

HIGHWAY EASEMENT DEED

Summit County

Parcel No. XXXX

Project No. STP-0248(2)3

SR-248/Kearns Boulevard, SR-224 to US-40

THIS DEED, made this _____ day of _____, 20____, by and between the **UNITED STATES OF AMERICA**, acting by and through the **DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION**, hereinafter referred to as the **DEPARTMENT**, and the **UTAH DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as the **GRANTEE**:

WITNESSETH:

WHEREAS, the GRANTEE has filed application under the provisions of the Act of Congress of August 27, 1958, as amended (23 U.S.C. Section 317), for the right-of-way of a highway over certain Federal land under the jurisdiction of the Department of Interior - Bureau of Land Management in the State of Utah, which land has been appropriated by the DEPARTMENT, and

WHEREAS, the Utah Division Administrator, pursuant to delegations of authority from the Secretary of Transportation and the Federal Highway Administrator, has determined that an easement over the land covered by the application is reasonably necessary for a right-of-way for **STP-0248(2)3**, and

WHEREAS, the **Department of the Interior**, acting by and through **the Bureau of Land Management**, in its consent to the appropriation of the Federal land, has agreed to the transfer by the DEPARTMENT of an easement over the land to the GRANTEE;

NOW THEREFORE, the DEPARTMENT as authorized by law does hereby grant to the GRANTEE an easement for a right-of-way for the construction, operation, and maintenance of a highway, **including control of access** thereto from adjoining lands and use of the space above, at and below the established grade line of the highway pavement for highway purposes on, over, across, in, and upon the following described Federal land within the County of **Summit**, State of Utah:

A parcel of land situate in Township 2 South, Range 4 East, Salt Lake Base and Meridian
Sec. 3: S½SE¼,

As shown on maps on file in the Utah Department of Transportation Offices located at 4501 South 2700 West, Salt Lake City, Utah 84119; and more particularly described in Exhibit A attached hereto and made a part hereof, subject, however, to the following terms and conditions.

(1) Outstanding valid claims, if any, existing on the date of this grant, and the GRANTEE shall obtain such permission as may be necessary on account of any such claims.

(2) Construction of the highway facility is to be undertaken by the GRANTEE in compliance with the Act entitled "An Act for the Preservation of American Antiquities," approved June 8, 1906 (34 Stat. 225, 16 U.S.C. 432-433), and State laws where applicable.

(3) The easement herein granted shall terminate ten (10) years from the date of the execution of this deed by the United States of America in the event construction of a highway on the right-of-way is not started during such ten-year period.

(4) The easement herein granted is limited to use of the described right-of-way and the space above, at, and below the established grade line of the highway pavement for the purpose of construction, operation, and maintenance of a highway in accordance with the approved plans described in the following condition numbered (5), and does not include the grant of any rights for non-highway purposes or facilities; Provided, That the right of the Bureau of Land Management to use or authorize the use of any portion of the right-of-way for non-highway purposes shall not be exercised when such use would be inconsistent with the provisions of Title 23 of the United States Code and of the Federal Highway Administration regulations issued pursuant thereto or would interfere with the free flow of traffic or impair the full use and safety of the highway, and in any case, the GRANTEE and the DEPARTMENT shall be consulted prior to the exercise of such rights; and Provided further that nothing herein shall preclude the Bureau of Land Management from locating Department of Interior information signs on the portions of the right-of-way outside of construction clearing limits.

(5) The design and construction of the highway project situated on this right-of-way will be in accord with the provisions of Title 23, United States Code--Highways, and amendments; the provisions of the Federal-Aid Policy Guide issued by the Federal Highway Administration; the requirements of Title 23, Code of Federal Regulations, including but not limited to Part 771; the construction specifications of the State highway department as approved by the Federal Highway Administration for use on Federal-aid projects; and the following terms and conditions specified by the Bureau of Land Management:

- a. The use right herein authorized shall terminate 5 years from the date of this letter in the event construction of a highway has not been initiated during such period.
- b. The use right herein authorized is limited to the described right-of-way and the space above and below for highway purposes and does not include any use rights for non-highway purposes.
- c. Retention of rights by BLM to use, or authorize use on, any portion of the right-of-way for non-highway purposes provided such use would not interfere with the free flow of traffic, impair the full use and safety of the highway, or be inconsistent with the provisions of Title 23 of the United States Code and the FHWA regulations pursuant thereto, and the FHWA and the State agency concerned shall be consulted prior to exercising such rights.
- d. Consistent with highway safety standards, the State agency shall provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by the construction, operation maintenance of the highway.
- e. Consistent with highway safety standards, UDOT shall vegetate and keep

vegetated, with suitable native species, all earth cut or fill slopes feasible for revegetation or other areas on which ground cover is destroyed where it is deemed necessary prior to completion of the highway and shall maintain terracing, water bars, lead off ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur during or after construction.

- f. No construction machinery, equipment, or surface disturbing activities of any kind are permitted in the Silver Creek wetland outside of the clearly marked limits of this right-of-way. Any portion of the BLM fence inside the limits of this right-of-way removed during construction shall be immediately reconstructed along the boundary of the right-of-way to the same or greater standards as soon as possible after construction. Signs on this fence will either be saved and reattached or new signs made and attached by UDOT.
- g. No drainage from the reconstructed highway shall be permitted to enter Silver Creek wetlands. The holding ponds and other design features of this project will be constructed to contain this runoff and maintained to prevent compromising the system as designed. Should the system fail to contain the runoff in a satisfactory manner, the system will be redesigned to ensure the containment is effective.
- h. No sites for highway-operation and maintenance facilities, camps, supply depots, or disposal areas may be established on any BLM lands.
- i. Application of chemicals shall be pursuant to the National Environmental Policy Act and shall be approved by FHWA prior to application by the State. The use of chemicals is not permitted within the limits of the Silver Creek wetlands.
- j. The provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 242) shall be complied with.

(6) Consistent with highway safety standards, the GRANTEE shall:

- a. Protect and preserve soil and vegetative cover and scenic and esthetic values on the right-of-way outside of construction limits.
- b. Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by the construction, operation, or maintenance of the highway, and shall vegetate and keep vegetated with suitable species as specified in No. (5) above, all earth cut or fill slopes feasible for revegetation or other areas on which ground cover is destroyed. The GRANTEE shall maintain all terracing, water bars, lead off ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes reshaped following slides which occur during or after construction.

(7) The GRANTEE shall establish no borrow, sand, or gravel pits, stone quarry, or permanent storage areas, sites for highway operation and maintenance facilities, camps, supply depot, or

disposal areas within the right-of-way; unless shown on approved construction plans, without first obtaining approval.

(8) The GRANTEE shall maintain the right-of-way and highway facilities to acceptable standards of repair, orderliness, neatness, sanitation, and safety.

(9) The GRANTEE shall maintain the right-of-way clearing by means of chemicals only after specific written approval has been given by the Department after consultation with the **Bureau of Land Management**. Application for such approval must be in writing and specify the time, method, chemicals, and the exact portion of the right-of-way to be chemically treated.

(10) When the need for the easement herein granted no longer exists and the area has been reasonably rehabilitated to protect the public and environment, the GRANTEE shall give notice of that fact to the Secretary of Transportation and the rights herein granted shall terminate and the land shall immediately revert to the full control of the Secretary of the Department of the Interior or his assigns.

The GRANTEE, in consideration of the conveyance of this easement, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns that:

- k. No person shall, on the grounds of race, color, sex, age, religion, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such land hereby conveyed;
- l. The GRANTEE shall use said easement and right-of-way so conveyed in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of The Department of Transportation, in effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

In the event of breach of any of the abovementioned nondiscrimination conditions, the DEPARTMENT shall have the right to reenter said land and facilities on said land, and the above described land and facilities shall thereupon revert to and vest in and become the absolute property of the Department of Transportation and its assigns, as such interest existed prior to this instrument (Reverter clause to be used only when it is determined that such clause is necessary to effectuate the purpose of Title VI of the Civil Rights Act of 1964).

IN WITNESS WHEREOF, I, _____, Division Administrator, pursuant to delegations of authority from the Secretary of Transportation and the Federal Highway Administrator, by virtue of authority in me vested by law, have hereunto subscribed my name as of the day and year first above written.

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
UTAH DIVISION

In Presence of:

By _____
Division Administrator

STATE OF UTAH)
)
COUNTY OF SALT LAKE)

I, _____, a Notary Public in and for the State of Utah, do hereby certify that on this _____ day of _____, 20____, before me personally appeared

_____, Division Administrator, Federal Highway Administration, and acknowledged that the foregoing instrument bearing date of _____, 20____, was executed by him in his official capacity and by authority in him vested by law, for the purposes and intents in said instrument described and set forth, and acknowledged the same to be his free act and deed as Division Administrator, Federal Highway Administration.

Witness my hand and seal this _____ day of _____, 20_____.

Notary Public

My Commission Expires _____

In compliance with the conditions set forth in the foregoing deed, the Utah Department of Transportation certifies, and by the acceptance of this deed, accepts the right-of-way over certain land herein described and agrees for itself, its successors and assigns forever to abide by the conditions set forth in said deed.

By _____

STATE OF UTAH)
)
COUNTY OF SALT LAKE)

I, _____, a Notary Public in and for said County and State, hereby certify that Lyle D. McMillan, whose name as Director of Right of Way and Property Management is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he in his capacity as such Director of Right of Way and Property Management, executed the same voluntarily on this day.

Given under my hand and seal of office this _____ day of _____, 20____.

Notary Public

My Commission Expires _____

Prepared by: XXX
Checked by:

Date: XX/XX/XX
Date: