

After Recording, Return To:

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GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
BLACKBURN & STOLL
257 E 200 S STE 800
SLC UT 84111
BY: ZJM, DEPUTY - WI 10 P.

EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is made and entered into as of this 21ST day of MARCH, 2005, by and between PacifiCorp, an Oregon Corporation, d/b/a Utah Power & Light Company ("PacifiCorp"), and National Warehouse Investment Company, a Nevada limited partnership ("NWIC"), with respect to the following.

RECITALS

A. PacifiCorp is the owner of certain real property located in Salt Lake County, Utah, as more particularly described in Exhibit "A" attached hereto (hereinafter the "Easement Parcel"). The Easement Parcel is also depicted in the drawing attached hereto as Exhibit "A-1."

B. NWIC is the owner of certain real property located in Salt Lake County, Utah, as more particularly described in Exhibit "B" attached hereto (hereinafter the "Benefitted Parcel").

C. NWIC asserts that it owns and holds a prescriptive easement on the Easement Parcel, for ingress and egress to the Benefitted Parcel. PacifiCorp asserts that NWIC is obligated to PacifiCorp for certain costs associated with the repair and maintenance of the roadway located on the Easement Parcel.

D. The parties desire to resolve the parties' respective claims, to confirm and grant the easement, and to provide a mechanism for NWIC to pay an equitable share of the maintenance and repair expenses of the Easement Parcel, upon the following terms and conditions.

TERMS AND CONDITIONS

1. Grant of Easement. PacifiCorp hereby grants and conveys to NWIC, its heirs, successors, and assigns, a perpetual easement and right-of-way over and across the Easement Parcel, for ingress to and egress from the Benefitted Parcel by pedestrian and vehicular traffic.

2. Maintenance and Repair Expenses.

A. PacifiCorp to Maintain. PacifiCorp agrees to maintain and repair the Easement Parcel as a paved roadway suitable for use by vehicular traffic, and to provide snow removal as necessary.

B. Annual Fee. NWIC agrees to pay to PacifiCorp an annual fee for maintenance, repair, and snow removal costs (the "Annual Fee"), calculated as follows:

(1) The Initial Annual Fee shall be \$1,768.00, shall be due on the date of this Agreement, and shall cover the succeeding one year period. The Annual Fee shall be due and payable on the same date in each succeeding year.

(2) On the fifth (5th) anniversary of the date of this Agreement, and every five (5) years thereafter, the Annual Fee shall be adjusted as follows:

(a) For purposes of the following calculations: (i) the "Price Index" is the average for "All Items" shown on the "U.S. City Average For Urban Wage Earners And Clerical Workers (Including Single Workers), All Items, Groups, Subgroups, And Special Groups Of Items" as promulgated by the Bureau of Labor Statistics of the U.S. Department of Labor or any successor agency; and (ii) the "Base Price Index" shall be the Price Index for the month in which this Agreement is dated.

(b) The Annual Fee shall be calculated by multiplying the Initial Annual Fee (which is \$1,768.00) by a fraction, the numerator of which is the Price Index for the most recent month available at the beginning of each five (5) year period and the denominator of which is the Base Price Index. NWIC shall pay the resulting adjusted Annual Fee for each of the succeeding five (5) years, after which the Annual Fee shall be subject to further adjustment as stated herein.

(c) In the event the Price Index ceases to be published or produced, or is otherwise unavailable for use, the parties shall select and use such other index as is reasonably comparable.

C. Arbitration. After the second five-year adjustment is made, in the event either party thereafter maintains that the Annual Fee, as periodically adjusted, no longer fairly represents the actual and necessary costs and expenses incurred by PacifiCorp in maintaining, repairing, and providing snow removal for the Easement Parcel, then such party may request an adjustment of said fee. If the parties are unable to reach agreement regarding an adjustment of the Annual Fee, then either party may thereafter may request that the adjustment of the Annual Fee be established by arbitration, which shall be conducted by a single arbitrator appointed by the parties. The arbitrator's fees shall be borne as directed by the arbitrator; however, notwithstanding the provisions of paragraph 4(C) below, the arbitrator may not otherwise award any costs or attorney's fees incurred in connection with the arbitration proceeding. Except to the extent otherwise provided herein, the arbitration shall be governed by the Utah Arbitration Act, Utah Code Ann. § 78-31a-1, et seq. (1953, as amended) (the "Act"). The decision of the arbitrator shall be final and nonappealable, except as otherwise provided in the Act. Adjustment may not be requested under this subparagraph (C) more frequently than every five (5) years.

3. Nonexclusive Easement. The easement granted herein is nonexclusive, provided, however, that PacifiCorp may not make any use of the Easement Parcel, or grant any other easement or rights in the Easement Parcel, that unreasonably interferes with the rights granted and confirmed hereunder to NWIC, its heirs, successors and assigns.

4. Miscellaneous.

A. Entire Agreement. This Agreement constitutes the entire agreement between PacifiCorp and NWIC with respect to the subject matter hereof. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. Any amendment to this Agreement shall be in writing and signed by the parties or their successors.

B. Binding Effect. This Agreement shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of PacifiCorp and NWIC, as owners of the Easement Property and Benefitted Property, respectively. Neither party shall have personal liability for any breach of this Agreement, or the Annual Fee, arising after the date such party conveys of record its interest in the Easement Property or the Benefitted Property, as the case may be.

C. Attorney's Fees. If any legal action or proceeding arising out of or relating to this Agreement is brought by either party to this Agreement, the prevailing party shall be entitled to receive from the other party, in addition to any other relief that may be granted, the reasonable attorneys' fees, costs and expenses incurred in the action or proceeding by the prevailing party.

D. Indemnification. Grantee, its heirs, successors, and assigns, agrees to defend and hold harmless Grantor from and against any and all liability, damage, loss, costs and expense, including without limitation attorneys' fees, on account of injury or damage to any person or property, arising in connection with Grantee's use of the easement.

E. Notices. Notices required herein shall be in writing and shall be given by personal delivery or by deposit in the United States mail, Certified Mail, Return Receipt Requested (which receipt shall be preserved as evidence of delivery), postage prepaid, addressed to Grantor and Grantee at the following addresses:

If to Grantor:

PacifiCorp
Real Estate Services
1407 West North Temple, Suite 320
Salt Lake City, Utah 84116

If to Grantee:

National Warehouse Investment Company
6560 S. McCarran Blvd., Suite B
Reno, Nevada 89509

Either party may change its address for notices hereunder by giving the other party a notice of such change in accordance with the foregoing provisions.

F. Successors and Assigns. The rights and obligations of the parties hereto shall be binding upon and shall benefit their respective heirs, successors and assigns.

G. Liabilities of Grantor. In the event the Grantor transfers the ownership of all or any part of the Easement Parcel, Grantor shall not be liable for the breach, subsequent to such transfer, of any of the covenants contained herein, so long as such breach was not the fault of Grantor.

H. Amendments. This Agreement may be amended only by recording, in the office of the applicable county recorder, an Agreement in writing reciting such amendment, bearing the acknowledged signatures of all parties hereto, or their successors and assigns.

I. Abandonment of Easement. In the event Grantee desires to abandon its use of the easement, Grantee shall record a document stating that the easement granted herein is abandoned. After recordation of the abandonment, all rights of Grantee hereunder shall cease.

J. Subject to Existing Rights. This Agreement is subject to all existing rights of way and encumbrances of record or in equity or at law.

K. Compliance with Law. Grantee shall, at all times, comply with all laws, ordinances, and regulations affecting or pertaining to its use or occupation of the Easement Parcel, including environmental laws and regulations. Grantee shall indemnify, defend, and hold harmless Grantor from any loss, cost, or damage by reason of any actual or alleged violation by Grantee thereof, and from any liability, including fines, penalties and other costs, arising out of Grantee's failure to so comply.

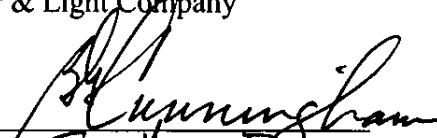
L. Due Authorization. The individuals executing this document each represents and warrants (i) that he or she is authorized to do so on behalf of the respective parties hereto, (ii) that he or she has full legal power and authority to bind the respective parties hereto, and if necessary, has obtained all required consents or delegations of such power and authority (whether from any partner, owner, spouse, shareholder, director, member, manager, creditor, investor, developer, governmental authority, judicial or administrative body, association or other person or entity), and (iii) that the execution, delivery and performance by the respective parties hereto of this document will not constitute a default under any agreement to which it is a party.

IN WITNESS WHEREOF, the parties have executed this Easement Agreement as of the day and year first above written.

“PACIFICORP”

PacifiCorp, an Oregon Corporation, d/b/a Utah
Power & Light Company

By
Its


S. Kunningham
Sr. Vice Pres.

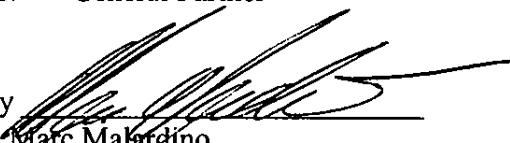
“NWIC”

National Warehouse Investment Company, a
Nevada limited partnership

By: Holman/Shidler Investment Corporation, a
Hawaii corporation

Its: General Partner

By


Marc Malardino
Its Vice President/Assistant Secretary

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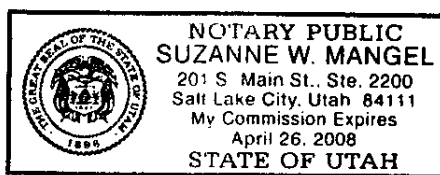
STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 21st day of March, 2005, by Barry Cunningham as the Sr. Vice President of PacifiCorp, an Oregon corporation, d/b/a Utah Power & Light Company.

Suzanne St. Mangel
Notary Public
Residing in _____

My Commission Expires:

4-26-08



STATE OF California)
 : ss.
COUNTY OF San Francisco)

The foregoing instrument was acknowledged before me this 17th day of November 2004, by Marc Malardino, as the Vice President/Assistant Secretary of Holman/Shidler Investment Corporation, a Hawaii corporation, the general partner of National Warehouse Investment Company, a Nevada limited partnership.

Frank W. Garvin III
Notary Public
Residing in San Francisco, CA

My Commission Expires:

1-14-2007

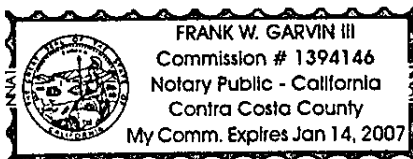


EXHIBIT "A"

"EASEMENT PARCEL"

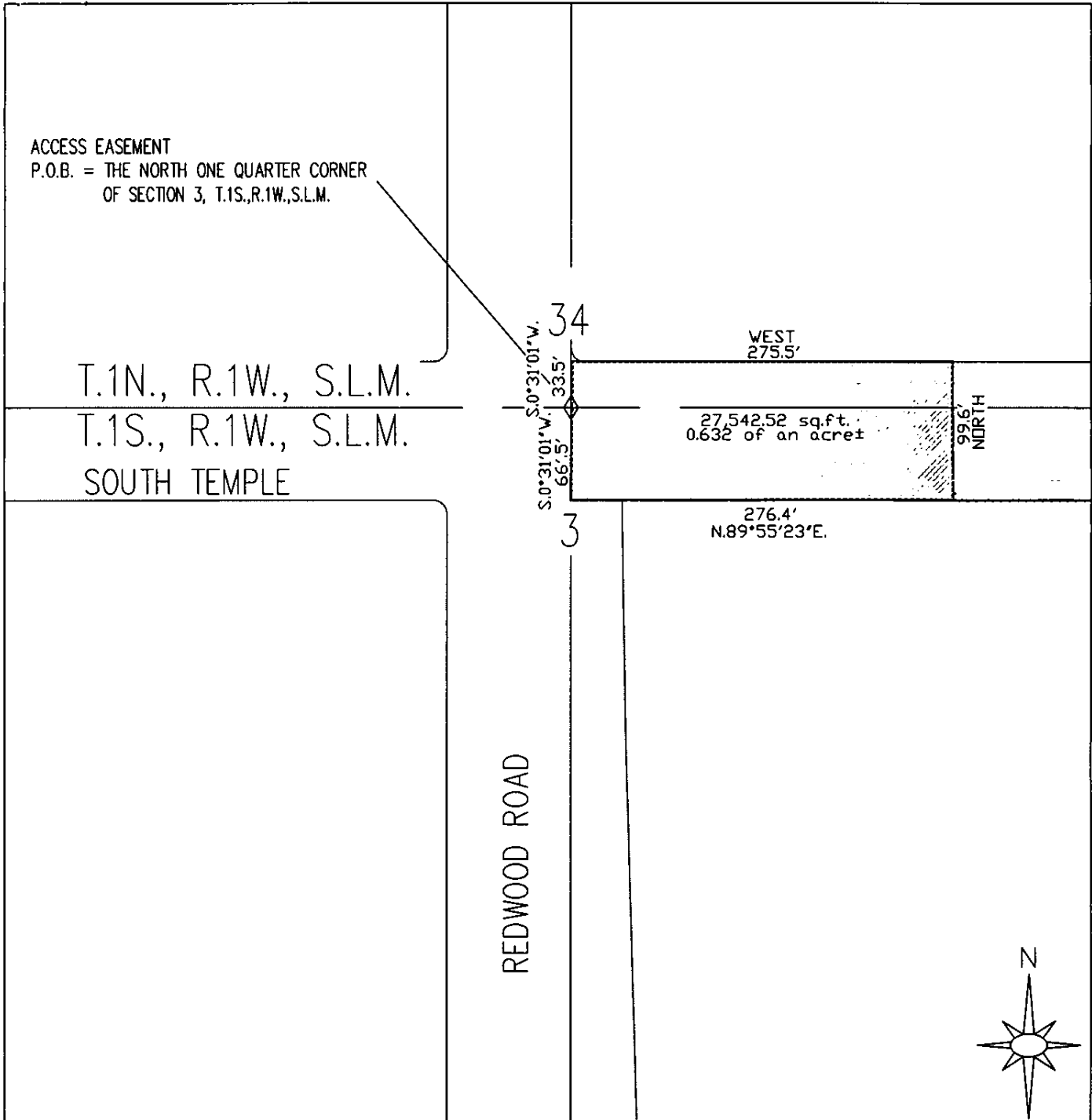
Land located in Salt Lake County, Utah, and more particularly described as:

Beginning at a point on the west boundary line of PacifiCorp's land said point also being the north one quarter corner of Section 3, T. 1 S., R. 1 W., S.L.M., thence S0°31'01"W. 66.5 feet, more or less, to the south boundary line of said land, thence N.89°55'23"E. 276.4', more or less, along said south boundary fence, thence North 99.6 feet, more or less, to the north boundary line of said land, thence West 275.5 feet, more or less, along said north boundary line to the west boundary line of said land, thence S.0°31'01"W. 33.5 feet, more or less, to the point of beginning, being in Lot 2 of said Section 3, and in the SW ¼ of the SE ¼ of Section 34, T. 1 N., R. 1 W., S.L.M., containing 27,542.52 sq. ft., or 0.632 of an acre, more or less.

Tax parcel no. 08-34-453-009

EXHIBIT "A-1"
"DRAWING OF EASEMENT PARCEL"

(see attached)



OCTOBER 21, 2004
SPONSOR: WOLF
SURVEYED BY: U.P.&L.
DRAWN BY: W.T.L.
CHECKED BY:
PLOT SCALE: 1" = 1'
R: \ROW\WD\UMTRUCK.DWG
APPROVAL JERRY H. ISAACSON
LEAD SENIOR ENGINEER CIVIL & LINE LOCATION

EXHIBIT "A" - 1
ABF TRUCK ACCESS EASEMENT
SOUTH TEMPLE AND REDWOOD RD.
SALT LAKE CITY, SALT LAKE COUNTY, UTAH

	PROPERTY MANAGEMENT		
	SCALE: 1" = 100'	SHEET 1 OF 1	WO 10062

EXHIBIT "B"

"BENEFITTED PARCEL"

Land located in Salt Lake County, Utah, and more particularly described as:

Beginning at a point on the South line of the Salt Lake Garfield and Western Railroad property and the East line of Redwood Road, said point being approximately 66.61 feet South and 36.66 feet East from the North quarter corner of Section 3, Township 1 South, Range 1 West, Salt Lake Base and Meridian; and running thence along the East line of Redwood Road South $0^{\circ}54'51''$ East 167.96 feet; thence South $1^{\circ}41'39''$ East 300.04 feet; thence South $6^{\circ}48'55''$ East 52.58 feet; thence North $89^{\circ}50'17''$ East 1,000.74 feet, more or less; thence North 520 feet, more or less, to the South line of the Salt Lake Garfield and West Railroad property; thence along said South line of Railroad property West 1,013.34 feet, more or less, to the East line of Redwood Road, to the point of beginning.

Tax parcel no. 15-03-201-001-0000.