

**AFTER RECORDING,
PLEASE RETURN TO:**
School and Institutional
Trust Lands Administration
675 E. 500 S., Suite 500
Salt Lake City, Utah 84102

ROAD DEDICATION AND EASEMENT AGREEMENT NO. 2570

Fund: Reservoirs

This Road Dedication and Easement Agreement No. 2570 (this “**Agreement**”), dated November 22, 2022 (the “**Effective Date**”), is between the School and Institutional Trust Lands Administration, on behalf of the State of Utah as trustee for the trust land beneficiaries (“**SITLA**”), with an address at 675 E. 500 S., Suite 500, Salt Lake City, Utah 84102 and Tooele Industrial Land Holdings, LLC, a Utah limited liability company (“**Grantee**”), with an address at 423 W. Broadway, Suite 230, Salt Lake City, Utah 84101.

RECITALS

A. SITLA manages lands held in trust by the State of Utah for the benefit of certain named beneficiaries (“**Trust Lands**”), pursuant to Sections 6, 8, and 12 of the Utah Enabling Act, Article XX, Section 2 of the Utah State Constitution, and Title 53C of the Utah Code.

B. Grantee has requested and SITLA has agreed to grant Grantee an easement across Trust Lands on the terms and conditions of this Certificate.

The parties agree as follows:

1. Grant of Easement/Purpose. SITLA hereby grants Grantee a non-exclusive easement (the “**Easement**”) over and across those trust lands described on *Exhibit A-1* and depicted on *Exhibit A-2* (the “**Easement Lands**”). Grantee may use the Easement Lands to construct, operate, repair, and maintain a public access road and utilities (the “**Facilities**”), and activities reasonably incident to that use (the “**Permitted Uses**”).

2. Temporary Construction and Grading Easements. SITLA hereby conveys to Grantee a temporary construction and grading easement (the “**Temporary Construction Easement**”) over and across those Trust Lands that are 50 feet on one side of the Easement Lands, to the extent SITLA owns such lands (the “**Temporary Construction Easement Lands**”), for use during the grading and construction of the Facilities. The Temporary Construction Easement commences on the Effective Date and continues until the earlier of (i) completion of construction of the Facilities, or (ii) three years from the Effective Date. On expiration of the Temporary Construction Easement, Grantee shall reclaim and re-seed the Construction Easement Lands to prevent soil erosion, promote the establishment of suitable vegetation, and control noxious weeds and pests.

3. **Term of Easement.** This Agreement commences on the Effective Date and continues for 30 years from the Effective Date (the “**Term**”), unless otherwise terminated pursuant to this Agreement.

4. **Purchase Price.** Grantee shall pay SITLA \$21,518 (the “**Purchase Price**”) as consideration for the Easement.

5. **Dedication of Roadway; Reservations.** On request of Grantee, SITLA shall dedicate the Easement Lands to Tooele City as a public roadway, subject to Sections 6.1 (*General Reservations*), and 6.2 (*Valid Existing Rights*), by executing a recordable final plat, as the final plat is approved by SITLA in its reasonable discretion. A dedication of the Easement Lands will be subject to the following reservations:

5.1. **General Reservations.** SITLA reserves to the trust land beneficiaries:

(a) all coal, oil, gas, and other hydrocarbons, all geothermal resources, and all other mineral deposits located in or on the Easement Lands, along with the right to reasonably access and use the Easement Lands to explore for, develop, and extract those mineral deposits;

(b) all sub-surface void and pore spaces in the Easement Lands whether naturally existing or created upon the removal of coal, oil and gas and other mineral deposits, and the right to reasonably access and use the Easement Lands and to use those sub-surface void and pore spaces for any purpose; and

(c) an access and utility easement across the Easement Lands as may be necessary and reasonable to access other lands administered now or in the future by the School and Institutional Trust Lands Administration.

5.2. **Valid Existing Rights.** The Easement Lands are subject to all valid, existing rights including without limitation those encumbrances listed on *Exhibit B*, and any other encumbrance in existence as of the Effective Date.

5.3. **Preservation Easement for Archaeological Specimens.** SITLA reserves to the State a preservation easement on all archaeological specimens, values, contexts, features, and deposits located on the Easement Lands.

6. **Engineering Drawings; SITLA’s Approval.** At least 45 days prior to constructing the Facilities, Grantee shall submit to SITLA for its approval, which approval SITLA may not unreasonably withhold, all engineering drawings for the Facilities. Within 30 days after receipt of the engineering drawings, SITLA may request changes if it determines that they do not meet the requirements for a public road in Tooele City or would otherwise impair the value of adjacent Trust Lands. Grantee shall incorporate any requested changes unless it determines that the requested changes would negatively impact access to adjacent lands or significantly increase the costs of the Facilities, in which case the parties shall work cooperatively to settle the dispute. SITLA’s failure to respond within 30 days of receipt of the engineering drawings will be deemed an approval.

7. Notice to Existing Users. Grantee represents that it has notified those holders of state-issued interests in the area surrounding the Easement Lands listed in *Exhibit B* (“**Existing Users**”) of Grantee’s rights and plans for the Easement. Grantee may not unreasonably interfere with or cause damage to the Existing Users in the location and construction of the Facilities and use of the Easement.
8. No Cost to SITLA. Grantee shall pay all costs and expenses arising out of or related to the construction, operation, and maintenance of the Facilities. Grantee shall perform all work connection with the Easement in a workmanlike manner.
9. No Warranty of Title. SITLA disclaims all warranties of title to the Easement Lands. Grantee assumes the risk of all title defects, and hereby releases SITLA from any claim for damages or refund caused by deficiency or failure of SITLA’s title, or by interference by any third party.
10. Easement Non-Exclusive; Access. The Easement is non-exclusive, and SITLA reserves the right to issue other non-exclusive easements, leases, or permits on or across the Easement Lands on terms that will not unreasonably interfere with the rights granted to Grantee in this Agreement. SITLA may also use the Easement Lands for any purpose that is not inconsistent with the purposes for which this Easement is granted. SITLA further reserves the right to dispose of the Easement Lands by sale, lease or exchange, and the right to utilize the Easement Lands for access to and from lands owned by SITLA on both sides of the Easement Lands, including the construction of road and utility crossings.
11. Bond. SITLA may require at any time during the Term that Grantee post a bond with SITLA to secure Grantee’s full compliance with the terms of this Agreement. The bond must be issued by a surety company rated A3 or better by Moody’s or A- or better by S&P (or an equivalent rating from another nationally recognized statistical rating organization acceptable to SITLA) and be authorized to transact business in the State of Utah. SITLA may in its reasonable discretion request that Grantee increase the amount of any posted bond. The amount of the bond does not limit Grantee’s liability under this Agreement.
12. Relocation; Limitations; Cost Borne by SITLA. SITLA may at its expense relocate or modify the Easement, in whole or in part, as SITLA deems necessary in its sole discretion to accommodate SITLA’s use of the Easement Lands or the adjoining lands for any purpose. SITLA shall ensure that the relocated or modified Easement provides Grantee with access that is adequate for the Permitted Uses.
13. Reservation of Minerals; Leasing. SITLA reserves the right to lease the Easement Lands for the exploration, development, and production of oil, gas, and all other minerals, together with the right of ingress and egress across the Easement Lands. This Agreement does not give Grantee any right to remove or utilize sand and gravel or any other material without a separate permit from SITLA.
14. Inspection. SITLA and its agents may at any time access the Easement Lands to examine or inspect the condition of the Easement Lands and determine if Grantee is in compliance with this Agreement.

15. Compliance with Law; Standards. Grantee shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to its use of the Easement Lands, whether now in existence or hereafter enacted, including without limitation any regulations enacted by SITLA or a successor agency. Grantee shall construct, operate and maintain the Facilities in accordance with applicable building codes and industry best practices, and shall take all precautions reasonably necessary to avoid waste and prevent pollution or deterioration of lands and waters within or in the vicinity of the Easement Lands.

16. Assignment. Grantee may not assign or sublease all or part of this Agreement without SITLA's prior written consent. Any assignment or sublease made without SITLA's written consent will be void as from the date of the purported assignment or sublease. An assignment or sublease does not relieve Grantee of its liabilities and obligations under this Agreement.

17. Removal of Timber. Grantee may not cut or remove trees from the Easement Lands without first obtaining a small forest products permit or timber contract from SITLA.

18. As-Built Survey. After completion of construction of the Facilities, upon written request by SITLA, Grantee shall provide SITLA with an as-built survey prepared by a licensed Utah engineer or surveyor depicting in detail all of Grantee's improvements located on the Easement Lands. Grantee shall update the as-built survey as material improvements are added, removed, or replaced by Grantee.

19. Cultural, Archaeological, Paleontological, and Antiquities Resources.

19.1. Pursuant to all applicable laws regarding cultural, archaeological, paleontological, and antiquities resources, and pursuant to Utah Administrative Code R850-60-900, upon discovery of a Site, Historic Property, Remains, Antiquities, or Critical Paleontological Resources, Grantee shall immediately cease all activities until such time as the discovery has been evaluated and treated to SITLA's satisfaction. All Specimens are and will remain the property of the State of Utah.

19.2. Definitions in this clause:

- (a) "Antiquities" is defined in Utah Code § 76-6-901(1).
- (b) "Critical Paleontological Resources" is defined in Utah Code § 79-3-102(4).
- (c) "Cultural Resources" is defined in Utah Administrative Code R850-1-200(8).
- (d) "Cultural Resource Survey" is defined in Utah Administrative Code R850-1-200(9).
- (e) "Historic Properties" is defined in Utah Code § 9-8-302(10).
- (f) "Remains" is defined in Utah Code § 9-9-402(12).

(g) “Site”, for purposes of archaeology, is defined in Utah Code § 9-8-302(17) and Utah Administrative Code R850-1-200(31), and for paleontological, is defined in Utah Code § 79-3-102(14) and Utah Administrative Code R850-1-200(20).

(h) “Specimen”, for purposes of archaeology, is defined in Utah Code § 9-8-302(18) and Utah Administrative Code R850-1-200(33), and for paleontological, is defined in Utah Code § 79-3-102(15).

20. **Wildfire.** Grantee shall at all times take reasonable precautions to prevent wildfires from starting or spreading on the Easement Lands, and shall comply with all applicable laws, regulations and directives of any governmental agency having jurisdiction with respect to fire prevention and control. If Grantee or its employees, contractors or licensees cause a wildfire that necessitates suppression action, Grantee shall pay the costs of any necessary fire suppression activities incurred as a result of the wildfire, in accordance with Utah law.

21. **Intermediate Reclamation.** Grantee shall use reasonable efforts to reclaim disturbed areas not required for continuing operations by leveling, reseeding and other reasonably necessary steps to prevent soil erosion, promote the establishment of suitable vegetation, and control noxious weeds and pests.

22. **Fill Materials and Waste.** Grantee shall not allow any deposit of ballast, refuse, garbage, waste matter, chemical, biological or other wastes or pollutants within or upon the Easement Lands by Grantee or its agents, employees or contractors. If the Grantee fails to remove all fill material, wastes or materials described above from the Easement Lands, SITLA may at its option remove such materials and charge the Grantee for the cost of removal and disposal.

23. **Hazardous Conditions.** Grantee may not permit and shall abate any hazardous condition on or associated with its use of the Easement Lands.

24. **Grantee Breach; Cure; SITLA’s Right to Terminate.** If SITLA determines that Grantee has breached this Agreement, SITLA may send notice of violation to Grantee specifying the particular breach. Grantee shall cure the default within 30 days of SITLA’s notice of breach, or if the cure requires a period longer than 30 days to complete, shall commence to effect the cure within such 30-day period and diligently pursue such cure thereafter. If Grantee fails to cure the default within 30 days or if the cure requires longer than 30 days, to commence the cure within 30 days and diligently pursue the cure thereafter, then SITLA may terminate this Agreement by giving notice to Grantee of termination.

25. **Termination.**

25.1. **Termination by Dedication.** This Agreement terminates, except as to the Temporary Construction Easement, if SITLA dedicates the Easement Lands to Tooele City pursuant to Section 5 (*Dedication of Roadway*) (“**Termination by Dedication**”). On Termination by Dedication, the Easement Lands will become the property of Tooele City and the parties will have no more rights or obligations to the other with respect to the Easement or the Easement Lands.

25.2. Termination by SITLA. SITLA may terminate this Agreement if the Facilities are not substantially completed by the third anniversary of the Effective Date.

25.3. Termination by Grantee. Grantee may terminate this Agreement at any time by giving SITLA notice of termination.

25.4. No Refund of Purchase Price. If this Agreement terminates early for any reason, Grantee is not entitled to any refund of the Purchase Price.

25.5. Reclamation. On expiration or earlier termination of this Agreement, other than Termination by Dedication, SITLA may require by notice to Grantee that Grantee remove the Facilities and re-contour and re-seed the Easement Lands to their approximate original condition, to prevent soil erosion, promote the establishment of suitable vegetation, and control noxious weeds and pests (“**Reclamation Activities**”). Within 60 days of notice from SITLA, Grantee shall complete the Reclamation Activities. Grantee may re-enter the Easement Lands for reclamation purposes after termination of the Easement Agreement. If Grantee does not complete the Reclamation Activities within 60 days of Grantee’s receipt of written notice from SITLA, SITLA may conduct the Reclamation Activities, at the cost and expense of Grantee.

25.6. Quitclaim Deed. Following the expiration or termination of this Agreement, other than Termination by Dedication, Grantee shall execute, acknowledge, and deliver to SITLA a quitclaim deed or other document as reasonably requested by SITLA to remove the cloud of this Agreement from title to the Easement Lands.

25.7. Satisfaction of Liabilities and Obligations. Within a reasonable amount of time after expiration or the earlier termination of this Agreement, Grantee shall satisfy all liabilities and fulfill all obligations that remain outstanding at the date of termination.

26. General Provisions.

26.1. Notice. The parties shall send all communications and notices to the other in writing and addressed as follows:

Grantee: Tooele Industrial Land Holdings, LLC
 423 W. Broadway, Suite 230
 Salt Lake City, Utah 84101

SITLA: State of Utah
 School and Institutional Trust Lands Administration
 675 East 500 South, Suite 500
 Salt Lake City, Utah 84102-2818

or at any such other address as a party may designate by written notice to the other party. The parties may deliver communications by hand delivery, United States mail, postage prepaid and certified or registered, or by commercial carrier.

26.2. **Indemnity.** Grantee assumes liability for and shall indemnify and hold harmless SITLA, its officers, board of trustees, and employees for, from and against any and all liability and claims, including attorney's fees, of any nature imposed on, incurred by, or asserted against SITLA that in any way relates to or arises out of Grantee's activity or presence on the Easement Lands, unless such liability is caused by SITLA's sole negligence.

26.3. **Grantee Liable for Actions of Representatives.** Whenever this Agreement imposes obligations or liabilities on Grantee, those liabilities and obligations apply to actions or inactions of Grantee's officers, directors, owners, agents, employees, sublessees, assignees, contractors, subcontractors, invitees, and concessionaires. Grantee hereby assumes all liability arising from the actions or inactions of Grantee's officers, directors, owners, agents, employees, sublessees, assignees, contractors, subcontractors, invitees, and concessionaires on the Easement Lands or pursuant to this Agreement.

26.4. **Survival.** The following provisions survive termination of this Agreement: Sections 24 (Grantee Breach), 25 (Termination), 26.1 (Notice), 26.1 (Indemnity), 26.3 (Grantee Liable for Actions of Representatives), 26.7 (Governing Law; Venue), and 26.8 (No Waiver of Sovereign Immunity).

26.5. **Waiver of Breach.** A party's waiver of breach of any provision of this Agreement does not constitute a waiver of any preceding or succeeding breach of the same or any other provision of this Agreement.

26.6. **Severability.** If a court of competent jurisdiction finds any provision of this Agreement invalid, such determination will not affect the validity of any other provision of this Agreement.

26.7. **Governing Law; Venue.** This Agreement is governed by the laws of the State of Utah, without regard to its choice or conflicts of law principles. Grantee consents to the exclusive jurisdiction of the courts in the Third Judicial District Court for Salt Lake County, Utah, subject, however, to any legal requirement for prior exhaustion of administrative remedies.

26.8. **No Waiver of Sovereign Immunity.** This Agreement does not constitute a waiver of sovereign immunity of SITLA.

26.9. **Entire Agreement.** This Agreement sets forth all the promises, inducements, agreements, conditions, and understandings between the parties relative to the Easement, and there are no promises, agreements, conditions, or understandings, either oral or written, express or implied, between them other than as set forth in this Agreement. The parties may only amend this Agreement in a writing signed by both parties.

26.10. **Binding Effect.** The Easement and the terms of this Agreement constitute a covenant running with the land and are binding on and inure to the benefit of the parties and their respective successors and permitted assigns.

26.11. Counterparts and Electronic Signatures. The parties may execute this Agreement in counterparts, each of which when taken together will be deemed one and the same document. The parties may execute this Agreement by exchange of electronic signatures and such electronic signatures are enforceable against the signing party. The parties agree that an electronic version of this Agreement has the same legal effect and/or enforceability as a paper version as per Utah Code § 46-4-201.

[Remainder of page intentionally left blank]

The parties execute this Agreement as of the Effective Date.

STATE OF UTAH, SCHOOL AND
INSTITUTIONAL TRUST LANDS
ADMINISTRATION


Michelle E. McConkie
By: Michelle E. McConkie
Its: Director

Date: November 22, 2022

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 22nd day of November,
2022, by Michelle E. McConkie, the Director of the
School and Institutional Trust Lands Administration.

Alan Russell Roe
Notary Public

Seal: 

Approved as to form:
Sean D. Reyes, Attorney General

By: Kel. Brand
Special Assistant Attorney General

TOOELE INDUSTRIAL LAND HOLDINGS, LLC

Mich D D Batt

By: Michael D. Batt

Its: Manager

Date: November 22, 2022

STATE OF Utah)

: ss.

COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 22 day of November, 2022, by Michael D. Batt, the Manager of Tooele Industrial Land Holdings, LLC.

Jake Jackson
Notary Public

Seal:

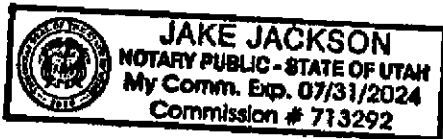


EXHIBIT A-1

DESCRIPTION OF THE EASEMENT LANDS

The Easement Lands are located in Tooele County, Utah and described as follows:

A parcel of land, situate in the West Half of Section 18, Township 3 South, Range 4 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at a point which is located North 89°42'01" East 1325.62 feet along the measured Section line, and South 00°20'07" East 2,286.26 feet along the Sixteenth Section line, from the found monument at the Northwest Corner of said Section 18, and running

thence South 00°20'07" East 354.78 feet along the Sixteenth Section line to the Quarter Section line;
thence South 89°42'22" West 929.80 feet along said Quarter Section line;
thence Easterly 254.70 feet along the arc of a 603.00 foot radius curve to the right (center bears South 24°29'43" East and the chord bears North 77°36'19" East 252.81 feet with a central angle of 24°12'05");
thence North 89°42'22" East 610.04 feet;
thence Northeasterly 46.36 feet along the arc of a 29.50 foot radius curve to the left (center bears North 00°17'38" West and the chord bears North 44°41'07" East 41.73 feet with a central angle of 90°02'28");
thence North 00°20'07" West 272.42 feet;
thence North 89°55'03" East 43.00 feet to the point of beginning.

Contains 58,157 Square Feet or 1.335 Acres

EXHIBIT A-2
DEPICTION OF THE EASEMENT LANDS

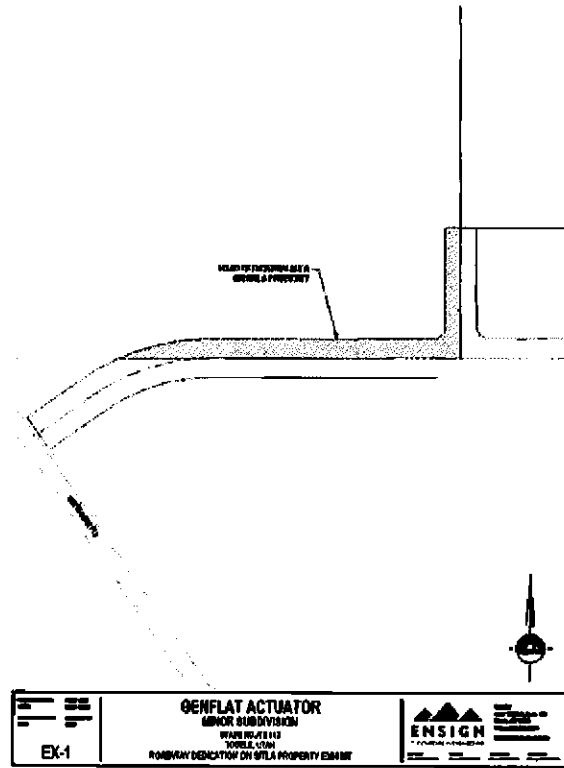


EXHIBIT B**EXISTING ENCUMBRANCES**

<u>Contract</u>	<u>Type</u>	<u>Entity and Contact Information</u>
GP 22599.0 11	Grazing Permit	7 C LIVESTOCK, INC. 4482 N 7C LANE ERDA, UT 84074
ESMT 1302	Easement	DEPARTMENT OF THE ARMY U.S. ARMY ENGINEER DISTRICT, SACRAMENTO CORPS OF ENGINEERS 1325 J STREET SACRAMENTO, CA 95814 2922
ROW 43	Right of Way	MOUNTAIN STATES C/O CLAIREEN D. BIDSTRUP 6912 S QUENTIN ST, SUITE 101 ENGLEWOOD, CO 80112