

EASEMENT E 110293 B 0502 P 0254

Date 21-APR-1998 11:08am
 Fee: No Fee Check
 DONNA S. MCKENDRICK, Recorder
 Filed By MRT
 For TOOELE CITY CORPORATION
 TOOELE COUNTY CORPORATION

THE STATE OF UTAH, by and through the School and Institutional Trust Lands Administration, GRANTOR, in consideration of the payment of \$10,192.00 (Easement fee) plus a \$600.00 application fee, receipt of which is acknowledged, hereby grants to TOOELE CITY CORPORATION, GRANTEE, the right to construct, operate, repair and maintain a perpetual easement for the construction and maintenance of proposed 1200 West Street and all utilities on state trust lands described as follows:

Township 3 South, Range 4 West SLB&M
 Section: 7 Within Tooele County as follows:

2-138-5

A perpetual easement upon part of an entire tract of property, situate in the SE¼ of Section 7, T.3S., R.4W., S.L.B.&M., in Tooele County, Utah for the purpose of constructing thereon an irrigation line, gas pipeline, water pipeline, telephone cable, cable TV, electric power lines, sanitary sewer pipeline, storm drain pipe line and appurtenant parts thereof, incident to the construction and grading of 1200 West Street, known as Project No. 596-121-03.

The boundaries of said parts of entire tract of land are described as follows:

Beginning at the East quarter corner of Section 7, T.3S., R.4W., S.L.B.&M., a found Brass Cap, Tooele County Survey Monument, running thence South 00°22'17" East 1321.04 feet along the section line to the Southeast corner of said parcel; thence South 89°42'06" West 42.00 feet to the Southwest corner of said parcel, said point also lies 42.00 feet right of the section line at Engineers Station 122+48.92, said point also lies on the westerly right-of-way line of 1200 West Street; thence North 00°22'17" West 1321.04 feet along said right-of-way line of 1200 West Street to the Northwest corner of said parcel, said point lies 42.00 feet right of the section line at Engineer Station 109+27.90; thence North 89°41'41" East 42.00 feet along the quarter section line to the point of beginning.

The above described parcel of land contains 55,483.64 square feet or 1.274 acres, more or less.

The Basis of Bearing is between the East quarter corner of Section 7 and the Southeast corner of Section 7, T.3S, R.4.W., S.L.B.&M., both being Found Tooele County Brass Cap Monuments. (South 00°22'17" East 2642.08 feet between found monuments.)

(Note: Between Stations 109+27.90 to 122+48.92 westerly side of 1200 West Street.)

TO HAVE AND TO HOLD for a perpetual easement subject to the following terms and conditions and any valid and existing rights. This easement is granted only for the purpose described above as far as it is consistent with the principles and obligations in the Enabling Act of Utah (Act of July 16, 1894, Ch. 138, 28 Sat. 107) and the Constitution of the State of Utah.

1. GRANTEE shall pay for all cost and expense in connection with the construction, operation, repair, replacement, and maintenance of said Easement (purpose of easement), and hold GRANTOR harmless from any and all liability (including expenses for attorney's fees) which

may arise from the construction, operation, and maintenance of said Easement for constructing and maintaining utilities and roads.

2. GRANTOR reserves the right to relocate the easement in whole or in part, as may be necessary to satisfy the interests of the GRANTOR for the use of the dominant estate or the adjoining lands. The cost of such relocation shall be at GRANTOR's sole expense. The relocated or modified easement shall provide GRANTEE with access substantially equivalent as necessary for the purposes of the grant.

3. GRANTOR hereby waives the right to impose the administrative fee provided by Utah Administrative Code Rule R850-40-1800, and any successor regulation.

4. GRANTEE assumes liability for and agrees to indemnify GRANTOR, for and against any and all liability, including attorney's fees, of any nature imposed upon, incurred by, or asserted against GRANTOR, which in any way relates to or arises out of the activity or presence upon the easement of GRANTEE, its servants, employees, agents, subleases, assignees or invitees, except to the extent that the liability and/or damages were created solely by the activities of GRANTOR.

5. This easement may be terminated by GRANTOR upon material breach of any conditions hereof. If GRANTOR determines that the GRANTEE, its assigns or successors in interest have breached any conditions of this easement, GRANTOR shall notify the breaching party (parties) in writing by certified mail, return receipt requested, specifying the particular breach. The breaching party (parties) shall have thirty (30) days from the date of such notice, or such longer period as may be required under the circumstances as approved by the (GRANTOR) to correct such breach. If breaching party (parties) fails (fail) to correct such breach within such period, GRANTOR may terminate this easement upon thirty (30) days notice; provided, however, such termination shall not release breaching party (parties) from liability for damage from pre-termination activities.

6. GRANTEE consents to suit in the courts of the State of Utah in any dispute arising under the terms of this easement or as a result of operations carried on under this easement. Service of process in any such action is hereby agreed to be sufficient if sent by registered mail to the GRANTEE at the last known address of GRANTEE appearing on the GRANTOR'S records. The Parties agree to mediation prior to exercising their rights to access the courts.

7. GRANTEE agrees for itself, successors and assigns that any suit brought by the GRANTEE, its successors or assigns concerning this easement may be maintained only in the Third District Court of the State of Utah.

8. The acquisition or assumption by another party under an agreement with the GRANTEE of any right or obligation of the GRANTEE under this easement shall be ineffective as to the GRANTOR unless and until GRANTOR shall have been notified of such agreement and shall have recognized and approved the same in writing, and in no case shall such recognition or approval: (i) operate to relieve the GRANTEE of the responsibilities or liabilities assumed by GRANTEE hereunder; or (ii) be given unless such other party is acceptable to GRANTOR as a grantee, and assumes in writing all of the obligations of the GRANTEE under the terms of this

easement as to the balance of the term thereof, or acquires the rights in trust as security and subject to such conditions as may be necessary for the protection of the public interests.

9. GRANTEE shall at all times observe reasonable precautions to prevent fire on said easement and shall comply with all applicable laws and regulations of any governmental agency having jurisdiction. In the event of a fire on said easement proximately caused by GRANTEE, its servants, employees, agents, subleases, assignees or licensees which necessitates suppression action by the State Forester, GRANTEE agrees to reimburse GRANTOR for the cost of such fire suppression action.

10. GRANTEE shall rehabilitate and regrade the ground surface to prevent erosion of ground upon completion of each improvement within the easement. In the event GRANTEE returns the easement to GRANTOR, GRANTEE agrees to restore ground to its original condition.

11. GRANTEE, in exercising the privileges granted by this easement, shall comply with the provisions of all valid Federal, State, County, and Municipal laws, ordinances, and regulations which are applicable to the subject tract and operations covered by this easement. GRANTEE shall neither commit nor permit any waste on the easement premises. GRANTEE shall take reasonable precautions to prevent pollution or deterioration of lands or waters which may result from the exercise of the privileges granted pursuant to this easement.

12. GRANTOR herein reserves the right to utilize said easement for access to and from the lands owned by GRANTOR on both sides of said easement. GRANTOR shall take reasonable precautions to prevent damage to the easement property, and shall repair any such damage at its sole expense.

13. It is expressly understood and agreed that the right herein granted is non-exclusive and GRANTOR hereby reserves the right to issue other non-exclusive easements, leases, or permits on or across the subject property where such uses are appropriate and compatible or to dispose of the property by sale or exchange. GRANTOR shall take reasonable precautions to prevent all persons with such a non-exclusive easement grant from damaging any utilities or other infrastructure or improvements installed by the GRANTEE or its agents or contractors. Any such damage shall be repaired by GRANTOR at no expense to GRANTEE. GRANTEE shall make a reasonable effort to mark the location of such utilities, infrastructure, or improvements.

14. GRANTOR expressly reserves the right to lease said land for the exploration, development and production of oil, gas and all other minerals, together with the right of ingress and egress across said easement; provided that no drilling of oil wells shall be conducted, nor will mining shafts be located within the boundaries of said easement. In the event GRANTOR exercises this right, GRANTOR shall provide written notice of such to GRANTEE as well as a reasonable time to vacate and/or remove GRANTEE's utilities, infrastructure, and improvements from the easement property.

15. GRANTEE agrees that the removal of ordinary sand and gravel or similar materials from the easement is not permitted except when the GRANTEE has applied for and received a materials permit from the GRANTOR.

16. GRANTEE agrees that no trees may be cut or removed from the easement except when the GRANTEE has applied for and received a small forest products permit or timber contract from the GRANTOR.

17. It is hereby understood and agreed that all treasure-trove and all articles of antiquity in or upon the subject lands are and shall remain the property of the GRANTOR. GRANTEE shall report any discovery of a "site" or "Specimen" to the GRANTOR and the Division of State History in compliance with Section 9-8-305 Utah Code Annotated (1953) as amended.

18. GRANTOR claims title in fee simple, but does not warrant to GRANTEE the validity of title to these premises. GRANTEE shall have no claim for damages or refund against the GRANTOR for any claimed failure or deficiency of GRANTOR'S title to said lands or for interference by any third party.

19. GRANTOR reserves the right to inspect the easement property and recall GRANTEE for correction of any violations of the above stipulations. If the GRANTEE fails to correct such violations within a reasonable time the GRANTOR may, after thirty (30) days written notice, re-enter and terminate this grant.

20. This easement is granted pursuant to the provisions of all applicable laws and subject to the rules of the departments and agencies of the State of Utah presently in effect and to such laws and rules as may be hereafter promulgated by the State.

21. Any notice contemplated herein to be served upon GRANTEE shall be in writing and shall be deemed sufficient if deposited in the United States, mail, postage prepaid and certified or registered, and addressed as follows:

TOOELE CITY CORPORATION
90 North Main
Tooele, UT 84074

or at any such other address as GRANTEE may from time to time designate by written notice to GRANTOR. Such written notice shall constitute and be accepted by the Parties as an amendment to this paragraph of this EASEMENT.

This EASEMENT shall be interpreted and governed by the laws of the State of Utah and the provisions hereof shall inure to and be binding upon the successors and assigns of the Parties.

IN WITNESS WHEREOF, the State of Utah, by and through the School and Institutional Trust Lands Administration, has caused these presents to be executed this 20th Day of April, 19 98 by the Director.

GRANTOR: STATE OF UTAH
School of Institutional
Trust Lands Administration
657 East 500 South, Suite 500
Salt Lake City, Utah 84102-2818

By: David T. Terry
David T. Terry, Director

GRANTEE: TOOELE CITY CORPORATION
90 North Main
Tooele, UT 84074

By: Charlie Roberts
Mayor Charlie Roberts

APPROVED AS TO FORM
JAN GRAHAM
ATTORNEY GENERAL

BY: John W. Graham
Special Assistant Attorney General

STATE OF UTAH)
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COUNTY OF SALT LAKE)

On the 20 day of April, 1998, personally appeared before me David T. Terry, who being duly sworn did say that he is the Director of the Utah School and Institutional Trust Lands Administration, and authorized to execute the above instrument.

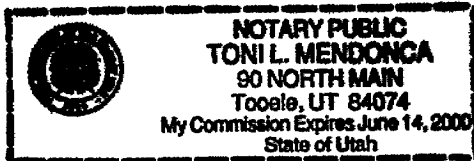
My commission expires



Dana Henson
Notary Public

STATE OF UTAH)
 : §
COUNTY OF Tooele)

On the 15th day of April, 1998 personally appeared before me Mayor Charlie Roberts, who being duly sworn did say that he is the Mayor of Tooele City, and authorized to execute the above instrument.



Toni L. Mendonca
Notary Public