

When recorded, return to:

Magna Water Company
 2711 South 8600 West
 P.O. Box 303
 Magna, Utah 84044

With a copy to:

Charles and Rex Butcher
 2300 South 5645 West
 West Valley City, UT 84128

Parcel ID#: 423283-019

9238386
 12/02/2004 02:06 PM \$0.00
 Book - 9068 Pg - 1248-1258
GARY W. OTT
 RECORDER, SALT LAKE COUNTY, UTAH
 MAGNA WATER CO & IMP DIST
 2711 S 8600 W
 MAGNA UT 84044
 BY: ZJM, DEPUTY - WI 11 P.

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (the "Agreement") is made as of 12-02-04, 2004, by and between **Charles Butcher and Rex Butcher** ("Grantor"), and **Magna Water Company**, an Improvement District ("Grantee"). Grantor and Grantee are referred to collectively as the "Parties" and individually as a "Party".

RECITALS

- A. Grantor is the owner of the real property described on **Exhibit A** ("Property").
- B. Grantee is an improvement district and desires access over a portion of the Property for the purposes of constructing and maintaining multiple water and sewer mains.
- C. Grantor is willing to grant certain easements over the Easement Area to Grantee, subject to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. **Grant of Easement.** Subject to the provisions of Section 3 hereof, Grantor hereby grants to Grantee and Grantee's employees, officers, agents, representatives, contractors and assigns (collectively, the "Permittees") a perpetual, non-exclusive easement over, upon, and across a portion of the Property described on **Exhibit B** attached hereto (the "Easement Area") and identified on the site plan attached hereto as **Exhibit C** for the purpose of constructing and maintaining multiple water and sewer mains. The Grantee and its Permittees shall have the right to access the Easement Area as is reasonably necessary to install, maintain, operate, repair, inspect, protect, install and connect other transmission mains and laterals, and remove and replace such facilities. Grantee shall have the right to clear and remove all trees and obstructions within the Easement Area that may interfere with the rights granted under this Agreement to Grantee. Grantee shall have the right to excavate and refill ditches and/or trenches for the installation of said pipelines, tanks and appurtenant parts thereof. Grantor shall not build or construct or permit to be built or constructed any building or permanent structure over or across the Easement Area or lower the contour thereof greater than two feet without the prior written consent of Grantee, which consent may not be unreasonably withheld.

2. Terms of Easement. Notwithstanding anything to the contrary contained in this Agreement, Grantee's activities on the Easement Area shall not unreasonably interfere with any use of the Property by Grantor, its tenants, representatives, employees, licensees or invitees. All of Grantee's activities on the Easement Area must be conducted at the sole cost and expense of Grantee and must be conducted in accordance with applicable law. Grantee must perform the activities on the Easement Area in a good and workmanlike manner and keep the work areas, secure, and in good maintenance, and repair while on the Easement Area. Grantee shall use its best efforts to minimize disruption to current activities on, and to prevent damage to, any personal property and structures of Grantor located at, on, or near the Property. Grantee shall, at its sole cost and expense (see #3 and Exhibit D), repair and restore those portions of the Easement Area which are in any way affected, damaged, or disturbed due to the performance of Grantee's activities to a condition which is, to the extent practicable, identical to the condition that existed before the commencement of the activities, including without limitation removal of all machinery and equipment, removal of waste materials and debris, and filling excavations with soil, or other appropriate material, approved in advance by Grantor. The Grantee agrees that the pipes will be structurally strong enough to facilitate the construction activities by Grantor over the Easement Area. Except in the event of emergency or for routine operating, maintenance, and inspection activities (such as meter reading, meter touch-pad replacement or other similar non-intrusive activities), Grantee must provide Grantor with at least five (5) days written notice of Grantee's entry on the Easement Area.

3. Restoration of surface features. Restoration of the easement area to a level and clean condition, shall occur after the completion of the sewer and water project and shall not include manholes or inspection plates on the property. In addition, this restoration shall be accomplished through the payment of a one time fee. The fee will be paid as calculated and presented in Exhibit D.

4. Indemnification. Grantee hereby indemnifies, holds harmless and agrees to defend Grantor for, from and against all claims, damages, expenses (including, without limitation, attorneys' fees and reasonable investigative and discovery costs), liabilities and judgments on account of injury to persons, loss of life, or damage to property occurring on the Easement Area, caused by Grantee or its Permittees; unless caused by the negligence or willful misconduct of Grantor.

5. Liens. Under no circumstances shall the Grantee permit any mechanic's lien, materialmen's lien, or other lien of any kind on the Property by anyone claiming by reason of any act or omission of the Grantee or any of its employees, agents, representatives, contractors, subcontractors, successors, or assigns, and the Grantee agrees to indemnify, defend, and hold Grantor harmless for, from and against all claims, damages, expenses (including, without limitation, attorneys' fees and reasonable investigative and discovery costs), liabilities and judgments on account of any such liens.

6. Running of Benefits and Burdens. All provisions of this Agreement, including the benefits and burdens, shall run with the land and are binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

7. Private Use. The provisions hereof are not intended and do not constitute a dedication for public use and the rights and easements herein created are private.

8. Remedies. In the event of any violation or threatened violation by any Party of any of the terms, restrictions, covenants and conditions of this Agreement, the other Party shall have, in addition to the right to collect damages, the right to enjoin such violation or threatened violation in any court of competent jurisdiction. In addition to all other remedies available at law or in equity, upon the failure of a defaulting Party to cure a breach hereof within twenty (20) days following written notice thereof from the non-defaulting Party, the non-defaulting Party shall have the right to perform such obligation contained in this Agreement on behalf of such defaulting Party and be reimbursed by such defaulting Party upon

demand for the reasonable costs thereof. Notwithstanding the foregoing to the contrary, if the nature of the breach of this Agreement presents an immediate risk of damage to property, injury to persons, interruption of utility service or loss, obstruction or blockage of access, the prior notice requirement of this paragraph shall not apply, and the non-defaulting Party shall be authorized to take immediate steps to minimize or eliminate such risk, and be reimbursed for the reasonable costs thereof as aforesaid. In such event, notice of such action shall be given to the defaulting Party as soon as reasonably practicable under the circumstances.

9. Waiver. No waiver of any default under this Agreement by any Party shall be implied from any omission by any Party to take any action with respect to such default if such default continues or is repeated.

10. **Severability.** If any term, provision or condition contained in this Agreement shall to any extent be deemed invalid or unenforceable, the remainder of the Agreement shall not be affected thereby, and each remaining term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

11. Amendment. No modification, waiver, release or amendment of any provision of this Agreement shall be made except by a written agreement signed by all Parties or their respective successors or assigns.

12. Notices. All notices, requests, demands and consents to be made hereunder to the Parties hereto shall be in writing and shall be delivered by (a) established express delivery service which maintains delivery records, (b) hand or (c) registered mail or certified mail, postage prepaid, return receipt requested, through the United States Postal Service to the addresses shown below or such other address which the Parties may provide to one another in accordance herewith.

To Grantor: Attn: Charles and Rex Butcher
5645 W 2300 S
WVC, UT 84128

To Grantee: Attn: Ed Hansen, District Manager
Magna Water Company
2711 South 8600 West
P.O. Box 303
Magna, Utah 84044

Notices are effective upon receipt, or upon attempted delivery if delivery is refused or if delivery is impossible because of failure to provide a reasonable means for accomplishing delivery.

13. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which may be assembled into and will constitute one and the same instrument.

14. Entire Agreement. This Agreement which includes the following Exhibits:

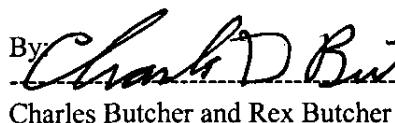
- Exhibit A** Legal Description of Property
- Exhibit B** Legal Description of Easement Area
- Exhibit C** Site Plan
- Exhibit D** Restoration Fee Calculation

constitutes the entire agreement between the Parties pertaining to the subject matter contained in this Agreement. All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written, are superseded by and merged in this Agreement. No supplement, modification or amendment of this Agreement will be binding unless in writing and executed by each Party.

IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

Charles Butcher and Rex Butcher

By:


Charles Butcher and Rex Butcher

Magna Water Company,
an Improvement District

By:


Ed Hansen, District Manager

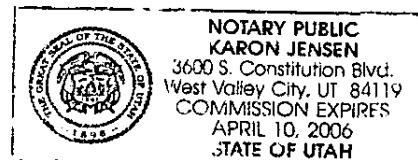
STATE OF UTAH)
County of Salt Lake) ss.

The foregoing instrument was acknowledged before me this 22nd day of November, 2004, by Charles Butcher and Rex Butcher

Witness my hand and official seal.



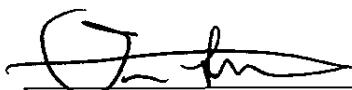
NOTARY PUBLIC



STATE OF UTAH)
County of SALT LAKE) ss.

The foregoing instrument was acknowledged before me this 25th day of November, 2004, by Ed Hansen, District Manager of Magna Water Company, an Improvement District, on behalf of the District.

Witness my hand and official seal.



NOTARY PUBLIC



EXHIBIT A
Legal Description of Property

Charles D. Butcher & Rex Charles Butcher

Legal Description

A tract of land described in that Quit-Claim Deed recorded November 10, 1997 as Entry Number 6786587, Book 7803 at Page 1529 in Salt Lake County.

Lot 17 through 22, inclusive and lot 25 through 32 inclusive, all in Block 1, Haynes Addition Plat E, according to the official plat thereof, on file and of record in the office of the County recorder of Salt Lake County, Utah.

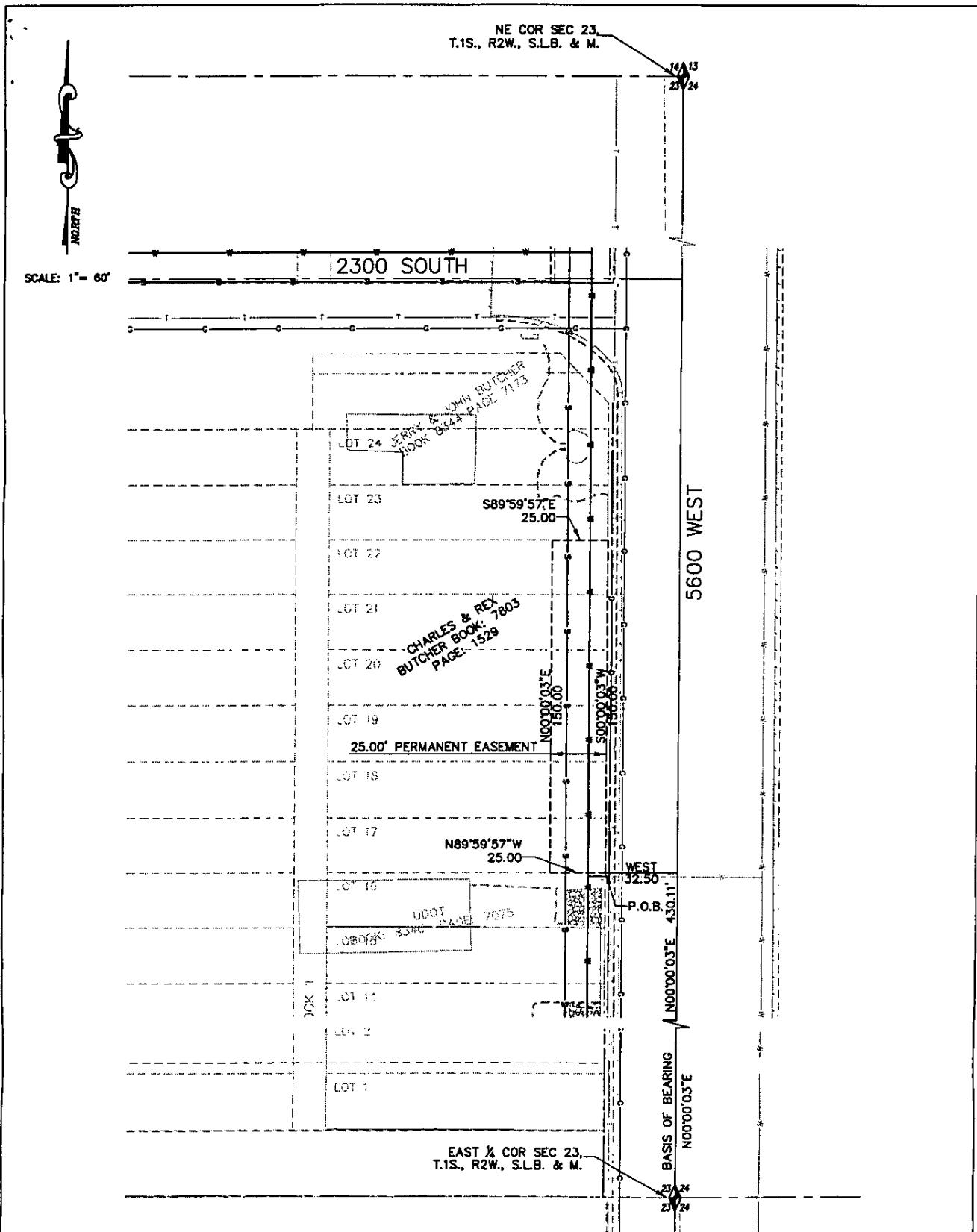
Exhibit B
Legal Description of Easement Area

Charles D. Butcher & Rex Charles Butcher

Easement Description

Beginning at the Southwest Corner of Lot 17, Block 1, Haynes Addition Plat E Subdivision, said point being North 00°00'03" East 430.11 feet and South 90°00'00" West 32.50 feet from the East Quarter Corner of said Section 23; thence North 89°59'57" West 25.00 feet along the south property line of Grantor's property; thence North 00°00'03" East 150.00 feet more or less, to the Grantor's North property line; thence South 89°59'57" East 25.00 feet to the Northeast corner of Lot 22, Block 1 of said subdivision; thence South 00°00'03" West 150.00 feet more or less to the point of beginning.

Exhibit C
Site Plan



Epic
Engineering

2880 WEST 4700 SOUTH, SUITE D
SALT LAKE CITY, UTAH 84118
(801) 955-5805

175 NORTH MAIN SUITE 104
WEBER CITY, UTAH 84032
(435) 854-8600

PROPOSED WATER & SEWER IMPROVEMENTS

EASEMENT

CHARLES AND REX BUTCHER

DESIGNER VSP	CAD VSP
REVIEWED X	PROJECT NO 04-HW-089

SHEET

Exhibit D

Restoration Fee Calculation

Fencing - 200 feet @ \$8 per foot = \$1600

Total payment - \$1600 to be paid by SID