

FD-44167

08-075-0055, 0065, 0064, 0063

0031, 0027

EASEMENT DOCUMENT: RW 3.10

PARCEL No.: 225:2EQ1

UDOT PROJECT No.: SP-0067(1)0

UDOT DESIGN PACKAGE: 5-UT-4/5-UT-5

USBOR CONTRACT No.: 01-LM-40-02040

COUNTY: DAVIS

GRANTOR: UTAH DEPARTMENT OF TRANSPORTATION

GRANTEE: BUREAU OF RECLAMATION

Contract No. 01-LM-40-02040

E 2502250 B 4929 P 1540-1549

RICHARD T. MAUGHAN

DAVIS COUNTY, UTAH RECORDER

12/28/2009 03:09 PM

Fee \$0.00 Pgs: 10

DEP RT REC'D FOR FOUNDERS TITLE CO  
- LAYTON

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

1.8R 0.01L and 1.8R 0.02L West Farmington Laterals

CONTRACT AND GRANT OF EASEMENT

THIS CONTRACT AND GRANT OF EASEMENT (Contract), made this 15th day of December, 2009, in pursuance of the Act of June 17, 1902 (32 Stat. 368), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as the Reclamation Laws, and particularly pursuant to Section 14 of the Act of August 4, 1939 (53 Stat. 1187), between the UNITED STATES OF AMERICA, represented by the officer executing this instrument, hereinafter referred to as the United States and the UTAH DEPARTMENT OF TRANSPORTATION, an agency of the State of Utah, hereinafter referred to as UDOT:

WITNESSETH, That:

WHEREAS, the United States constructed the Weber Basin Project, including the West Farmington Lateral, for the purpose of storing and delivering water; and

WHEREAS, the Weber Basin Water Conservancy District (District) operates and maintains the Weber Basin Project under contract with the United States; and

WHEREAS, UDOT is responsible for constructing a highway project known as Highway Project No. SP-0067(1)0; and

WHEREAS, land presently owned by UDOT is subject to an easement in favor of the United States which easement was acquired by the United States for the purpose of constructing, operating, and maintaining the West Farmington Laterals, a facility of the Weber Basin Project; and

WHEREAS, UDOT, incident to its Highway Project No. SP-0067(1)0, requires the relocation of a portion of a water delivery system owned by the United States, more particularly known as the 1.8R 0.01L and 1.8R 0.02L West Farmington Laterals and associated facilities/structures (Lateral) and also requires closure of the A-6-

3.OR Drain (Drain); and

WHEREAS, relocation of the Lateral will not adversely impact the Weber Basin Project; and

WHEREAS, the United States does not object to the relocation of a portion of the Lateral, provided said relocation is accomplished at the sole expense of UDOT and at no expense to the United States and in a manner satisfactory to the United States and the District; and

WHEREAS, the relocation of the Lateral will require UDOT to grant a new easement to the United States for the relocated Lateral and will require the United States to release the original easement at the original location of the Lateral; and

NOW, THEREFORE, in consideration of the mutual agreements herein contained, the parties hereto do covenant and agree as follows:

1. UDOT does hereby grant, with covenants of warranty, and by this Contract convey to the United States of America and its assigns free of lien or encumbrance, except as otherwise provided herein, the following-described interests in real property, situated in the County of Davis, State of Utah, to-wit:

Exclusive Perpetual Easements for the construction, reconstruction, operation, maintenance, repair and replacement (including ingress and egress) of a portion of 1.8L West Farmington Lateral, and appurtenant parts thereof, being a variable width strip of land located in the SW 1/4 of Section 13 and NW 1/4 of Section 24, T. 3 N., R. 1 W., S.L.B. & M., Davis County, Utah, said easements identified as UDOT Parcel 225:2EQ1, Project No. SP-0067(1)0, more particularly described as follows:

Beginning at a point that is approximately Bureau of Reclamation Station 16+34.28 (6.20 RT.) on the West Farmington Lateral 1.8R-0.01L, said point also being North 89°53'50" East a distance of 209.173 meters (686.26 feet) along the south line of the Southwest Quarter of said Section 13, and South a distance of 122.782 meters (402.83 feet) from the Southwest corner of said Section 13;

and running thence North 45°27'00" West a distance of 3.044 meters (9.99 feet) to the southeasterly Right-of-Way and N/A line of Park Lane as described in Warranty Deed recorded May 22, 2001 as entry number 1662684; thence North 44°33'04" East along said southeasterly and N/A line a distance of 154.790 meters (507.84 feet); thence North 41°49'17" East along said southeasterly and N/A line a distance of 58.167 meters (190.84 feet) to the edge of an existing water line easement as found at Book 244, Page 623, said point also being approximately Bureau of Reclamation Station 5+71.54 (12.50 LT.) on the West Farmington Lateral 1.8R-0.02L; thence North 89°01'11" East a distance of 8.298 meters (27.22

feet) along the edge of said easement to approximately Bureau of Reclamation Station 5+98.80 (12.50 LT.) on the West Farmington Lateral 1.8R-0.02L; thence South 41°49'17" West a distance of 63.805 meters (209.33 feet); thence South 44°32'55" West a distance of 155.080 meters (508.79 feet); thence North 45°27'00" West a distance of 3.044 meters (9.99 feet) to the point of beginning.

Containing 1,314 square meters (14,144 SQ. FT.), more or less.

(See Exhibit RW 3.10 / RW 3.11)

Basis of Bearing: Legacy metric coordinate system  
Base point: SW Corner of S13, T3N, R1W  
End Point: S  $\frac{1}{4}$  Corner of S13, T3N, R1W  
Legacy Metric Bearing = N 89°53'50" E  
Davis County Feet Bearing = N 89°48'27" E  
(Rotate bearings counter-clockwise by 0°05'23" to convert from Legacy Metric to Davis County Feet)

(a) UDOT warrants that it is the sole owner of the above-described perpetual easement and that no prior easements and/or lease agreements exist that will interfere with the easement granted herein. UDOT agrees to provide proof of easement ownership at its own expense in the form of a title insurance policy or equivalent. UDOT further agrees that, in the event said property is financially encumbered, it will obtain a consent to easement at its own expense covering the above-described easement from any and all lien holders. Upon approval of UDOT's unencumbered title by the United States, the contract will be executed on behalf of the United States. The expense of recording this Contract and subsequent proof of easement ownership in the name of the United States on "ALTA U.S. Policy - 9/28/91" shall be borne by UDOT.

(b) It is understood and agreed that the rights to be granted to the United States, as described in paragraph 1 hereof, shall be free from lien or encumbrances except: (i) coal, oil, gas and other mineral rights reserved to or outstanding in third parties as of the date of this contract, (ii) rights of way for roads, railroads, telephone lines, transmission lines, ditches, conduits, or pipelines on, over, or across said lands in existence on such date; and (iii) court liens, judgments or financial encumbrances, such as Deeds of Trust, for which a formal consent has been obtained from the court or lien holder.

2. UDOT agrees the relocation of the Lateral will be accomplished at UDOT's sole expense and at no expense to the United States or the District, their successors or assigns. UDOT further agrees that said relocation will be accomplished in a manner satisfactory to the United States and the District within the easement area described in Article

1 hereof.

3. Subject to provisions of Federal and State law, UDOT agrees to indemnify and hold harmless the United States and the District against any and all loss or damage and from any liability on account of personal injury, property damage, or claims for personal injury or death arising from any rights covered under this Contract.

4. Grantor of Contract (Exhibit RW 3.10) referred to in 1(a) above may utilize the surface area within the perpetual easement to provide parking areas, ingress, egress and landscaping consistent with uses for commercial real estate developments as long as such use does not interfere with project operation and maintenance activities as per protection criteria found in Exhibit A (See Attached), nor endanger the Lateral or appurtenant facilities/structures. Such use shall be solely at Grantor's own risk and no compensation shall be paid to Grantor for loss or damage within the easement resulting from such use or resulting from the operation, maintenance, repair or replacement activities for said Lateral and appurtenant facilities/structures. No permanent structures and no trees or deep rooted shrubs may be placed or planted within the perpetual easement area without prior written approval by the United States.

5. Upon completion of the easement conveyance, as required by Article 1 above, and Lateral relocation to the satisfaction of the United States and the District, the United States agrees to execute and deliver to UDOT a Release of Easement **FOR THAT PORTION** of the original 1.8L West Farmington Lateral which were relocated and for the area occupied by the abandoned portion of the A-6-3.0R Drain as found in the following deeds:

Entry 295062, Book 337, Page 167;  
Entry N/A, Book 244, Page 623;  
Entry 313729, Book 376, Page 507;  
Entry 311334, Book 371, Page 307;  
Entry 311365, Book 371, Page 357.

6. UDOT warrants that the UDOT has not employed any person to solicit or secure this Contract upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the United States the right to annul the Contract, or in its discretion, to deduct from the contract price or consideration the amount of such commission, percentage brokerage, or contingent fees. This warranty shall not apply to commissions payable by contractors upon contracts or sales secured or made through bona fide established commercial or selling agencies maintained by the Grantor for the purpose of securing business with others than the United States.

7. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Contract, or to any benefit that may arise therefrom, but this restriction shall not be construed to extend to this Contract if made with a corporation or

company for its general benefit.

8. This Contract shall be binding upon and inure to the benefit of the heirs, successors, and assigns of the parties hereto.

9. The terms of this Contract shall survive the grant provided for herein.

10. This Contract is made pursuant to and as a part of the Legacy Parkway Utility and Third Party Work Agreement SP-0067(1)0 (Reclamation Agreement No. 01-CF-40-5290) dated March 21, 2001 (Agreement), and all Supplements to said Agreement, particularly Article 29 of Supplemental No. 1 dated June 13, 2001. All requirements as provided for in said Agreement and Supplements shall apply and be incorporated to this Contract. The terms of said Agreement are hereby made a part hereof as to UDOT=s responsibilities in connection with construction and relocation of said Lateral.

11. This Contract is also made pursuant to Contract No. 01-LM-40-02040, between the United States and UDOT, dated June 7, 2001, and recorded in Davis County as entry 018635.

IN WITNESS WHEREOF, the parties hereto have signed their names the day and year first above-written.

UTAH DEPARTMENT OF TRANSPORTATION

By: M. D. Martin

Title: Director of Right-of-Way

ATTEST:

By: \_\_\_\_\_

UNITED STATES OF AMERICA

By: Brent J. Olson  
Regional Director  
Bureau of Reclamation  
Upper Colorado Region

Approved:

Howard Johnson  
Regional Solicitor=s Office

Approved:

WEBER BASIN WATER CONSERVANCY DISTRICT

By: Jeff Hart  
Title: General Manager

## ACKNOWLEDGMENT OF THE UNITED STATES

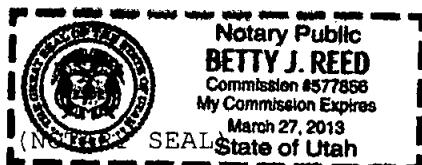
State of Utah )  
                  )  
                  ) ss.  
County of Salt Lake )

On the 15th day of December 2008, personally appeared before me Brent Rhoes, known to me to be the Acting Regional Director of the Bureau of Reclamation, Upper Colorado Region, United States Department of the Interior, the signer of the above instrument, who duly acknowledged to me that he executed the same on behalf of the United States of America.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Betty J. Reed

Notary Public in and for the  
State of Utah  
Residing at Salt Lake  
My Commission expires March 27, 2013



## ACKNOWLEDGMENT OF UDOT

State of Utah )  
                  )  
                  ) ss.  
County of Salt Lake)

On this 18th day of August, 2008, personally appeared before me Lyle D. McMillan, to me known to be the Director of ROW of the UTAH DEPARTMENT OF TRANSPORTATION, an Agency of the State of Utah, the signer of the above instrument, who duly acknowledged to me that he executed the same on behalf of the State of Utah, pursuant to the authority delegated to him.

Dian McGuire

Notary Public in and for the State of Utah  
Residing at West Valley  
My Commission expires 9/12/2010



EXHIBIT "A"

PROTECTION CRITERIA

- A. Surface structures that generally will be allowed to be constructed within United States rights-of-way include asphalt roadways, with no utilities within roadway, non reinforced parking lots, curbs, gutters and sidewalks, walkways, driveways. However, where United States system pipe has specific maximum and minimum cover designation the special requirements for roadways, parking lots and driveways crossing over the pipe shall be obtained from the United States for the maximum allowable external loading or minimum cover. **HOWEVER, IT IS UNDERSTOOD THAT ALL SURFACE STRUCTURES SHALL BE ANALYZED AND CONSIDERED ON AN INDIVIDUAL BASIS.**
- B. Structures that may not be constructed in, on, or along United States rights-of-way include but are not limited to, permanent structures such as fences, retaining walls, block walls, buildings, garages, decks, carports, trailers, and swimming pools as designated by the United States.
- C. No trees or vines will be allowed within the rights-of-way of the United States.
- D. All temporary or permanent changes in ground surfaces within United States rights-of-way are to be considered to be encroaching structures and must be handled as such. Earthfills and cuts on adjacent property shall not encroach onto United States rights-of-way without prior approval by the United States.
- E. Existing gravity drainage of the United States rights-of-way must be maintained. No new concentration of surface or subsurface drainage may be directed onto or under the United States rights-of-way without adequate provision for removal of drainage water or adequate protection of the United States rights-of-way.
- F. Prior to construction of any structure that encroaches within United States rights-of-way, an excavation must be made to determine the location of existing United States facilities. The excavation must be made by or in the presence of water users or the United States.
- G. Any contractor or individual constructing improvements in, on, or along United States rights-of-way must limit his construction to the encroaching structure previously approved and construct the improvements strictly in accordance with plans or specifications.
- H. The ground surfaces within United States rights-of-way must be restored to a condition equal to that which existed before the encroachment work began or as shown on the approved plans or specifications.
- I. The owner of newly constructed facilities that encroach on United States rights-of-way shall notify the United States and/or the District upon completion of construction and shall provide the

District with one copy and the United States with two copies of as-built drawings showing actual improvements in, on, or along the rights-of-way.

J. Except in case of ordinary maintenance and emergency repairs, an owner of encroaching facilities shall give the District at least 10 days notice in writing before entering upon United States rights-of-way for the purpose of reconstructing, repairing, or removing the encroaching structure or performing any work on or in connection with the operation of the encroaching structure.

K. If unusual conditions are proposed for the encroaching structure or unusual field conditions within United States rights-of-way are encountered, the United States reserves the right to impose more stringent criteria than those prescribed herein.

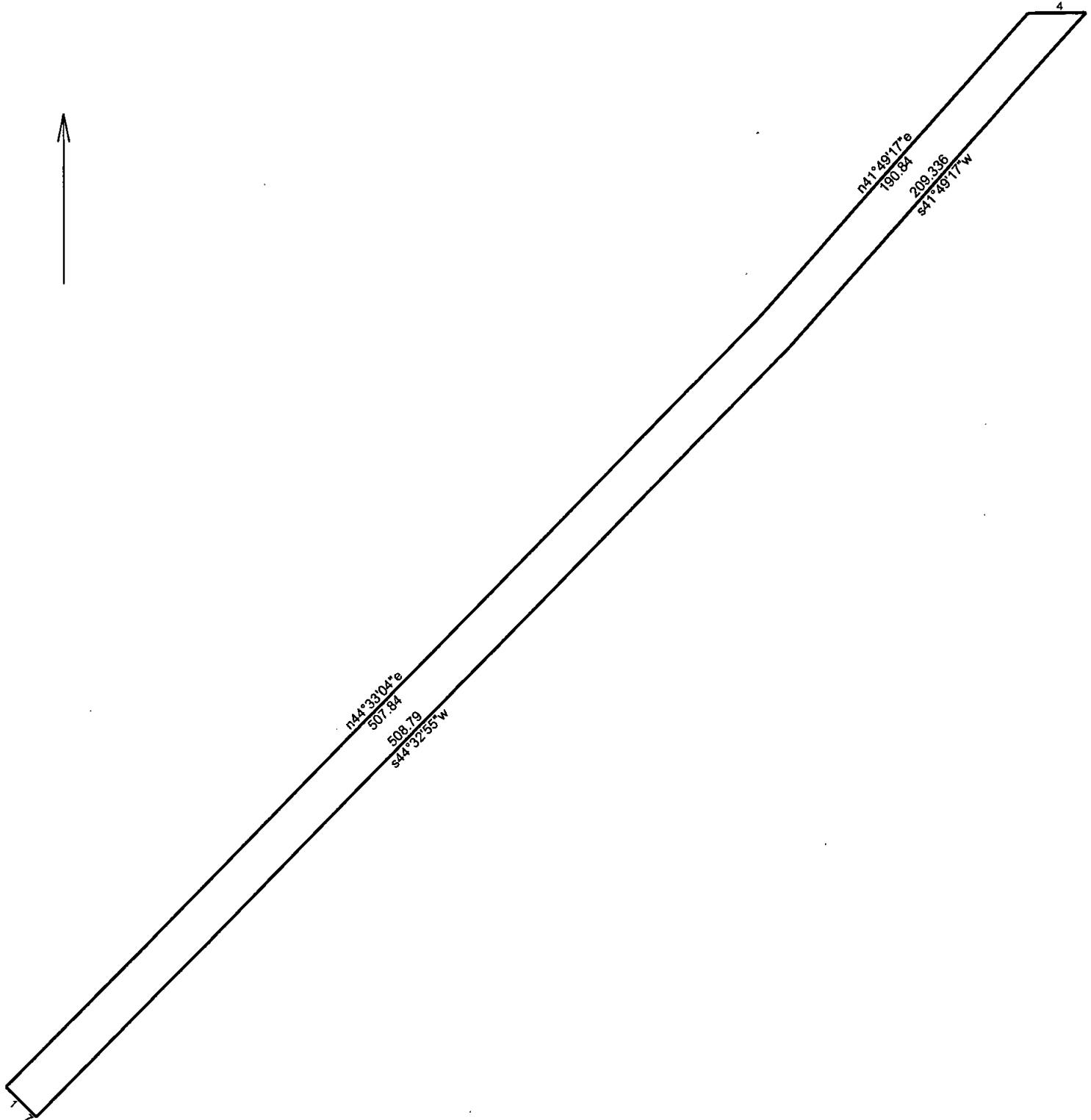
L. All backfill material within United States rights-of-way shall be compacted to 90 percent of maximum density unless otherwise shown. Mechanical compaction shall not be allowed within 6 inches of the projects works whenever possible. In no case will mechanical compaction using heavy equipment be allowed over the project works or within 18 inches horizontally of the projects works.

M. That the backfilling of any excavation or around any structure within the United States rights-of-way shall be compacted in layers not exceeding 6 inches thick to the following requirements: (1) cohesive soils to 90 percent maximum density specified by ASTM Part 19, D-698, method A; (2) noncohesive soils to 70 percent relative density specified by ANSI/ASTM Part 19, d-2049, par. 7.1.2, wet method.

N. Any nonmetallic encroaching structure below ground level shall be accompanied with a metallic strip within the United States rights-of-way.

O. Owners of encroaching facilities shall notify the United States and/or the District at least forty-eight (48) hours in advance of commencing construction to permit inspection by the United States and/or the District.

P. No use of United States lands or rights-of-way shall be permitted that involve the storage of hazardous material.



6/24/2008

Scale: 1 inch= 66 feet File: rw3.10-225\_2EQ1eq.ndp

Tract 1: 0.3247 Acres (14145 Sq. Feet), Closure: s47.1321e 0.01 ft. (1/165819), Perimeter=1464 ft.

01 n45.27w 9.99  
 02 n44.3304e 507.84  
 03 n41.4917e 190.84  
 04 n89.0111e 27.22  
 05 s41.4917w 209.336  
 06 s44.3255w 508.79

07 n45.27w 9.99