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03/28/2005 12:54 PM \$31.00  
Book - 9110 Pg - 3361-3371  
GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
BLACKBURN & STOLL  
257 E 200 S STE 800  
SLC UT 84111  
BY: ZJM, DEPUTY - WI 11 P.

**STORM SEWER EASEMENT AGREEMENT**

This Storm Sewer Easement Agreement is made and entered into as of the 21<sup>ST</sup> 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. NWIC is the owner of certain real property located in Salt Lake County, Utah, as more particularly described in Exhibit "A" attached hereto (hereinafter the "NWIC's Parcel").

B. By Warranty Deed, dated September 29, 1989, and recorded in the Office of the Salt Lake County Recorder on November 9, 1989, as Entry No. 4846680, in Book 6175, at Page 468, PacifiCorp acquired certain real property located in Salt Lake County, Utah, a portion of which is located immediately north of NWIC's Parcel. That portion of the property acquired by PacifiCorp by the above-described deed that is located immediately north of NWIC's Parcel, and which is the subject of this Agreement, is situated on the land described in Exhibit "B" attached hereto (hereinafter the "PacifiCorp Parcel"). The PacifiCorp Parcel is also depicted in the drawing attached hereto as Exhibit "C."

C. Historically, storm water drainage and runoff from NWIC's Parcel has drained onto PacifiCorp's Parcel. PacifiCorp has installed a storm water drainage and sewer system on PacifiCorp's Parcel (the "System"), which connects into and carries storm water drainage and runoff into other storm sewer systems located on adjacent property owned by PacifiCorp (the "Adjacent Systems"), and which ultimately connect into and carry storm water drainage and runoff into Salt Lake City's storm sewer system.

D. The parties desire to confirm and grant to NWIC an easement for the purposes of permitting the movement of storm water drainage and runoff from NWIC's Parcel onto PacifiCorp's Parcel and the use of the System and Adjacent Systems for the conveyance of such drainage and runoff, and to provide for the sharing of costs associated with the maintenance and repair of the System located on PacifiCorp's Parcel, upon the following terms and conditions.

## TERMS AND CONDITIONS

1. Grant of Easement. For good and valuable consideration, the receipt and sufficiency of which is acknowledged, PacifiCorp hereby grants and conveys to NWIC, its heirs, successors, and assigns, a perpetual easement on, under, and through the PacifiCorp Parcel, and for the use of the System located thereon, for the purpose of draining and conveying storm water runoff and surface drainage from NWIC's Parcel. NWIC is authorized to construct storm water runoff and surface drainage works on NWIC's Parcel and to connect them to the System located on the PacifiCorp Parcel, provided, however, that any such connections shall be subject to the provisions of paragraphs 2(B) through (D) below. PacifiCorp also grants to NWIC the right to carry storm water runoff and surface drainage from NWIC's Parcel through the Adjacent Systems.

2. Maintenance and Improvement.

A. PacifiCorp agrees to maintain the System located on the PacifiCorp Parcel, such that said System continues to provide adequate drainage from NWIC's Parcel and the adjacent property owned by PacifiCorp, and shall not interfere with or block the flow of storm water runoff and surface drainage into the municipal system. NWIC agrees to pay one-half of the actual and reasonable costs of maintaining and repairing the System. If the total anticipated cost of any maintenance or repair expense exceeds \$5,000, PacifiCorp shall obtain the consent of NWIC prior to doing the work and incurring the expense. PacifiCorp acknowledges receipt of compensation for all installation, maintenance and repair costs associated with the System prior to the date hereof.

B. Notwithstanding subparagraph 2(A) above, NWIC shall pay for any costs incurred in connection with, or necessitated by: (1) connecting any storm sewer works constructed on NWIC's Parcel to the System; and/or (2) any improvements to or modifications of the System that are necessary to accommodate the flow of water from NWIC's Parcel that may be caused by modifications in the topography or paving on NWIC's Parcel, or by the construction of storm sewer works on NWIC's Parcel.

C. In the event that modifications in the topography or paving on NWIC's Parcel, or the construction of additional storm sewer works on NWIC's Parcel, require improvements to or modifications in the Adjacent Systems, PacifiCorp agrees to make such improvements or modifications, but at the expense of NWIC.

D. If any modifications or improvements to the System or Adjacent Systems referred to in Paragraphs 2(B) or (C) above require the approval or consent of Salt Lake City, then NWIC shall obtain such approval or consent at its sole expense prior to construction.

3. 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 PacifiCorp Parcel and NWIC's Parcel, respectively. Neither party shall have personal liability for any breach of this Agreement, arising after the date such party conveys of record its interest in the PacifiCorp Parcel or NWIC's Parcel, 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, 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, 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.

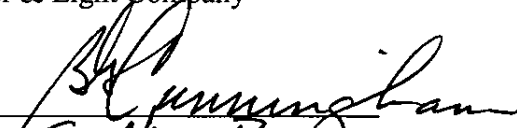
L. Due Authorization. The individuals executing this document each represents and warrants (i) that he or she is authorized to do so on behalf of the respective parties hereto, (ii) that he or she has full legal power and authority to bind the respective parties hereto, and if necessary, has obtained 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 Storm Sewer 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

  
SR. VICE PRES.

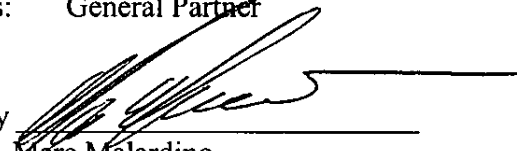
“NWIC”

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

BDP\17968.007\STORMSEWEREASEMENT7.WPD

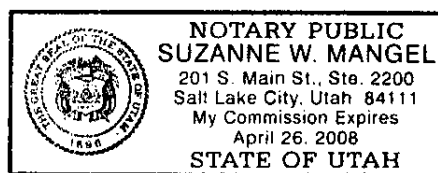
STATE OF UTAH )  
 : ss.  
COUNTY OF SALT LAKE )

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 W. Mangel  
Notary Public  
Residing in \_\_\_\_\_

My Commission Expires:

4-26-08



STATE OF California )  
 : ss.  
COUNTY OF Contra Costa )

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, the general partner of National Warehouse Investment Company, a Nevada limited partnership.

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

My Commission Expires:

1-14-2007



**EXHIBIT "A"**

**"NWIC'S 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.

**EXHIBIT "B"**

**"PACIFICORP PARCEL"**

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

A right of way 12 feet in width, being 10 feet south or to the south boundary line of the Grantor's land and 2 feet north of the following described centerline:

Beginning on the Grantor's land at a point 61.3 feet south and 276.6 feet east, more or less, from the north one quarter corner of Section 3, T. 1 S., R. 1 W., S.L.M., thence N.89°55'23"E. 55.4 feet, more or less, thence N.89°13'37"E. 66.8 feet, more or less, thence N.89°50'41"E. 685.0 feet, more or less, on said land and being in Lot 2 of said Section 3, containing 8,906 sq. ft. or 0.20 of an acre, more or less.

Tax parcel no. 08-34-453-009



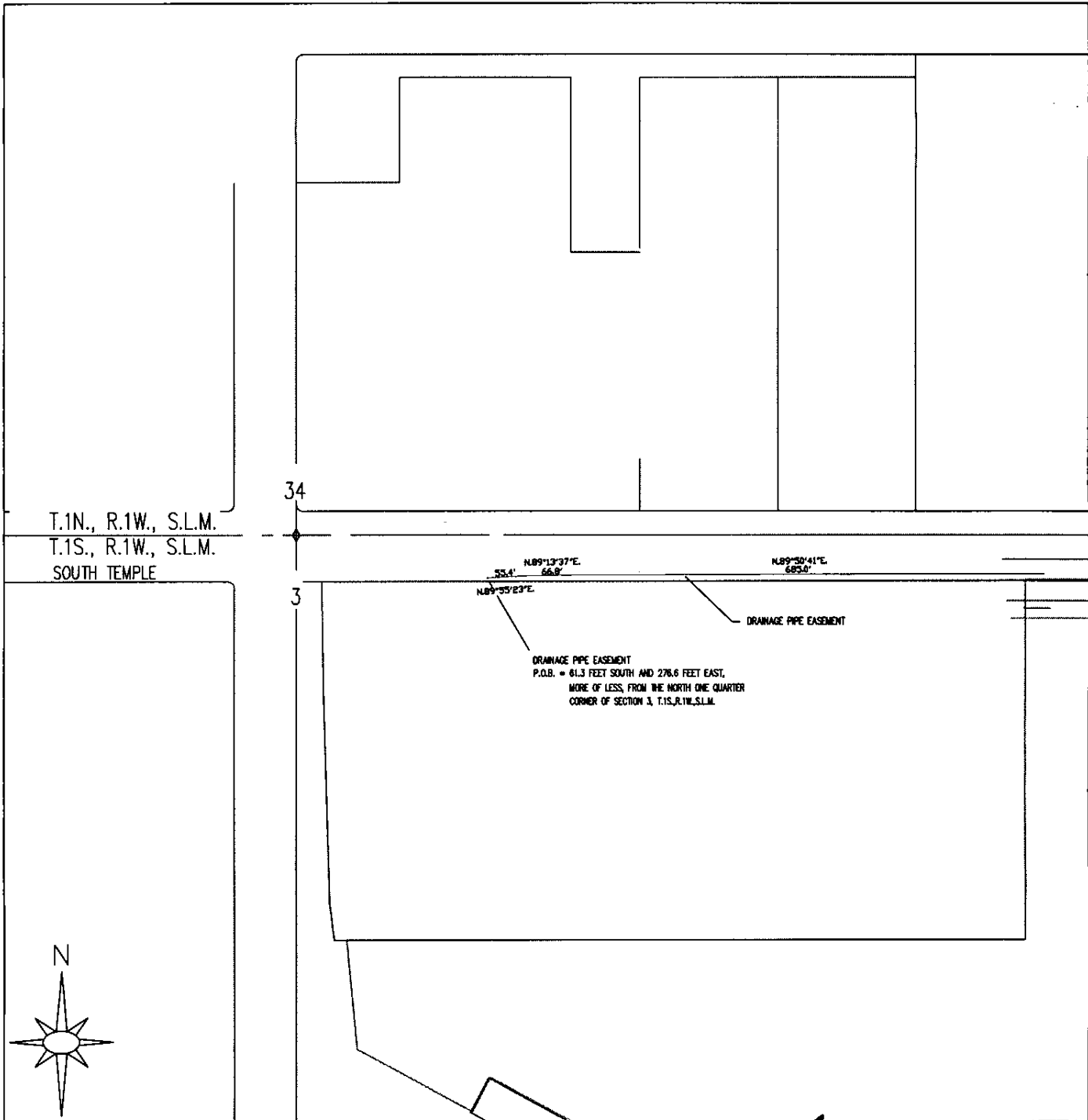
**EXHIBIT "C"**

**"DRAWING OF PACIFICORP PARCEL"**

(see attached)

**EXHIBIT "C"**  
**"DRAWING OF PACIFICORP PARCEL"**

(see attached)



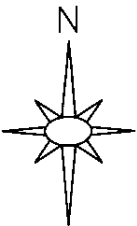
T.1N., R.1W., S.1M.  
T.1S., R.1W., S.1M.  
SOUTH TEMPLE

34  
3

N89°13'37"E. 55.4'  
66.8'  
N89°55'23"E.  
N89°50'41"E. 683.0'

DRAINAGE PIPE EASEMENT  
P.O.B. = 61.3 FEET SOUTH AND 276.6 FEET EAST,  
MORE OR LESS, FROM THE NORTH ONE QUARTER  
CORNER OF SECTION 3, T.1S., R.1W., S.1M.

DRAINAGE PIPE EASEMENT



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

EXHIBIT ~~"A"~~ "C"

ABF TRUCK DRAINAGE PIPELINE EASEMENT  
SOUTH TEMPLE AND REDWOOD RD.  
SALT LAKE CITY, SALT LAKE COUNTY, UTAH



**PACIFICORP**

PROPERTY MANAGEMENT

APPROVAL

JERRY H. ISAACSON

LEAD SENIOR ENGINEER CIVIL & LINE LOCATION

SCALE: 1" = 200'

SHEET 1 OF 1

WO 10062

REV.