

**RIGHT OF OCCUPANCY AGREEMENT**

*Salt Lake County*

**For the Subject Property Described in Exhibit "A"  
commonly referred to as :**

**Project Number:  
SP-0071(12)1  
PROJECT NAME:  
12300 S, 950 W to 265 W  
Parcel Numbers:  
0071:46:E,46:Z**

**9614366**  
01/19/2006 02:23 PM \$0.00  
Book - 9245 Pg - 3548-3556  
**GARY W. OTT**  
RECORDER, SALT LAKE COUNTY, UTAH  
UT ST-DEPT OF TRANSPORTATION  
BOX 148420 ATT: JR BAIRD  
SLC UT 84114-8420  
BY: SBM, DEPUTY - WI 9 P.

**Property Owner(s) of Record:  
Inland Coca-Cola Bottling Company**

**Acquiring Entity:  
State of Utah, Department of Transportation, (UDOT)**

**RIGHT OF OCCUPANCY AGREEMENT**

I/We, Inland Coca-Cola Bottling Company, an Idaho corporation (as Property Owners), hereby grant to the **State of Utah, Department of Transportation, (UDOT)** and its contractors permission to enter upon, take possession of, and commence construction of its public works facility, a portion of which is to be located on the property described in attached Exhibit A, subject to the terms and conditions contained herein. This Right of Occupancy is granted in anticipation of a possible condemnation action by UDOT and is intended to provide for occupancy of the property pending further negotiations or the filing and pursuit of condemnation proceedings and possible alternative informal proceedings as provided for in this agreement. Property Owner understands that, by executing this Agreement, Property Owner has waived and abandoned all defenses to the eventual acquisition of the property except a claim for the payment of greater amount of just compensation for the acquisition of the property.

It is understood and agreed that the sum of \$ 12,200.00 ( the amount of UDOT's Approved Appraisal), less the amount needed to pay prorated taxes and the amount of the security deposit, will be paid to the Property Owner (or if there are multiple parties by a payment made jointly to those parties with an ownership in the property or proceeds of a condemnation action) as consideration for the granting of this RIGHT OF OCCUPANCY. The amount paid to the Property Owner under this agreement shall be deducted from a final settlement award, award of arbitration, or other award of just compensation in an eminent domain action should one be filed to acquire the property described in Exhibit A. The amount paid will be for the purposes of this agreement only, and will not be admissible as evidence in any subsequent determination of value of the property.

It is understood and agreed that this RIGHT OF OCCUPANCY AGREEMENT is granted without prejudice to the rights of the Property Owner, pending the settlement, to contest the amount of compensation to be paid the Property Owner for the property described in Exhibit A. If a satisfactory settlement cannot be agreed upon, UDOT will, upon notice from the Property Owner that the amount of compensation offered and/or other proposed settlement terms are not acceptable, or at its own election, proceed at once to commence and diligently prosecute a condemnation proceeding in the appropriate court for a judicial determination of such compensation. If requested to do so by the Property Owner, UDOT will, prior to commencing a condemnation proceeding, enter into the mediation or arbitration procedure provided for in §78-34-21, Utah Code Annotated, through the office of the Private Property Ombudsman.

If the Property Owner uses the property for a residence, business or farming operation and is required to move as a result of the Government Entity's acquisition of the property, the Property owner may be entitled to relocation assistance and/or payments, as a displaced person.. The relocation assistance and payments are available as a matter of right , if the Property Owner is displaced by the acquisition of this property and are not conditional upon the Property Owner signing this Right of Occupancy Agreement.

The Property Owner and the Government Entity further agree to the following additional terms and conditions including any specific understanding concerning continued use of the property by the Property Owner and further notices prior to actual possession of the property by the UDOT:

Right of Occupancy Agreement

Page 2 of 3

Additional Terms: 1. The Grantor has a railroad spur sub grade which goes to but is currently connected to a railroad siding that will be removed by UDOT. UDOT agrees to put back the railroad spur sub grade so that it can be connected to a railroad siding which will be constructed by UDOT.

2. The proposed new railroad spur sub grade may go through a wetlands area. Inland Coca-Cola agrees to furnish UDOT with a copy of the deed restriction that reflects the wetlands restrictions imposed upon Inland Coca-Cola's property( the "Deed Restriction"). These document copies must be given to UDOT before the work begins on the spur's sub grade.

3. In order to do the construction work on the realigning the railroad spur subgrade Inland Coca-Cola agrees to give UDOT upon UDOT's request a signed permit or Temporary Easement which allows UDOT to enter Inland's property for a defined term.

The effective date of this RIGHT OF OCCUPANCY AGREEMENT shall be the date this agreement is executed by the property owner as shown below, and that date shall be the date of value for fair market valuation purposes in the context of settlement negotiations, arbitration, or an eminent domain proceeding should one be necessary, unless the Property owner has been previously served with a summons in regard to this property acquisition or the parties have otherwise agreed in writing to a different date for purposes of valuation. It is understood that, according to state law, any additional compensation that is ordered to be paid to the Property Owner for the acquisition of the property will include interest at an annual rate of 8% on any additional compensation that is determined to be payable to the property owner over and above that paid with this agreement, calculated from the date of this agreement.

DATED this 12<sup>th</sup> day of July, 2002

John E. Pelo President Inland Coca-Cola  
Property Owner Bottling Company

Property Owner

STATE OF UTAH )  
 ) ss.  
County of \_\_\_\_\_ )



On the 12 day of July, 2002, personally appeared before me  
John E. Pelo the signer(s) of the instrument set out  
above, who duly acknowledged to me that (t)he(y) executed the same.

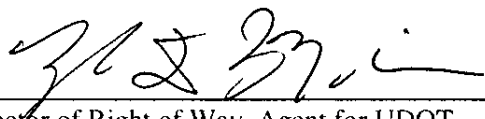
My commission expires: 2/22/2005

Kathy P. Chekouras  
NOTARY PUBLIC

DATED this 12 day of July, 2002

Right of Occupancy

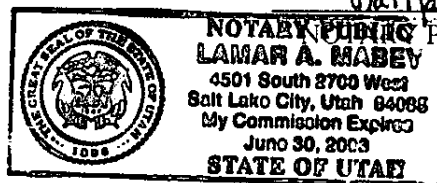
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\_\_\_\_\_  
Director of Right of Way, Agent for UDOT

STATE OF UTAH )  
 ) ss.  
County of Salt Lake )

On the 22<sup>nd</sup> day of July, 2002, personally appeared before me  
Lyle McMillan the signer(s) of the instrument set out  
above, who duly acknowledged to me that (t)he(y) executed the same.

My commission expires: 6-30-2003



*This document is provided as a sample of the kind of document that has been used to grant occupancy of property voluntarily rather than to require that the government entity involved file a condemnation action and/or a motion for immediate occupancy. It is not meant to substitute as legal advice or to be used without the advice of counsel. Please consult your attorney about the use of this form and the consequences of granting a right of entry to the property.*

*Please also note: The agency does reserve the right to file a condemnation action after the right of entry agreement has been executed (and funds are released to the parties to this agreement) however, this action will not be taken sooner than 30 days from the date we initiated negotiations with you for the purchase of your property. A filing of a condemnation will not require you to retain an attorney or go to court if you choose to continue to negotiate with us and or opt to have the case submitted for mediation or arbitration.*

WHEN RECORDED, MAIL TO:  
Utah Department of Transportation  
Right-of-Way, Fourth Floor  
Box 148420  
Salt Lake City, Utah 84114-8420

Parcel I.D.# 27-25-377-016

## Easement

(CORPORATION)  
Salt Lake County

Parcel No. 0071:46:E  
Project No. SP-0071(12)1

~~Inland Coca-Cola Bottling Company~~,  
a corporation of the State of ~~Idaho~~, Grantor,  
hereby GRANTS AND CONVEYS to the UTAH DEPARTMENT OF TRANSPORTATION, at  
4501 South 2700 West, Salt Lake City, Utah 84119, Grantee, for the sum  
of \_\_\_\_\_, Dollars,  
a temporary easement, upon part of an entire tract of property situate in the  
E~~1~~SW~~1~~4 of Section 25, T~~3~~S., R~~1~~W., SLB&M., for the purpose of removing rail  
road track and constructing cut and/or fill slopes and appurtenant parts thereof,  
to facilitate the widening of 12300 South Street, known as Project No. 0071. The  
boundaries of said part of an entire tract are described as follows:

Beginning at a point 972.96 feet S. 89°56'04" W. along the Section Line  
from the South Quarter Corner of said Section 25; and running thence  
N. 1°36'00" W. 236.63 feet; thence N. 88°24'01" E. 5.00 feet; thence N. 1°36'00"  
W. 510.61 feet; thence N. 89°34'41" E. 11.06 feet; thence S. 1°36'00" E. 747.44  
feet; thence S. 89°56'04" W. 16.06 feet to the point of beginning.

Continued on Page 2

CORPORATION RW-09CS (10-05-94)

BK 9245 PG 3552

The above described part of an entire tract contains 9448 square feet (0.217 acres) in area.

The hereinabove described temporary easement shall expire upon completion of said project, or 3 years after the date of the execution of the within instrument, whichever first occurs.

After track removal and said cut and/or fill slopes, and appurtenant parts thereof are constructed at the expense of the Utah Department of Transportation, said Utah Department of Transportation is thereafter relieved of any further claim or demand for costs, damages or maintenance charges which may accrue against track removal and said cut and/or fill slopes and appurtenant parts thereof.

COPY

Continued on Page 3

CORPORATION RW-09CS (10-05-94)

The officers who sign the within instrument certify that the transfer represented thereby was duly authorized under a resolution duly adopted by the Board of Directors of the Grantor at a lawful meeting duly held and attended by a quorum.

IN WITNESS WHEREOF, said Grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officers, this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_.

ATTEST:

CORPORATE SEAL: \_\_\_\_\_  
STATE OF \_\_\_\_\_  
By \_\_\_\_\_  
Secretary \_\_\_\_\_  
President \_\_\_\_\_  
CORPORATION

) ss.

COUNTY OF \_\_\_\_\_

On the date first above written personally appeared before me, \_\_\_\_\_ and \_\_\_\_\_, who, being by me duly sworn, did say, each for himself, that he, said \_\_\_\_\_ is the president, and that he, said \_\_\_\_\_ is the secretary of \_\_\_\_\_, a corporation, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors, and said president and said secretary each duly acknowledged to me that said corporation executed the same, and that the seal affixed is the seal of said corporation.

WITNESS my hand and official stamp the date in this certificate first above written:

\_\_\_\_\_  
Notary Public

WHEN RECORDED, MAIL TO:  
Utah Department of Transportation  
Right-of-Way, Fourth Floor  
Box 148420  
Salt Lake City, Utah 84114-8420

Parcel I.D.# 27-25-377-016

## Warranty Deed

(CORPORATION)  
Salt Lake County

Parcel No. 0071:46:Z  
Project No. SP-0071(12)1

Inland Coca-Cola Bottling Company

a corporation of the State of Idaho, Grantor,  
hereby CONVEYS AND WARRANTS to the UTAH DEPARTMENT OF TRANSPORTATION,  
at 4501 South 2700 West, Salt Lake City, Utah 84119, Grantee, for the  
sum of \_\_\_\_\_ Dollars,  
and other good and valuable considerations, the following described parcel of  
land in Salt Lake County, State of Utah, to-wit:

A parcel of land in fee for the purpose of railroad reconstruction and the  
expansion of the railroad right of way for the Union Pacific Railroad, in  
conjunction with the widening of 12300 South Street, known as Project No. 0071,  
being part of an entire tract of property situate in the S $\frac{1}{2}$  of Section 25,  
T.3 S., R.1 W., SLB&M. The boundaries of said parcel of land are described as  
follows:

Beginning at a point in the East right of way line of the Union Pacific  
Railroad, which point is 977.97 feet S. 89°56'04" W along the Section Line  
(Record 977.42 feet S. 89°49'19" W. along the Section Line) from the South  
Quarter Corner of said Section 25; and running thence N. 1°36'00" W. 747.31 feet  
along said East right of way line to the northwest corner of said entire tract;  
thence N. 89°34'00" E. 10.00 feet along the northerly boundary line of said  
entire tract; thence S. 1°36'00" E. 510.61 feet; thence S. 88°24'00" W. 5.00  
feet; thence S. 1°36'00" E. 236.63 feet to said East right of way line of said  
Union Pacific Railroad; thence S. 89°56'04" W. 5.01 feet along said right of way  
line to the point of beginning as shown on the official map of said project on  
file in the office of the Utah Department of Transportation.

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CORPORATION RW-01CS (10-05-94)

BK 9245 PG 3555



The above described parcel of land contains 6292 square feet (0.144 acres) in area.

The officers who sign the within instrument certify that the transfer represented thereby was duly authorized under a resolution duly adopted by the Board of Directors of the Grantor at a lawful meeting duly held and attended by a quorum.

IN WITNESS WHEREOF, said Grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officers, this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_

ATTEST: \_\_\_\_\_  
Secretary

\_\_\_\_\_ CORPORATION  
By \_\_\_\_\_  
President

CORPORATE SEAL:

STATE OF \_\_\_\_\_ )  
 ) ss.

COUNTY OF \_\_\_\_\_

On the date first above written personally appeared before me, \_\_\_\_\_ and \_\_\_\_\_, who, being by me duly sworn, did say, each for himself, that he, said \_\_\_\_\_ is the president, and that he, said \_\_\_\_\_ is the secretary of \_\_\_\_\_, a corporation, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors, and said president and said secretary each duly acknowledged to me that said corporation executed the same, and that the seal affixed is the seal of said corporation.

WITNESS my hand and official stamp the date in this certificate first above written:

\_\_\_\_\_  
Notary Public