such funds shall bear interest, commencing on the date such demand is made, at the rate of ten percent (10%) per annum. The foregoing provisions of this Paragraph 7.9 shall survive the Closing.

7.10. Closing Costs. Seller shall pay for the Title Policy, Buyer shall pay the incremental cost for any upgrades or endorsements to the Title Policy requested by Buyer, Seller and Buyer shall evenly divide all escrow costs, and all recording costs shall be customarily allocated.

7.11. Possession; Risk of Loss. Possession of the Property shall be transferred by Seller to Buyer on the Closing Date. Until the Closing is consummated, the risk of loss to the Property shall be borne solely by Seller.

8. Seller's Representations and Warranties.

8.1. Representations and Warranties. Seller makes the following representations, warranties, covenants and guaranties for the benefit of Buyer and Buyer's members and managers and their respective successors and assigns:

8.1.1. Documents. To Seller's knowledge, the Documents are complete, accurate and genuine. The information set forth in the Documents is fairly presented in a manner that is not misleading.

8.1.2. Consents. All necessary approvals, authorizations and consents have been obtained in connection with the execution by Seller of this Agreement and all other documents to be delivered at the Closing, and with the performance by Seller of Seller's obligations under this Agreement. Buyer understands that this Agreement is subject to approval by the UTA Board of Trustees. The execution of this Agreement by Seller, the performance by Seller of Seller's obligations under this Agreement and the sale, transfer, conveyance and assignments contemplated by this Agreement do not require the consent of any third party.

8.1.3. No Leases or Other Rights. As of the Closing, no lease, sublease, tenancy or occupancy agreement pertaining to or affecting the use or occupancy of the Property will be in effect.

8.1.4. Hazardous Wastes. To Seller's knowledge, no hazardous substances, hazardous wastes, pollutants or contaminants are or have at any time been used, deposited, stored, disposed of, placed or otherwise located in or on, or released from, the Property or any facility operated on the Property, in violation of any environmental law. Seller has received no notice, and is not aware that any notice to any other person has been given, of any violation or claimed violation of any law, ordinance, rule or regulation relating to hazardous substances, hazardous wastes, pollutants or contaminants, and, to Seller's knowledge, neither Seller nor the Property is in violation of any such law, ordinance, rule or regulation.

8.1.5. Authority. Seller is a political subdivision of the State of Utah, validly existing and in good standing under the laws of the State of Utah, and that Seller's Board of Trustees has been duly and validly authorized to enter into this Agreement and to sell and convey the Property to Buyer pursuant to the provisions of this Agreement. The person or persons executing and delivering this Agreement on behalf of Seller have been duly authorized to execute and deliver this Agreement and to take such other actions as may be necessary or appropriate to consummate the transactions contemplated by this Agreement.

8.1.6. Title. Seller is the sole owner of the Property. At the Closing, Seller will convey to Buyer all of Seller's right, title and interest in and to the Property. On consummation of the Closing, Buyer will have received good, marketable, indefeasible and insurable title to the Property.

8.1.7. Taxes. No delinquent tax, assessment or bond of any nature affecting the Property exists, except as disclosed in the Title Commitment. All real and personal property taxes and assessments which are a lien on the Property will have been paid in full, except the taxes for the year in which the Closing occurs to the extent not yet due and payable, such taxes to be prorated as of the Closing Date.

8.1.8. Liens. Amounts due for all work done and materials furnished to the Property that would give rise to a mechanic's, materialman's or laborer's lien, have been paid in full, all necessary waivers of rights to a mechanic's, materialman's or laborer's lien have been obtained and no basis exists for the filing of any such lien against the Property.

8.1.9. Public Access. Upon the Closing, the Property will have free and adequate access to and from public highways and roads, and no fact or condition will, as of the Closing, exist that could result in the termination of such access, subject to the Right of Entry approval's limitations, indemnifications and insurance requirements.

8.1.10. Litigation. Seller is not a party to any pending suit or proceeding by or before any tribunal (whether judicial, administrative or otherwise) which could have an adverse effect on the use or operation of the Property, Seller's performance of Seller's obligations under this Agreement or the transactions contemplated under this Agreement (any of the foregoing, an "Adverse Effect"), nor to Seller's knowledge are any claims or actions threatened which may become the subject of litigation which might have an Adverse Effect. No action, suit or proceeding

is pending, contemplated or threatened by Seller which may have any Adverse Effect (including, without limitation, tax reduction proceedings). On and after the date of this Agreement, Seller shall not commence or allow to be commenced on Seller's behalf any action, suit or proceeding that may have an Adverse Effect without the prior written consent of Buyer.

8.1.11. Various Defaults. Neither the provisions of this Agreement nor of any document executed in connection with the Closing conflict with or will result in the breach of any of the provisions of, or constitute a default under, any of agreement or document, indenture, instrument or undertaking to which Seller is a party or by which Seller is bound, including, without limitation, all items potentially affecting transferability of the Property or an interest in the Property, including such items as due on sale clauses, rights of first refusal, transfer restrictions and all similar items. No option agreement, right of first refusal or other similar agreement relating to the Property exists. Seller has not committed or obligated itself to sell the Property to any person other than Buyer.

8.1.12. No Condemnation or Other Proceedings. No pending condemnation, environmental, zoning or other land use regulation proceeding relating to or affecting the Property exists, and Seller has no knowledge that any such action is presently threatened or contemplated.

8.2. Nature of Representations and Warranties. Seller covenants that the representations, warranties, covenants and guaranties set forth in Paragraph 8.1 are true as of the date of this Agreement (except with respect to representations and warranties that are expressly stated to be true as of a different date) and shall be true as of the Closing Date.

9. Buyer's Representations and Warranties.

9.1. Representations and Warranties. Buyer makes the following representations, warranties, covenants and guaranties for the benefit of Seller and Seller's members and managers and their respective successors and assigns:

9.1.1. Consents. All necessary third party approvals, authorizations and consents have been or will be obtained by the Closing in connection with the execution by Buyer of this Agreement and all other documents to be delivered at the Closing, and with the performance by Buyer of Buyer's obligations under this Agreement. The execution of this Agreement by Buyer and the performance by Buyer of Buyer's obligations under this Agreement does not require the consent of any third party.

9.1.2. Authority. Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Utah, and has been duly and validly authorized to enter into this Agreement and to purchase the Property from Seller pursuant to the provisions of this Agreement. The person or persons executing and delivering this Agreement on behalf of Buyer have been duly authorized to execute and deliver this Agreement and to take such other actions as may be necessary or appropriate to consummate the transactions contemplated by this Agreement. All requisite limited liability company action has been taken to make this Agreement and all documents to be delivered by Buyer at the Closing valid and binding on Buyer.

9.1.3. Litigation. Buyer is not a party to any pending suit or proceeding by or before any tribunal (whether judicial, administrative or otherwise) which could have an adverse effect on

Buyer's performance of Buyer's obligations under this Agreement or the transactions contemplated under this Agreement, nor to the best of Buyer's knowledge are any claims or actions threatened which may become the subject of litigation which might have a similar adverse effect.

9.1.4. Judgment. No adverse or unpaid judgment is outstanding against Buyer that might affect the ability of Buyer to perform Buyer's obligations under this Agreement.

9.1.5. No Violation of Law by Buyer. Buyer is not in violation of, and the execution by Buyer of this Agreement and the performance by Buyer of Buyer's obligations under this Agreement will not violate, any judicial order or governmental law, ordinance, rule or regulation in any respect which could have an adverse effect on the validity, performance or enforceability of this Agreement or any document referred to in or contemplated by this Agreement.

9.1.6. Various Defaults. Neither the provisions of this Agreement nor of any document executed in connection with the Closing conflict with or will result in the breach of any of the provisions of, or constitute a default under, Buyer's certificate of organization or operating agreement or any agreement, indenture, instrument or undertaking to which Buyer is a party or by which Buyer is bound.

9.2. Nature of Representations and Warranties. Buyer covenants that the representations, warranties, covenants and guaranties set forth in Paragraph 9.1 are true as of the date of this Agreement and shall be true as of the Closing Date.

10. Facility Construction, Completion, Design Review, and Rights of Re-Purchase.

10.1.1. Construction Precedents. Subject to the Property being in Building-Ready Condition, Buyer shall begin construction of the Facility within nine months of receiving written notice from Seller of both: (i) the start of vertical construction of the buildings planned for building Lot 10 (MUR A) and Lot 7, 6, and 5 (Office B) as depicted in Exhibit A, and (ii) the completion of the parking improvements for the Property to which Buyer has rights under the Parking and Exclusivity Agreement (together "**Construction Precedents**"). Buyer shall make commercially reasonable efforts to complete construction (evidenced by application for certificate of occupancy) of the Facility on the Property within two years after the Construction Precedents.

10.1.2. Seller's Rights to Re-Purchase the Property.

- (a) If within nine (9) months from the Construction Precedents Buyer does not begin construction of the Facility, Seller shall have the right to purchase the Property from Buyer at the Purchase Price.
- (b) If Buyer lists the Property for sale prior to making any improvements on the Property, then Seller shall have the right of first refusal upon a proposed sale of the Property by Buyer to purchase the Property from Buyer at the Purchase Price.
- (c) If the Facility is not substantially complete within 2 years and 9 months of the Construction Precedents or Buyer lists the Property for sale after making improvements on the Property, then Seller shall have the right to purchase the Property at the appraised value, as determined through the following process.

Buyer shall obtain and pay for an appraisal of the Property. If Seller does not agree with the appraised value received by Buyer, Seller shall obtain and pay for an appraisal, at which time the two appraisals will be averaged. If the parties do not agree to the purchase price being the average of the two appraisals, then the two appraisers shall select a third appraiser to value the Property, which third appraisal shall be final and binding on the parties. For purpose of this Section 10.1.2(c), “substantially complete” means 85% percent complete, as determined by invoice or other construction progress schedule used by the general contractor for the Facility.

10.1.3. Transit Supportive Uses. Property shall be used only for Transit Supportive Uses. A material condition of Seller’s decision to sell Property to Buyer is that Buyer shall construct the Facility on the Property, which Seller acknowledges is a Transit Supportive Use. The parties agree that the Deed shall contain language limiting uses of the Property to Transit Supportive Uses and that the proposed Facility to be constructed by Buyer is a permitted Transit Supportive Use.

10.1.4. Plans and Specifications.

- (a) Buyer and Seller acknowledge and agree that their intent and agreement is that the height, architectural features, and other design elements of the Facility shall be consistent with Buyer’s other buildings, taking into consideration the other buildings and design elements of the Development. Accordingly, no improvements of any kind on the Property shall be made, including without limitation any alterations to the exterior of the Facility, shall be erected, altered, refinished or repainted (unless of the same finish or color as the original), or removed from the Property, nor shall any excavating, clearing, removal of trees or shrubs, landscaping or other alteration of existing site conditions be done on the Property after the Closing, unless the complete plans and specifications therefor (the “*Plans and Specifications*”) are approved by Seller prior to the commencement of such work.
- (b) Two copies of the complete Plans and Specifications must be submitted to Seller for approval or disapproval by it in writing within fourteen (14) days after submission to the UTA Design Review Committee. In the event Seller fails to take any action within such specified periods, it shall be deemed to have rejected the material submitted.

10.1.5. Construction. Once begun, any construction, landscaping, or alterations approved by Seller shall be diligently prosecuted to completion, and all such construction work shall be consistent with the approved Plans and Specifications. Seller shall have the authority and right at any time and from time to time at any reasonable hour to inspect construction or other activities authorized for the purpose of determining whether the same comply in all respects with the applicable Plans and Specifications as approved by Seller, but it shall have no duty to make such inspections.

10.1.6. Additional Approvals. All of Buyer's improvements to the Property must also comply with all applicable zoning ordinances, building codes, and other applicable laws, ordinances, rules, and regulations. All approvals required from Clearfield City, UTA, or any other governmental or quasi-governmental authority having jurisdiction over the Property or the Facility shall be obtained by Buyer at Buyer's expense.

10.1.7. Intentionally Omitted.

10.1.8. Survival. Buyer's obligations under this Paragraph 10 shall survive the Closing. In order to place third parties on notice of Seller's design approval rights hereunder, as well as the restriction that Property be used for Transit Supportive Uses, the Deed shall contain provisions substantially similar to this Paragraph 10.

11. General Provisions.

11.1. Brokers. Seller represents and warrants to Buyer that Seller has not retained a broker or real estate agent in connection with the transaction contemplated by this Agreement. Buyer represents and warrants to Seller that Buyer has not retained a broker or real estate agent in connection with the transaction contemplated by this Agreement. Seller shall indemnify, defend and hold harmless Buyer against any claim for a brokerage commission or similar fee in connection with the transaction contemplated by this Agreement based on an actual or alleged agreement made by Seller. Buyer shall indemnify, defend and hold harmless Seller against any claim for a brokerage commission or similar fee in connection with the transaction contemplated by this Agreement based on an actual or alleged agreement made by Buyer.

11.2. Attorneys' Fees. If either Seller or Buyer brings suit to enforce or interpret this Agreement or any document, instrument or agreement delivered pursuant to this Agreement, for damages because of the breach of a representation, warranty or covenant contained in this Agreement or in any document, instrument or agreement (subject to conflicting attorneys' fees provisions in any such agreement, which shall govern breaches of representations, warranties, and covenants contained therein) delivered pursuant to this Agreement, or with respect to any other issue related to this Agreement, the prevailing party shall be entitled to recover from the other party the prevailing party's reasonable attorneys' fees and costs incurred in any such action or in any appeal from such action, in addition to the other relief to which the prevailing party is entitled. As used in the preceding sentence, "***prevailing party***" shall include, without limitation, a party who retains legal counsel or brings an action against the other party and subsequently obtains all or part of the relief sought, whether by compromise, settlement or judgment. The provisions of this Paragraph 11.2 shall survive the Closing.

11.3. Notices. Any notice or demand to be given by or on behalf of Seller or by or on behalf of Buyer to the other shall be given in writing by personal service, Federal Express, DHL or any other similar form of courier or delivery service, or mailing in the United States mail, postage prepaid, certified and return receipt requested, and addressed to such party as follows:

If to Seller:

Utah Transit Authority
Attn: Property Management
669 West 200 South
Salt Lake City, Utah 84101

STACK Real Estate
2801 North Thanksgiving Way Suite 100
Lehi, UT 84043

Hamilton Partners
222 South Main Street Suite 1760
Salt Lake City, UT 84010

If to Buyer:

Rocky Fields LLC
1470 South 400 West
Salt Lake City, Utah 84115
Attention: Dustin Buckthal

Either Seller or Buyer may change the address at which such party desires to receive notice on written notice of such change to the other party. Any such notice shall be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the party to which the notice is directed; provided, however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of a notice.

11.4. Time of Essence. Time is of the essence with respect to each provision of this Agreement. Whenever the last day for the exercise of any privilege or the discharge of any duty under this Agreement falls on a Saturday, Sunday or any public or legal holiday generally recognized by banks in Salt Lake City, Utah, the party having such privilege or duty shall have until 5:00 p.m. on the next succeeding day to exercise such privilege or to discharge such duty.

11.5. Effectiveness; Modification. A modification of, or amendment to, any provision contained in this Agreement shall be effective only if the modification or amendment is in writing and signed by both Seller and Buyer. Any oral representation or modification concerning this Agreement shall be of no force or effect.

11.6. Successors and Assigns. This Agreement shall inure to the benefit of, and shall be binding on, Seller and Buyer and their respective successors and assigns. Upon notice of such assignment to Seller, Buyer may assign its rights under this Agreement to an affiliated entity under the control of or under common control with Buyer, but to no other third party without Seller's prior written consent, which will not be unreasonably withheld. Buyer's assignment of its rights under this Agreement shall not relieve Buyer of any obligation hereunder.

11.7. Applicable Law; Jurisdiction; Construction. This Agreement shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the State of Utah. Seller and Buyer subject themselves to the exclusive jurisdiction of the courts of the State of Utah and agree to commence and maintain any lawsuit related to this Agreement in such courts. Seller and Buyer further agree that such courts are a convenient forum. Unless otherwise provided, references in this Agreement to Paragraphs are to paragraphs in this Agreement. This Agreement shall be construed according to its fair meaning and not strictly for or against Seller or Buyer, as if both Seller and Buyer had prepared it. Except as otherwise provided in this Agreement, no remedy provided in this Agreement shall be exclusive of any other remedy at law or in equity (whether existing on or created after the date of this Agreement), and all remedies under this Agreement may be exercised concurrently, independently or successively from time to time. The failure on the part of Seller or Buyer to enforce promptly any right under this Agreement shall not operate as a waiver of such right, and the waiver of any default shall not constitute a waiver of any subsequent or other default.

11.8. Integration of Other Agreements. This Agreement constitutes the entire agreement of Seller and Buyer and supersedes all previous contracts, correspondence and documentation relating to the subject matter of this Agreement.

11.9. Counterparts. This Agreement may be executed in separate counterparts, each of which will be an original and all of which taken together shall constitute one and the same agreement, and any party hereto may execute this Agreement by signing any such counterpart. Delivery of a copy of this Agreement bearing an original signature by facsimile transmission or by electronic mail in “portable document format” form shall have the same effect as physical delivery of the paper document bearing the original signature.

11.10. Further Actions. Seller and Buyer shall execute such additional documents and take such further actions as may reasonably be required to carry out each of the provisions and the intent of this Agreement. From time to time following the Closing Seller shall, on Buyer’s request, furnish Buyer with access to and with copies of all books, records, documents and information which Buyer may reasonably request that are within the possession of, under the control of, available to or obtainable by, Seller, and that relate to the Property.

11.11. Titles and Headings. Titles and headings of Paragraphs of this Agreement are for convenience of reference only and shall not affect the construction of any provision of this Agreement.

11.12. Pronouns. All pronouns shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the person to whom reference is made may require.

11.13. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be valid under applicable law; but, if any provision of this Agreement shall be invalid, unenforceable, or prohibited under applicable law, such provision shall be ineffective to the extent of such invalidity, unenforceability or prohibition without invalidating the remainder of such provision or the remaining provisions of this Agreement.

11.14. No Merger. Neither the occurrence of the Closing nor the execution or delivery of the various documents (including, without, limitation, the Deed) that are contemplated by this Agreement to be executed and delivered prior to, in connection with or after the Closing shall result in the termination or extinguishment of this Agreement or the merger of this Agreement into such documents. Each provision of this Agreement shall survive all of such matters.

11.15. Authorization. Each individual executing this Agreement represents and warrants that such individual has been duly authorized to execute and deliver this Agreement in the capacity and for the entity set forth where such individual signs.

[Remainder of page intentionally left blank.]

SELLER AND BUYER have executed this Agreement to be effective as of the date first set forth above.

SELLER:

UTAH TRANSIT AUTHORITY

Mary DeLoretto
Interim Executive Director

Paul Drake
Director of Real Estate and TOD

BUYER:

ROCKY FIELDS LLC

By: _____
Name: _____
Title: _____

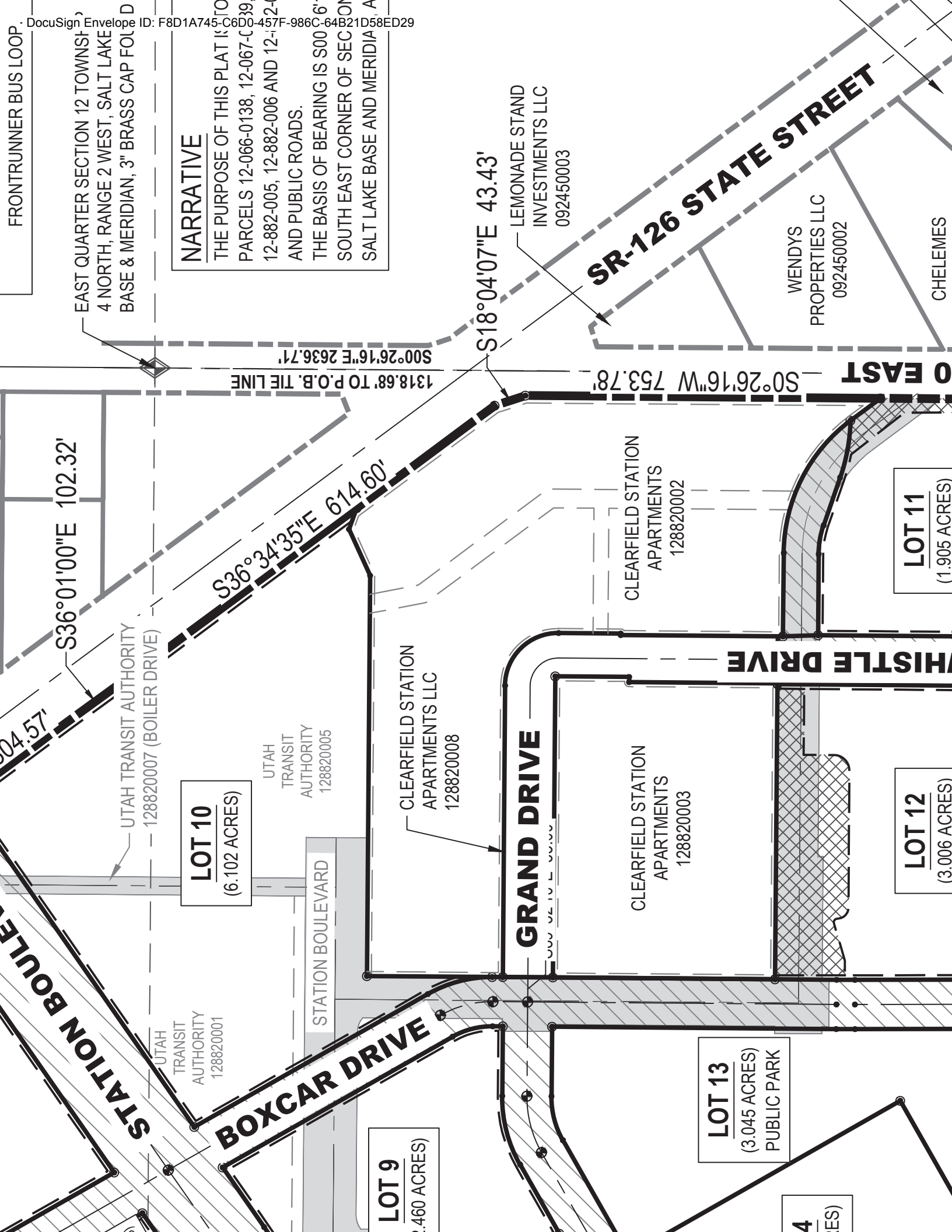
APPROVED AS TO FORM:



Timothy G. Merrill
Assistant Attorney General

EXHIBIT A

**PLAT MAP SHOWING
LOCATION AND CONFIGURATION OF LAND**



NARRATIVE

THE PURPOSE OF THIS PLAT IS TO
PARCELS 12-066-0138, 12-067-C-39,
12-882-005, 12-882-006 AND 12-12-1-
AND PUBLIC ROADS.
THE BASIS OF BEARING IS S00° 6'
SOUTH EAST CORNER OF SECTION
SALT LAKE BASE AND MERIDIAN, A

EAST QUARTER SECTION 12 TOWNSHIP
4 NORTH, RANGE 2 WEST, SALT LAKE
BASE & MERIDIAN, 3" BRASS CAP FOLD

FRONT RUNNER BUS LOOP

LEMONADE STAND
INVESTMENTS LLC
092450003

WENDYS
PROPERTIES LLC
092450002

CHELEMES

SR-126 STATE STREET

S00°26'16"E 2636.71'
1318.68' TO P.O.B. TIE LINE

S18° 04'07"E 43.43'

S0°26'16"W 753.78'

0 EAST

S36° 01'00"E 102.32'

S36° 34'35"E 614.60'

CLEARFIELD STATION
APARTMENTS
128820002

LOT 11
(1.905 ACRES)

UTAH TRANSIT AUTHORITY
128820007 (BOILER DRIVE)

UTAH
TRANSIT
AUTHORITY
128820005

CLEARFIELD STATION
APARTMENTS LLC
128820008

WHISTLE DRIVE

GRAND DRIVE

CLEARFIELD STATION
APARTMENTS
128820003

LOT 12
(3.006 ACRES)

LOT 10
(6.102 ACRES)

UTAH
TRANSIT
AUTHORITY
128820001

STATION BOULEVARD

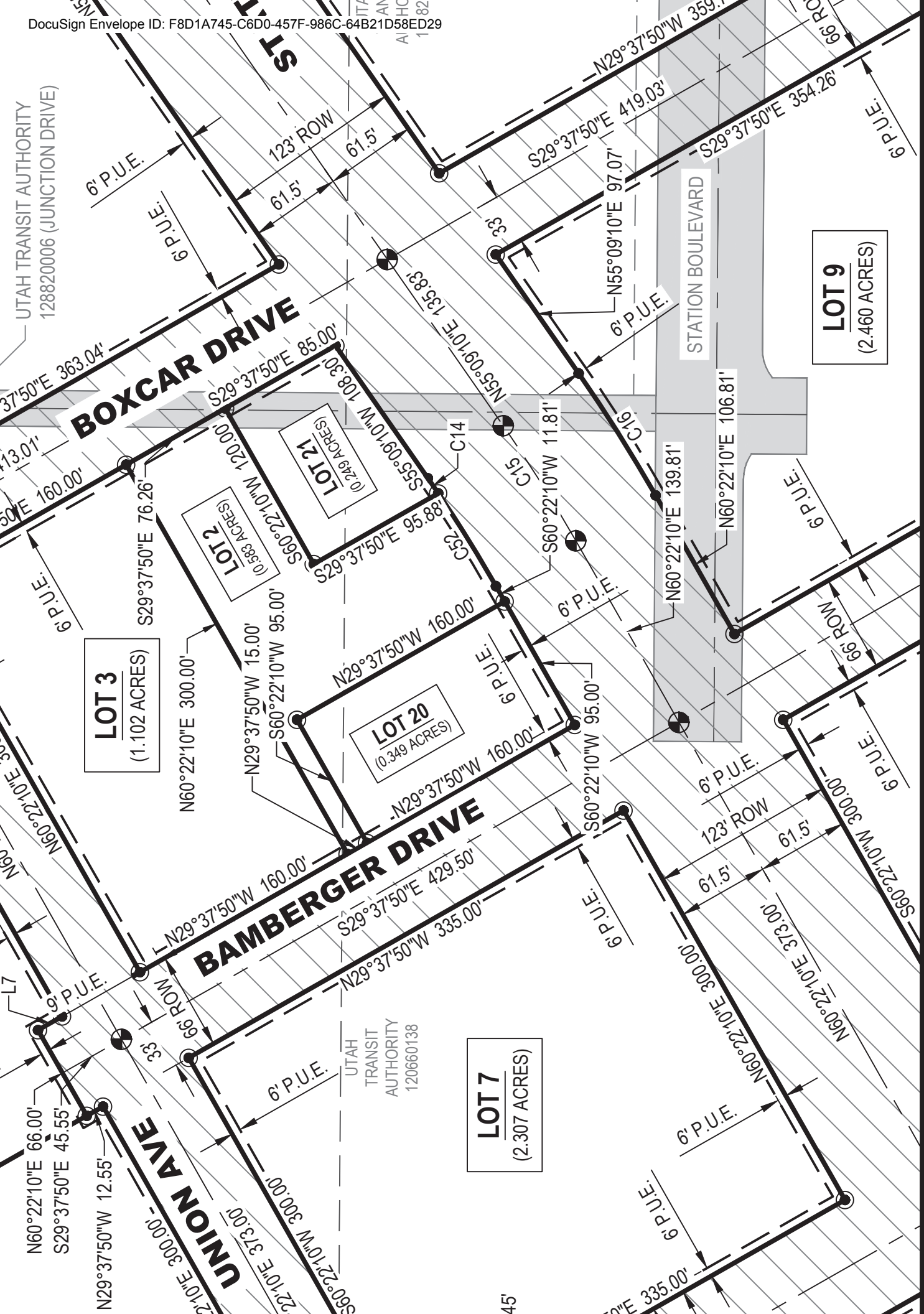
BOXCAR DRIVE

LOT 9
(.460 ACRES)

LOT 13
(3.045 ACRES)
PUBLIC PARK

4
(ES)

STATION BOULEVARD



MATCHLINE SEE SHEET 3 OF 3

PROPERTY AND EASEMENT KEYED NOTES

EXHIBIT B

LEGAL DESCRIPTION OF THE LAND

To be determined at time of conveyance

EXHIBIT C

**ILLUSTRATIVE MASTER PLAN DEPICTING PROPOSED USES WITHIN THE
DEVELOPMENT**



MUR A

6

GRAND DRIVE 1350 SOUTH
(PRIVATE ROAD)

1

8

MUR D

14

Retail D

MUR C

14

6

3

11

Retail C

STATION
BOULEVARD

Row House

STREET D

GYM

STREET E

Retail A

Retail B

OFFICE A