

Return to:

PacifiCorp  
Lisa Louder  
1407 West North Temple #310  
Salt Lake City, Utah 84116

PN: 2582404.1  
ROW No. 20050138

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(Space above for Recorder's use only)

### **RIGHT OF WAY EASEMENT**

For value received and subject to the terms and conditions set forth in this document, DEPOT ASSOCIATES, L.L.C., a Delaware limited liability company ("**Grantor**"), hereby grants to PACIFICORP, an Oregon corporation, its successors and assigns, ("**Grantee**"), a non-exclusive right-of-way easement 10 feet in width and 3,061 feet in length, more or less, for the construction, reconstruction, operation, maintenance, repair, replacement, enlargement, and removal of electric power transmission and distribution lines and all necessary or desirable accessories and appurtenances thereto, including without limitation: supporting towers, poles, props, guys and anchor, wires, fibers, cables and other conductors and conduits therefor; and pads, transformers, switches, vaults and cabinets (collectively, the "**Electric System**"), along the general course now located by Grantee on, over or under the surface of the real property of Grantor in Tooele County, State of Utah, more particularly described and/or shown on Exhibit "A" attached hereto and by this reference made a part hereof (the "**Easement Property**"). The proposed pole placement and line alignment is shown as filled-in circles and dark lines respectively on the plan schematic attached as part of Exhibit "A."

THE EASEMENT PROPERTY AND ALL ASPECTS THEREOF IS GRANTED IN ITS "AS IS", "WHERE IS" CONDITION, WITHOUT WARRANTIES, EITHER EXPRESS OR IMPLIED, "WITH ALL FAULTS", INCLUDING BUT NOT LIMITED TO BOTH LATENT AND PATENT DEFECTS, AND THE EXISTENCE OF HAZARDOUS MATERIALS, IF ANY. GRANTEE HEREBY WAIVES ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE TITLE, CONDITION AND USE OF THE EASEMENT PROPERTY, INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Without limiting the generality of the foregoing, the Easement Property is granted to Grantee subject to: (i) any state of facts which an accurate ALTA/ASCM survey (with Table A items) or physical inspection of the Easement Property might show, (ii) all zoning regulations, restrictions, rules and ordinances, building restrictions and other laws and regulations now in effect or hereafter

adopted by any governmental authority having jurisdiction; and (iii) reservations, easements, rights-of-way, covenants, conditions, restrictions, encroachments, liens, and encumbrances and all other matters of record or enforceable at law or in equity.

The conductors and any other wires or lines located on any power poles shall be at least twenty-three (23) feet above the existing surface of the Easement Property at their lowest elevation. Any and all guy wires and anchors must be located within the Easement Property. Grantee may construct the improvements as set forth on the plan attached hereto as Exhibit "A." Grantee shall not add any additional improvements (in addition to the improvements shown on Exhibit "A," such as power poles, pads, transformers, switches, vaults, cabinets, or other equipment or facilities ("**Future Improvements**") on or underneath the surface of the Easement Property, without the prior written consent of Grantor, which consent shall not be unreasonably withheld, conditioned or delayed. Grantee shall align, place and install any Future Improvements, parallel to or consistent with the existing facilities and in a manner that will reasonably minimize any detrimental effect on the use, enjoyment and development of the CPB Property by Grantor. Grantor shall have the right to deny the request to install any Future Improvements if Grantor determines that the location of the Future Improvements is likely to unreasonably interfere with or impair, or has the potential to interfere with or impair, Grantor's current or future use or development of the Grantor's adjacent real property. The parties will use good faith efforts to cooperate with each other to agree upon mutually acceptable plans and specifications for the Future Improvements.

Grantor and Grantee acknowledge that the proposed pole placement and line alignment along B Avenue is close to the present location of Building 595 (Old Administration Building) owned by Grantor. Because of the location of Building 595, Grantee will use the present pole placement and line alignment (identified by open circles and light lines respectively on the plan schematic attached as part of Exhibit "A"). If and when Building 595 is demolished and removed, Grantee may realign the poles and lines within the Easement Property as contemplated herein. Grantor is under no obligation to demolish or remove Building 595, but reserves the right to do so at any time in Grantor's sole and absolute discretion.

In the event Grantee needs to perform construction work on the Easement Property, Grantee shall: (i) provide Grantor with at least thirty (30) days' prior written notice of such work, except in the event of an emergency when no prior notice shall be necessary; (ii) use good faith efforts to ensure that there is continual pedestrian and vehicular access to the CPB Property through the Easement Property; (iii) use reasonable efforts to minimize any interference or disruption to Grantor's use and occupancy of the Easement Property; and (iv) perform any such work expediently and in a good and workmanlike manner.

Grantee, at its sole cost and expense, shall maintain and repair the Electric System and any and all related improvements installed by Grantee, in good order and condition. Grantee shall promptly repair any damage to the Easement Property and Grantor's

improvements located thereon (including, without limitation, any and all landscaping, trees, fences, water and/or irrigation pipes, lines and ditches, curbs, gutters, asphalt surfaces, fences, signs, lighting, etc.) and any other improvements located on Grantor's adjacent property caused by Grantee, its agents, servants, employees, contractors or anyone performing work by, through, for, or under Grantee ("**Grantee's Agents**"), and shall restore the Easement Property and Grantor's adjacent property and the improvements thereon, as they may exist from time to time, to the same or better condition as they existed prior to any entry onto or work performed on the Property by Grantee and Grantee's Agents.

Grantee, and its successors and assigns, hereby agrees to indemnify, defend (with counsel acceptable to Grantor) and hold harmless Grantor, and any entity controlling, controlled by or under control with Grantor ("**Affiliates**"), and its and their Affiliates' officers, directors, employees, managers, members, agents, servants, successors, and assigns from and against any and all liens, encumbrances, costs, demands, claims, judgments, and/or damage caused by or arising out of (i) the acts and omissions of Grantee, and its agents, servants, employees, and/or contractors; (ii) the use of the Easement Property and/or the Power Lines by Grantee, its agents, servants, employees, or contractors; and (iii) any work performed on the Easement Property by Grantee or Grantee's Agents.

Grantor hereby reserves the right to use the Easement Property for any use not inconsistent with Grantee's permitted use of the Easement Property. Without limiting the foregoing, Grantor reserves the right: (i) for pedestrian and vehicular access across and through the Easement Property; (ii) for the placement and movements of rail cars and motor vehicles, (iii) for the placement and maintenance of landscaping, trees, signs, light standards, sidewalks, curbs and gutters, ditches, irrigation pipes and related appurtenances, fences, asphalt roadways and driveways, and railroad lines and tracks and related improvements; (iv) to grant other non-exclusive easements, licenses and rights within or on the Easement Property to other parties. Notwithstanding the foregoing, Grantor agrees not to construct any permanent building or structure within the Easement Property or to place any trees or other improvement at a distance from the conductors that would violate the National Electric Safety Code. If any trees or other landscaping or improvements are within an unsafe distance of the conductors as set forth in the National Electric Safety Code, upon thirty (30) days' prior written notice to Grantor, Grantee shall have the right to trim such trees and other vegetation to ensure proper clearance standards and or request that such other improvements be removed or relocated.

Subject to the terms and conditions of this document, the easement granted herein shall be perpetual and shall run with the land, and the terms and conditions of this document shall inure to the benefit of and be binding upon the parties. The easement granted herein is an easement in gross and is personal to Grantee and may not be transferred or assigned, and no rights arising under this document may be conveyed, licensed or otherwise transferred to any other entity, except in the event of the acquisition or merger of Grantee or of substantially all of Grantee's assets. As such, Grantee shall not have the right to assign or convey this



**Exhibit "A"**

Legal Description of Easement Property

A right of way 10 feet in width, being 5 feet on each side of the following described survey line:

Beginning at a new pole on the Grantor's land at a point 495 feet north and 457 feet west, more or less, from the southeast corner of Section 25, T. 3S., R. 5W., S.L.M., thence S. 60°05'E. 1,728 feet, more or less, thence N. 29°29'E. 1,332 feet, more or less, to an existing pole in an existing power line on said land and being in the SE1/4 of the SE1/4 of said Section 25, Lot 4 and the SE1/4 of the SW1/4 of Section 30 and Lot 1 of Section 31, T. 3S., R. 4W., S.L.M.

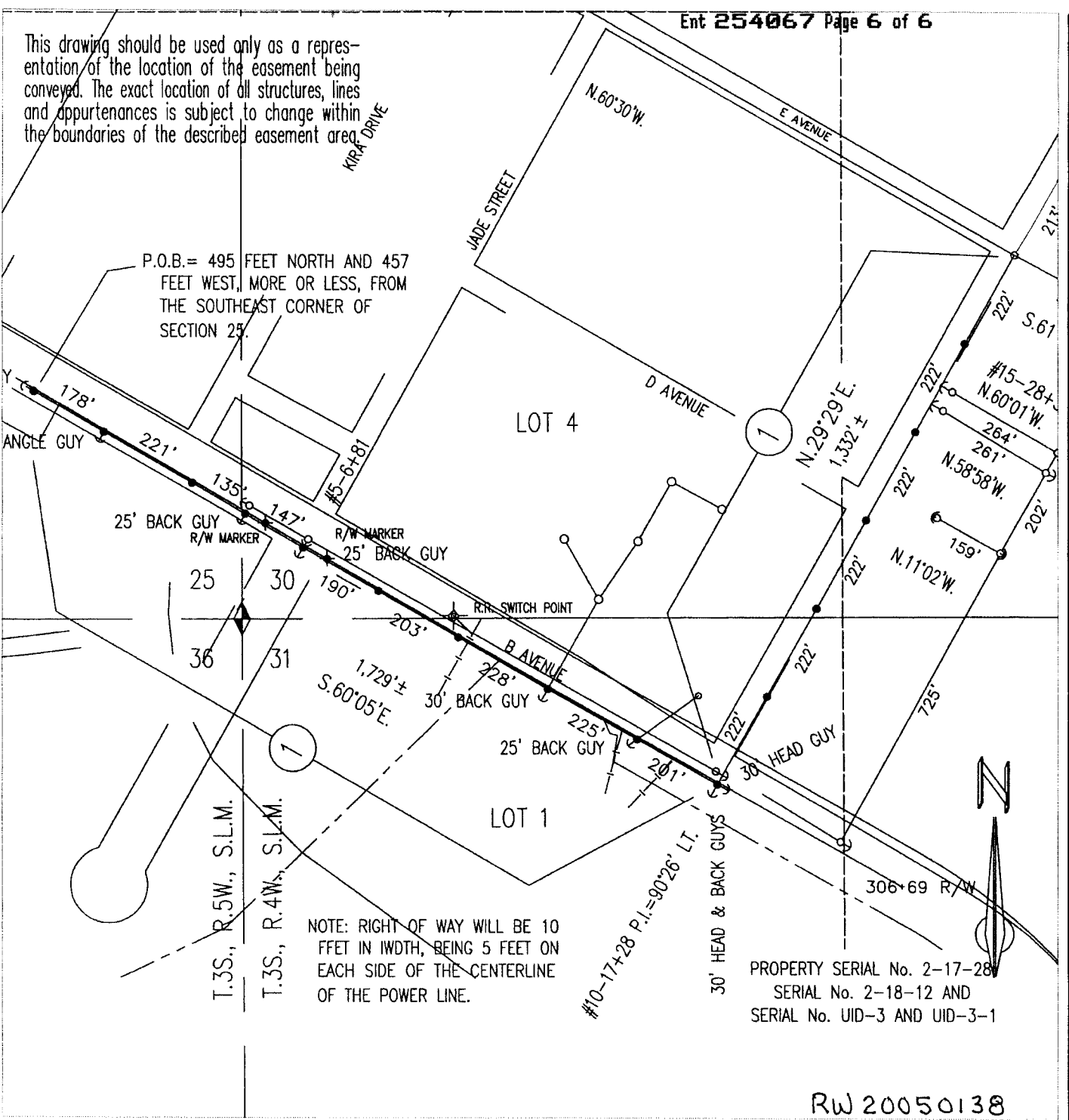
Assessor's Map No. \_\_\_\_\_ Tax Parcel Nos. 2-17-28; 2-18-12; UID-3 and UID-3-1

865335/03

This drawing should be used only as a representation of the location of the easement being conveyed. The exact location of all structures, lines and appurtenances is subject to change within the boundaries of the described easement area.

KIRA DRIVE

P.O.B. = 495 FEET NORTH AND 457 FEET WEST, MORE OR LESS, FROM THE SOUTHEAST CORNER OF SECTION 25.



NOTE: RIGHT OF WAY WILL BE 10 FEET IN WIDTH, BEING 5 FEET ON EACH SIDE OF THE CENTERLINE OF THE POWER LINE.

PROPERTY SERIAL No. 2-17-28  
SERIAL No. 2-18-12 AND  
SERIAL No. UID-3 AND UID-3-1

RW 20050138

DATE: APRIL 19, 2005

SPONSOR: STANLEY G. SPENCER

SURVEYED BY: U.P.&L. Co./R.A.S.

DRAWN BY: D. T. Boyd

CHECKED BY: R. G. Olsen

PLOT SCALE: 1" = 1'

CAD No: R:\ROW\00Q1YY01.DWG

EXHIBIT "A"  
OVERHEAD DISTRIBUTION LINE TO SERVE  
PHASE TWO OF THE UTAH INDUSTRIAL DEPOT  
PROJECT  
EASEMENT No. 1  
TOOELE, TOOELE COUNTY, UTAH

APPROVAL

JERRY H. ISAACSON

LEAD SENIOR ENGINEER LINE CIVIL DESIGN



Tooele Territory

SCALE: 1" = 300'

SHEET 1 OF 1

PN 2582404

REF.

REV.