

RECORDED  
SEP 09 2014

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RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
09/09/2014 11:25 AM  
FEE \$0.00 Page 8  
DEP RTT REC'D FOR FOUNDERS TITLE C  
0 - LAYTON

WHEN RECORDED, MAIL TO:  
Utah Department of Transportation  
4501 South 2360 West  
P.O. Box 148420  
Salt Lake City, UT 84144-8420



## Utah Department of Transportation Right of Entry and Occupancy Agreement

Project No: E-115-7(301)213      Parcel No.(s): 101:C, 101:E

Job/Proj / Antn No: 54007      Pin No: 10944

Project Location: I-15: South Davis Operational Upgrades

County of Property: DAVIS      Tax ID / Sidwell No: 06-092-00-16

Property Address: 245 East 1100 North, NORTH SALT LAKE, UT 84054

Owner / Grantee (s): Salt Lake Terminal Company, a Delaware corporation

Owner's Address: 1232 Park Street, Suite 300, Pago Robles, CA 93446

Owner's Home Phone:      Owner's Work Phone: (805)226 2648

Acquiring Entity: Utah Department of Transportation (UDOT)

06-092-0046 pt

For the subject property described in the attached deed (Exhibit A).

This Right of Entry and Occupancy Agreement ("Agreement") is entered between Salt Lake Terminal Company, a Delaware corporation ("Property Owners") and Utah Department of Transportation (UDOT).

Property Owners hereby grant to UDOT, its contractors, permittees, and assigns, including but not limited to, utilities and their contractors, the right to occupy and commence construction or other necessary activity on the property sought to be acquired/occupied with this Agreement, and to do whatever construction, relocation of utilities, and other work as may be required in furtherance of the state transportation project, located on the property described in attached Exhibit A. This Agreement is made in anticipation of a possible condemnation action by UDOT and is intended to provide for the entry and occupancy of the property pending further negotiations or the filing and pursuit of condemnation proceedings and possible alternative informal proceedings as provided for in this Agreement. Property Owners understand that, by executing this Agreement, Property Owners have waived and abandoned all defenses to the acquisition of the property.

The sum of \$81,100.00 (the "Deposit") will be paid into escrow, a non-interest bearing account, at a title company for the benefit of Property Owners as consideration for entering into this Agreement. UDOT will be responsible for the expenses of the escrow account. This amount paid into escrow shall be deducted from a final settlement, award of arbitration, or other determination of just compensation in an eminent domain action should one be pursued to acquire the property that is determined to be necessary for the project. The amount paid will be for the purposes of this Agreement only, and will not be admissible as evidence in any subsequent process used to establish the value of the property or the amount of compensation that may be due to the Property Owners. Property taxes will be the responsibility of the Property Owners until transfer of the deed(s) to UDOT.

The parties to this Agreement understand that a title report may indicate that other third parties may have a claim to part of the proceeds being paid by UDOT to the Property Owners under this Agreement. UDOT will have the right to approve the release of the Deposit from escrow to Property Owners and to require a conveyance of the subject property from the Property Owners to UDOT prior to the release. It is not the intent of the Agreement to properly assess potential third-party claims. In the event it is later determined that part of the Deposit should properly be paid to other third parties, then UDOT will have the right to require that the third parties participate in the release of the Deposit or the Deposit will be applied to any remaining liens. In the event that UDOT desires to obtain title insurance in connection with the release of the deposit, UDOT will pay the premiums for the title coverage.

This Agreement is granted without prejudice to the rights of the Property Owners, pending any settlement, to contest the amount of compensation to be paid the Property Owners for the property described in Exhibit A. If

—RECORDED'S MEMO—  
LEAVING A COPY OR PRINTING  
INDEXED / FILED / IN THE DOCUMENT  
VIA E-FILE RECEIVED

Project No F-115-7(301)313 Parcel No.(s). 101.C, 101.E

Job/Proj / Auth No 54007 Pin No 10944

Project Location. I-15, South Davis Operational Upgrades

County of Property. DAVIS Tax ID / Sidwell No 06-092-0046

Property Address 245 East 1100 North, NORTH SALT LAKE, UT 84054

Owner / Grantor (s) Salt Lake Terminal Company, a Delaware corporation

Owner's Address 1232 Park Street, Suite 300, Paso Robles, CA 93446

Owner's Home Phone Owner's Work Phone (805)226-2648

a satisfactory settlement can not be agreed upon, UDOT will, upon notice from the Property Owners that the amount of compensation offered and/or other proposed settlement terms are not acceptable, or at its own election, proceed to commence and diligently prosecute a condemnation proceeding in the appropriate court for a judicial determination of such compensation. If requested to do so by the Property Owners, UDOT will, prior to commencing a condemnation proceeding, enter into a mediation or arbitration procedure provided for in the Utah Code Annotated 78B-6-522 and 13-43-204 through the Office of the Property Rights Ombudsman.

If the Property Owner uses the property for a residence, business, or farming operation and is required to move as a result of UDOT's acquisition of the property, the Property Owners may be entitled to relocation assistance and/or payments as a displaced person. The relocation assistance and payment are available as a matter of right and subject to federal and state law if the Property Owners are displaced by the acquisition of this property and are not conditional upon the Property Owners signing this Right of Entry and Occupancy Agreement.

The effective date of the Right Of Entry and Occupancy Agreement shall be the date this Agreement is executed by the Property Owners, as shown below, and that date shall be the date of value for fair market valuation purposes in the context of settlement negotiations, arbitration, or an eminent domain proceeding, should one be necessary, unless the Property Owners have been previously served with a summons in regard to this property acquisition or the parties have otherwise agreed in writing to a different date for purposes of valuation. It is understood that, according to state law, any additional compensation that is ordered to be paid to the Property Owners for the acquisition of the property will include interest at an annual rate of 8 % on any additional compensation that is determined to be payable to the Property Owners over and above that paid with this Agreement, calculated from the date of entry upon the property.

**Exhibits:**

**ADDITIONAL TERMS:**

Grantor qualifies for a \$4,000.00 incentive payment by fully-executing this Right of Occupancy Agreement within 45 days of the offer date. This additional incentive will be in addition to the Deposit of \$81,100.00 noted above.

*[Signatures and Acknowledgments to Follow Immediately]*



## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

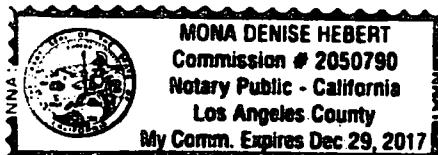
State of California

County of Los Angeles

on August 28, 2014 before me, Mona D. Hebert, Notary Public,  
Date Bill A. Hallett  
personally appeared Bill A. Hallett

Here Insert Name and Title of the Officer

Name(s) of Signer(s)



Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Mona D. Hebert  
Signature of Notary Public

### OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

#### Description of Attached Document

Title or Type of Document: Right of Entry and Occupancy Agreement  
Document Date: August 28 2014 Number of Pages: 3

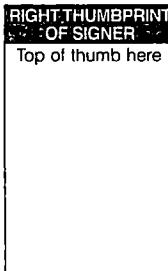
Signer(s) Other Than Named Above: Lyle McMillian

#### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

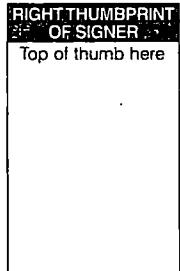


EXHIBIT A

PARCEL 101:C LEGAL DESCRIPTION

A parcel of land in fee for the widening of the existing 2600 South Street and known as Project No. F-I15-7(301)313, being part of an entire tract of property situate in the NE1/4SW1/4 and the NW1/4SW1/4 of Section 36, T. 2 N., R. 1 W., S.L.B. & M. The boundaries of said parcel of land are described as follows:

Beginning at a point in the southerly boundary line of said entire tract in the existing northerly right of way line of said 2600 South Street, which point is 420.13 ft (415.06 ft. by record) South along the section line and 2435.78 ft (2439 10 ft. by record) East and 1580.00 ft. West and 379 10 ft. South and 393.19 ft. S. 89°29'06" E. (Easterly by record) from the Northwest Corner of the Southwest Quarter of said Section 36, said corner is also 24.76 ft. perpendicular distance northerly from the 2600 South Street Control Line opposite approximate engineer station 2599+97.80, and running thence N. 88°27'31" E. 403.49 ft. to a point 40.00 ft. perpendicular distance northerly from said control line opposite engineer station 2604+01.00; thence N. 86°43'13" E. 107.25 ft. to a point 47.30 ft. perpendicular distance northerly from said control line opposite engineer station 2605+08.00; thence N. 88°16'57" E. 53.87 ft. to a point 49.50 ft. perpendicular distance northerly from said control line opposite engineer station 2605+61.82 to the beginning of a 760.25-foot radius non-tangent curve to the left; thence Easterly 47.20 ft along the arc of said curve (Note: Chord to said curve bears N. 88°50'41" E. for a distance of 47.19 ft.) to a point 49.50 ft. radially distance northerly from said control line opposite engineer station 2606+12.09 to the easterly boundary line of said entire tract; thence S. 00°28'50" W. 25.05 ft along said easterly boundary line to the Southeast corner of said entire tract and said existing northerly right of way line; thence N. 89°29'06" W. (Westerly by record) 611.25 ft. along said existing northerly right of way line to the point of beginning as shown on the official map of said project on file in the office of the Utah Department of Transportation. The above described parcel of land contains 7,204 square ft. in area or 0.165 acre, more or less.

(Note: Rotate all bearings in the above description 00°09'09" counter-clockwise to obtain highway bearings.)

PARCEL 101:E LEGAL DESCRIPTION

A temporary easement, upon part of an entire tract of property, in the NE1/4SW1/4 and the NW1/4SW1/4 of Section 36, T. 2 N., R. 1 W., S.L.B. & M., in Davis County, Utah, to facilitate the construction of driveway and roadway improvements, side treatments and appurtenant parts thereof and blending slopes, incident to the widening of the existing 2600 South Street known as Project No. F-I15-7(301)313. This easement shall commence upon the beginning of actual construction on the property and shall continue only until project construction on the property is complete, or for three years, whichever first occurs. The easement shall be non-exclusive such that the Grantor may use the property at any time in a manner which does not interfere with construction activities. The boundaries of said part of an entire tract of land are described as follows:

EXHIBIT A

Beginning at a point in the southerly boundary line of said entire tract in the existing northerly right of way line of said 2600 South Street, which point is 420.13 ft. (415.06 ft. by record) South along the section line and 2435.78 ft. (2439.10 ft. by record) East and 1580.00 ft. West and 379.10 ft. South and 393.19 ft. S. 89°29'06" E. (Easterly by record) from the Northwest Corner of the Southwest Quarter of said Section 36, said corner is also 24.76 ft. perpendicular distance northerly from the 2600 South Street Control Line opposite approximate engineer station 2599+97.80; and running thence N. 00°37'24" E. 21.24 ft.; thence S. 89°22'36" E. 52 20 ft. along a line parallel with said control line; thence S. 00°37'24" W. 9 26 ft.; thence N. 88°27'31" E. 347.75 ft., thence N. 00°37'24" E. 30.53 ft.; thence N. 88°18'09" E. 113.59 ft.; thence S. 00°37'24" W. 27.57 ft.; thence N. 88°16'57" E. 50.66 ft. to the beginning of a 750.25-foot radius non-tangent curve to the left; thence Easterly 42.37 ft. along the arc of said curve (Note: Chord to said curve bears N. 89°01'16" E. for a distance of 42.36 ft.); thence N. 00°28'50" E. 69.46 ft.; thence N. 85°00'02" E. 5 02 ft. to the easterly boundary line of said entire tract; thence S. 00°28'50" W. 79.68 ft. along said easterly boundary to the beginning of a 760.25-foot radius non-tangent curve to the right; thence Westerly 47.20 ft. along the arc of said curve (Note: Chord to said curve bears S. 88°50'41" W. for a distance of 47.19 ft.); thence S. 88°16'57" W. 53 87 ft.; thence S. 86°43'13" W. 107 25 ft.; thence S. 88°27'31" W. 403.49 ft. to the point of beginning. The above described part of an entire tract of land contains 10,299 square ft. in area or 0.236 acre, more or less.

(Note: Rotate all bearings in the above description 00°09'09" counter-clockwise to obtain highway bearings.)

## **ROO Action Plan for Parcels 101:C, 101:E**

Project Location: I-15; South Davis Operational Upgrades  
Project No. F-I15-7(301)313

PIN No: 10944 Authority No: 54007

## Introduction

The property owner, Salt Lake Terminal Company, is a joint venture between Phillips 66 and Sinclair Oil. Tracey Gutierrez, the authorized owner representative, was presented with the offer for a partial fee acquisition and temporary construction easement on July 17, 2014. Terms of the Right of Way Contract had not been resolved so a Four Options Letter was sent on August 22, 2014. The owner has agreed to allow UDOT access and possession of the property while issues regarding contract language, cost to cure compensation, and the owner's internal environmental requirements are resolved. A Right of Occupancy Agreement was executed on August 28, 2014

## Issues

- 1) The Legal Department for Phillips 66 is requesting that the property be transferred to UDOT "as is". UDOT legal has reviewed and rejected their requested contract language, which was:

Grantor will transfer and Grantee will accept the property in its current "as is" condition. Grantee acknowledges that Grantor makes no representation or warranty regarding the Property, including but not limited to, any representation or warranty regarding the physical condition of the Property, the suitability of the Property for Grantee's needs or purposes, or the presence or absence of hazardous materials on the Property.
- 2) The Legal Department for Phillips 66 is requesting that "bio fuel production" be deleted from the list of "Transportation Purposes" in Item 6 of the Right of Way Contract. UDOT legal has reviewed and rejected this change.
- 3) The Legal Department for Phillips 66 does not wish to waive any rights and has requested Item 7 of the Right of Way Contract be amended to read:

The Grantor(s) is aware that Utah Code Ann. Sect. 78B-6-520.3 provides that in certain circumstances, the seller of property which is being acquired for a particular public use is entitled to receive an offer to repurchase the property at the same price that the seller received before the property can be put to a different use. Grantor wishes to retain any right Grantor may have to repurchase the property being acquired herein under Utah Code Ann. Sect. 78B-6-520.3.

UDOT rejected this amendment to the Right of Way Contract.

4) An inactive monitoring well is located within the fee acquisition parcel, along with UST (underground storage tanks) as noted in the Phase 1 ESA that was performed for this project.

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## ROO Action Plan for Parcels 101:C, 101:E

- 5) The approved cost-to-cure compensation did not include the cost to replace the crash cable in their security gate and fencing. It also did not include the cost to relocate/replace a frost free water hydrant that is located within the temporary easement area. The bids obtained to date only showed the proposed costs for the temporary relocation of the fencing, gate, com box, and lighting, etc. and did not include moving them to their permanent location when the temporary easement expires.

### Action Plan to Complete ROO

- 1) Agent submitted a draft of the Right of Way Contract with UDOT's comments to their proposed redlines to the owner representative. Phillips 66 Legal Department is reviewing UDOT's comments to determine their risk if they execute the Contract without the requested changes. This action also applies to Issues 2 and 3 above.
- 2) Phillips 66 Environmental Department is processing their requirements for vacating the monitoring well. They are also looking at ways to mitigate their risk from transferring the property to UDOT and retaining liability for any hazardous materials.
- 3) The local owner representative, Curt Sherman, is obtaining bids for the total cost to relocate the items noted in the appraisal, as well as the crash cable and frost free water hydrant that were overlooked. The Just Compensation will likely need to be increased to cover these costs.
- 4) Agent will continue to follow up and discuss options on a weekly basis until a determination is made, no later than (UDOT deadline).
- 5) If a Right of Way Contract has not been executed by the 30th day following the ROO execution date, a ROO Three Options Letter will be sent out the next business day, on Monday, 9/29/2014.
- 6) If a Contract has not been executed within 45 days of execution of the ROO, Agent will prepare one original and one copy of the condemnation file and submit to UDOT on or about 10/13/2014.

Date: 29-Aug-2014

  
Jill Cates (Consultant) / Acquisition Agent

Imported Into ProjectWise

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