

When Recorded Return To: **8935434**
Boyer Gateway North L.C.
C/O The Boyer Company
90 South 400 West #200
Salt Lake City, Utah 84101

8935434 20.00
12/30/2003 04:15 PM Original
Book - 8928 Pg. 7642 7643
GARY W. OTT 7642-7643
RECORDER, SALT LAKE COUNTY, UTAH
LANDMARK TITLE
BY: ZJM, DEPUTY - WI 6 P.

SPECIAL WARRANTY DEED

4

That UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration paid to the undersigned by the Grantee herein named, the receipt and sufficiency of which are hereby acknowledged and confessed, HAS GRANTED, SOLD, AND CONVEYED, and by these presents DOES HEREBY GRANT, SELL, AND CONVEY unto BOYER GATEWAY NORTH, L.C., a limited liability company of the State of Utah, Grantee, all of that certain real estate (the "Property") lying and being situated in Salt Lake County, Utah, more particularly described in **Exhibit A** attached hereto and hereby made a part hereof for all purposes together with:

(a) All right, title and interest of Grantor in any land lying in the bed of any street, highway, alley or other public way, vacated, open or proposed, adjoining or crossing the Property, but only to the extent any such right, title or interest is appurtenant to the Property; and

(b) All right, title and interest of Grantor in any and all rights, privileges, easements and appurtenances to the Property, including, without limitation, all easements, rights-of-way, and other appurtenances used or connected with the beneficial use or enjoyment of the Property.

There is, however, expressly reserved and excepted from this conveyance all minerals and all mineral rights of every kind and character at a depth of more than five hundred (500) feet below the surface of the Property now known to exist or hereafter discovered, including, without limiting the generality of the foregoing, oil and gas and rights thereto, together with the sole, exclusive and perpetual right to explore for, remove and dispose of said minerals by any means or methods suitable to Grantor, its successors and assigns, but without entering upon or using the surface of the Property, and in such manner as not to damage the surface of said lands or to interfere with the use thereof by Grantee, its successors or assigns; provided, that for purposes of this Deed, "minerals" shall not include gravel, sand, aggregate or similar construction, fill or landscaping material.

This deed is made SUBJECT TO the following:

(a) All taxes and all assessments, or, if payable in installments, all installments of assessments, levied upon or assessed against the Property which became or may become due and payable in the year 2003 shall be prorated as of the date of delivery of this deed by Grantor to Grantee, said date being the 31st day of December, 2003; and Grantee assumes and agrees to pay, or to reimburse Grantor for, if paid by it, all such taxes and assessments and installments of assessments applicable to the period subsequent to the date of delivery of this deed and assumes all taxes and all assessments and all installments of assessments which may become due and payable after said year; and

LTC# 33990

(b) All liens, encumbrances, clouds upon, impairments of and defects in the title created or permitted to be created by Grantee on and after the date of delivery of this deed by Grantor to Grantee, and any and all restrictions and limitations imposed by public authority, and any easements, restrictions and/or outstanding rights of record, and exceptions, reservations and conditions contained in prior deeds or open and obvious on the ground, including without limitation, the following:

(i) A pending Special Assessment for Extension C-District 103009A in "set-up" stage (assessment date and amount not yet determined);

(ii) Notice of Adoption of Redevelopment Plan Entitled "Depot District Redevelopment Project Area Plan" dated October 15, 1998, recorded on October 22, 1998 in the Official Records of Salt Lake County, Utah as Entry No. 7127194 in Book 8133 at Page 1835;

(iii) Salt Lake City Ordinance No. 99 of 1999, recorded on December 21, 1999 in the Official Records of Salt Lake County, Utah as Entry No. 7538468 in Book 8331 at Page 1718;

(iv) Salt Lake City Ordinance No. 103 of 1999, recorded on December 21, 1999 in the Official Records of Salt Lake County, Utah as Entry No. 7538469 in Book 8331 at Page 1746;

(v) Salt Lake City Ordinance No. 80 of 2000, recorded on December 12, 2000 in the Official Records of Salt Lake County, Utah as Entry No. 7779133 in Book 8407 at Page 6500;

(vi) Reservation in an Act of Congress for relief of the inhabitants of Cities and Towns upon the Public Lands recorded on June 11, 1872 in the Official Records of Salt Lake County, Utah in Book E of Deeds at Page 989;

(vii) Water rights, claims or title to water, whether or not shown by the public records;

(viii) Salt Lake City Ordinance No. 116, recorded on October 1, 1903 in the Official Records of Salt Lake County, Utah as Entry No. 7202237 in Book 8208 at Pages 2564-2577;

(ix) Quitclaim Deed from Grantor to The State Road Commission of Utah, recorded on September 19, 1973 in the Official Records of Salt County, Utah as Entry No. 2570352, in Book 3421 at Page 376;

(x) Effects of the Abstract of Findings and Order, executed by the Salt Lake City Planning Commission Case No. 410-329 recorded on April 15, 1999 in the Official Records of Salt Lake County, Utah as Entry No. 7323608, in Book 8268 at Page 5519;

(xi) Grant of Easement between Gateway Associates, Ltd., a Utah limited partnership, Redevelopment Agency of Salt Lake City, a public agency organized and existing under the Utah Neighborhood Development Act, and Salt Lake City Corporation, a municipal corporation of the State of Utah, recorded on January 13, 2002 in the Official Records of Salt Lake County, Utah, as Entry No. 7553965, at Page 8336 at Page 1283;

(xii) Matters disclosed by an ALTM/ACSM Land Title Survey prepared by Larsen and Malmquist, Inc. dated February, 1998, Job No. 03607-97, Revision No. 3 dated December 1998, Sheets 1-5;

(xiii) Unrecorded License Agreement dated April 20, 2001 between Grantor and Nextel West Corp., a Delaware corporation, d/b/a Nextel Communications, which is disclosed by Memorandum of License Agreement recorded May 14, 2002 in the Official Records of Salt Lake County, Utah as Entry No. 7895074 in Book 8456 at Page 6589;

(xiv) Right of Way Easement dated October 10, 2001 between Gateway Associates, Ltd. to Pacificorp, an Oregon corporation, recorded November 9, 2001 in the Official Records of Salt Lake County, Utah as Entry No. 8057055 in Book 8524 at Page 3993; and

(xv) Declaration of Easement dated September 1, 2001 between Grantor and Gateway Associates, Ltd., a Utah limited partnership recorded April 7, 2003 in the Official Records of Salt Lake County, Utah as Entry No. 8600407 in Book 8772 at Page 5889.

Except as may be otherwise provided in a written assignment or other written agreement between Grantor and Grantee, Grantor reserves all income (including, without limitation, rentals, license fees and royalties) from any license and other rights to use the Property granted by Grantor or Grantor's predecessors in interest. Grantee agrees that if Grantee receives any such income, Grantee will promptly forward the income to Grantor.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in any wise belonging unto the said Grantee, its successors and assigns forever, and Grantor does hereby bind itself, its successors and assigns, to warrant and forever defend all and singular the Property unto Grantee and its successors and assigns, against

every person whomsoever lawfully claiming or to claim the same, or any part thereof, by, through or under it, but not otherwise, subject, however, as aforesaid.

Executed this 1st day of December, 2003.

Attest:

Barbara Helder
Assistant Secretary

UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation

By: Lawrence E. Wood
Title: Assistant Vice President Law

(Seal)



UNION PACIFIC RAILROAD COMPANY
Salt Lake, Salt Lake County, Utah
EXHIBIT "A"

A Parcel of land located in the City of Salt Lake, Salt Lake County, Utah, within Lots 6 and 7, and a portion of Lot 8, of Block 83, Plat "A", Salt Lake City Survey being more particularly described as:

The point of beginning being South 00°00'44" East a distance of 24.21 feet & North 89°58'47" East a distance of 43.99 feet from the South East corner of said Lot 7. The South line of said description is running along the center line of a private road, and running thence along the Northerly & Easterly lines of the BOYER-GATEWAY SUBDIVISION PLAT the following two calls (1) South 89°58'47" West a distance of 209.02 feet; (2) North 00°00'44" West a distance of 344.00 feet to the South line of a portion of land dedicated to the off-ramp for North Temple street overpass; Thence along said South line the following 4 calls (1) North 89°58'50" East a distance of 133.96 feet to a radial arc to the right having a radius of 64.17 feet and a central angle of 90°02'22" (2) along said arc 100.84 feet; (3) South 00°01'12" West a distance of 5.37 feet; (4) South 89°58'48" East a distance of 10.83 feet; thence South 00°01'24" East a distance of 274.40 feet to the point of beginning.

Containing 1.61 Acres, more or less.

Tax Parcel No. 08-36-376-009

OFFICE OF REAL ESTATE
OMAHA, NEBRASKA
JCO
December 12, 2003
220863.leg