

Tooele County
c/o County Engineer Vern Loveless
47 S. Main Street
Tooele UT 83049

14612

Federal ID No. **87-6000-317**

**STATEWIDE UTILITY LICENSE AGREEMENT
NON-INTERSTATE**

THIS AGREEMENT, made and entered into this 1 day of June, 2011, by and between the **UTAH DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as "**UDOT**" and the **TOOELE COUNTY, Utah**, hereinafter referred to as the "**COUNTY**".

WITNESSETH:

WHEREAS, **UDOT** desires to assist in expediting the approval of permits issued by **UDOT** for locating, constructing and maintaining public utilities and related facilities ("facilities") within State Highway rights of way; and excluding longitudinal placement within the Interstate Highway Right-of-Way; and

WHEREAS, it is the desire of the parties hereto that the terms of this agreement shall apply to all permits issued to allow access onto State Highway right of way, hereafter approved in accordance with this agreement; and

WHEREAS, the parties desire that this agreement shall apply to approved location and construction permits on State Highway rights of way in the State of Utah which are within the responsibility and jurisdiction of **UDOT**; and

WHEREAS, the parties desire that this agreement supersedes all previous agreements executed with **UDOT**

NOW THEREFORE, In consideration of the promises and mutual covenants and agreements contained herein, said parties hereby covenant and agree as follows:

(1) **UDOT AGREEMENT TO REVIEW APPLICATIONS:** This is not a permit or a guarantee of a permit. However, **UDOT** agrees to review any applications for a permit that **COUNTY** files pursuant to the procedures established in this Agreement promptly. **COUNTY** and **UDOT** agree to work together in good faith with the intent to obtain a mutually beneficial decision on any permit application. All permits that may be issued will subject to the Manual for the Accommodation of Utilities and the Control and Protection of State Highway Rights-of-Way, as incorporated in Utah Admin. Code R930-6.

(2) **APPROVAL:** Unless otherwise stated herein, or in any particular permit or agreement, all location, construction and maintenance permits hereafter executed pursuant hereto will be deemed to be governed by the provisions of this agreement. The applications and permits will be accompanied by two sets of plans for the proposed alignment of the **COUNTY's** facilities.

Such applications shall be presented to the appropriate **UDOT** Region Director or an authorized representative and said Region Director or representative shall have the authority hereunder to issue and approve the required permit as expeditiously as possible. The issuance and approval of said permit will enable the **COUNTY** to proceed with the work and use under the permit in accordance with the terms hereof.

(3) **RESERVATION AND SPECIAL PROVISIONS:** Each party hereto reserves the right to require the execution of a specific permit for any particular location and construction. Special provisions, as particular circumstances may dictate and as agreed upon the parties may be incorporated into any permit issued hereunder.

(4) **INSPECTION:** **UDOT** will routinely inspect the work of the **COUNTY** or its contractor to assure compliance with this utility line agreement and to insure proper compliance with State and Federal Regulations. These inspections shall be made by **UDOT** Region Director or an authorized representative.

(5) **COSTS:** The entire costs of the facilities installation shall be paid for by the **COUNTY**.

(6) **BEGINNING CONSTRUCTION:** All excavations and or other operations on **UDOT** property or right of way shall not be commenced by the **COUNTY** until and after notice has been given by the **COUNTY** to said **UDOT** Region Director or an authorized representative and requisite encroachment permit obtained. Construction shall be carried forward to completion in the manner required by said **UDOT** Region Director.

(7) **TRAFFIC CONTROL:** The **COUNTY** shall conduct their operation so there will be a minimum of interference without interruption of highway traffic. The **COUNTY** shall conform to such instructions of **UDOT** Region Director or an authorized representative as may be given and **UDOT** approved traffic control plan and the application of traffic control devices shall conform to the standards set forth in the current FHWA "Manual on Uniform Traffic Control Devices" during all operations of the **COUNTY**, in constructing said line. No lane closure shall be made without prior approval of **UDOT** Region Director or authorized representative. Traffic control plans showing detours and signing operations will be required in advance for review and approval for all lane closures. Peak hour lane closures may be prohibited.

(8) **EXCAVATION:** All excavation shall be made in compliance with the current Specifications for Excavation on State Highway Right of Way. No excavation will be made without first obtaining and posting the required permit. The **COUNTY** must also be cleared on a variety of environmental laws by **UDOT** Region Director or an authorized representative before the permit is issued.

Jacking or boring is preferred to open trench excavation, and will be required in all cases of facilities crossing under and not parallel to paved surfaces, unless this is not feasible due to soil conditions, other facilities, substructures, or other conditions. Jetting by means of water or compressed air will not be permitted.

The pavement, sidewalk, curb and gutter, driveway, etc. shall be cut vertically along the lines forming the trench so that the adjoining pavement is not damaged.

The portion to be removed shall be broken up in a manner that will not cause damage to the pavement outside the limits of the trench. Any pavement damaged by operations outside the limits of the trench shall be replaced. Large broken paving materials shall be removed immediately from the site of the work.

(9) **EMERGENCY EXCAVATION:** An emergency excavation may be made without prior permit if there is imminent danger or loss of life or severe damage to property. In such emergency situations, the excavating parties must contact **UDOT** not later than the end of the first working day following the excavation. None of the provisions of these Regulations are waived for emergency situations except for the prior-permit requirement. In all cases the **COUNTY** shall comply with the State Law requiring notification of all utility owners prior to excavation.

(10) **BACKFILL AND COMPACTION:** All backfill and compaction shall be done in compliance with the current specifications for Excavation on State Highway Right of Way. In all urban areas and on rural highway with high volume traffic as determined by **UDOT**, flowable fill shall be used for backfill under paved areas and shall be in conformance with the requirements of Section 03575 for "Flowable Fill" of the State of Utah Current Edition of the "Standard Specifications of Road and Bridge Construction".

(11) **PROTECTION OF PAVED SURFACES:** The **COUNTY** shall use rubber cleats or paving pads when operating track equipment on or crossing paved surfaces.

(12) **RESTORATION OF EXISTING PAVEMENT:** The **COUNTY** shall at their own expense replace any pavement removed or damaged with pavement of a type and depth approved by **UDOT** Region Director or an authorized representative, including gravel base material.

The restoration will be accomplished within 48 hours after completion of excavation and backfill, unless additional time is granted in writing by **UDOT** Region Director or an authorized representative.

New or replaced pavement shall be constructed in conformance with the "Specifications for Excavation on State Highway Right of Way" and shall be subject to the inspection and approval of **UDOT** Region Director or an authorized representative. If weather conditions do not permit immediate placing of permanent pavement, a temporary pavement will be placed. As soon as weather will permit, the temporary pavement will be removed and replaced with a permanent pavement.

If the gravel surface, gravel shoulders or gravel surfaced approach roads becomes contaminated and is not consistent with **UDOT** specifications, such surfacing material will be entirely removed and replaced with new gravel surfacing material. The repairs to pavement or surface will

include pavements which have been damaged with construction equipment or construction operations. **UDOT** will notify the **COUNTY** of the need to repair the pavement. If the **COUNTY** fails to comply with **UDOT's** request, then **UDOT** will have the option of restoring said roadbed at the expense of the **COUNTY**.

(13) **RESTORATION OF TRAFFIC SIGNAL EQUIPMENT**: Any traffic signal equipment or facilities which are disturbed or relocated as a result of the **COUNTY 's** work must be restored in accordance with plans approved by **UDOT**. Restoration of traffic signal equipment must be done at the **COUNTY 's** expense by a qualified electrical contractor experienced in signal installation, retained by the **COUNTY** and approved in advance by **UDOT**. Work shall be scheduled to ensure that disruption of any traffic signal operation is kept to a minimum.

(14) **CLEANING-UP HIGHWAY RIGHT OF WAY**: Upon completion of the work, all excess material shall be removed from within the limits of the highway. The disturbed surface shall be carefully graded to the lines and grades established. Seeding may be required to restore vegetation damaged or destroyed.

Any highway features or facilities such as paint stripes, signs, culverts, etc., disturbed or damaged during the progress of the work shall be properly restored to satisfy current standards and regulations.

(15) **MAINTENANCE**: The facilities shall at all times be maintained, repaired, renewed and operated by and at the expense of the **COUNTY**. The facilities will be serviced without access from any interstate highway or ramp. If the **COUNTY** fails to maintain the facilities, **UDOT** will notify the **COUNTY** of any maintenance needs.

If the **COUNTY** fails to comply, with **UDOT's** request, then **UDOT** reserves the right, without relieving the **COUNTY** of their obligation thereunder, to reconstruct or make repairs to the facilities, as it may consider necessary, and the **COUNTY** shall reimburse **UDOT** its cost.

(16) **FUTURE HIGHWAY CONSTRUCTION**: It will be understood and agreed to by the parties thereto and as part of the consideration for the agreement that **UDOT** will have the right to cross said facilities line at any point necessary in future construction, expansion or improvement of the State Highway System provided that **UDOT** uses due care in the protection of the facilities line in making the crossing.

(17) **RELOCATION COSTS**: In the event any highway at any future date is so reconstructed, the costs of relocating your facilities will be determined in accordance with Utah Code 72-6-116. The **COUNTY** will meet with **UDOT's** contractor and will give him a schedule when the facilities will be relocated and will meet said schedule as not to delay the contractor.

(18) **LIABILITY**: Pursuant to **R930-6 Section 4.5 of the Accommodation of Utilities and the Control and Protection of State Highway Rights of Way**, the **COUNTY** does not have to post a maintenance bond for permits granted by **UDOT** under this agreement. However, the **UDOT** Region Director may require a bond from the **COUNTY** for future projects under this agreement if the **COUNTY** fails to live up to the terms and conditions of any previous permit issued. The amount of the bond will be set according to the scope of work permitted. If a bond is required, **UDOT** may

proceed against said bond to recover all expenses incurred by **UDOT**, their employees or representatives in the sections of roadway interfered with by the **COUNTY** to restore to **UDOT** standards. These expenses refer to all expenses incurred in the repairing of portions of the roadway determined by **UDOT** inspectors to be inadequately restored or maintained by the **COUNTY**. The liability of the **COUNTY** shall not be limited to the amount of the bond. The **COUNTY** will defend, protect, indemnify, and hold harmless the **State of Utah**, **UDOT**, and all their employees, officers, agents, and volunteers from any and all claims, suits, and actions asserted by third parties claiming damages proximately caused by the **COUNTY's** negligent construction, maintenance, or use of the facility lines installed in **UDOT's** right of way pursuant to permits issued under this agreement.

(19) **CANCELLATION OF PERMIT**: If the **COUNTY** shall fail to construct, repair or remove said facilities in accordance with the terms of this agreement to the entire satisfaction of **UDOT**, or shall fail to pay **UDOT** any sum of money for the inspection, reconstruction, repair or maintenance of said facilities, **UDOT** retains the right to cancel the permit and remove said facilities and restore the highway at the sole expense of the **COUNTY**. Before **UDOT** cancels the permit, it will notify the **COUNTY** in writing, setting forth violations and will give the **COUNTY** a reasonable time to fully correct the same.

(20) **ASSIGNMENT**: Any permit granted hereunder may not be assigned without the prior written consent of **UDOT**. All assignees shall be required to file with **UDOT** a new application for the permit.

(21) **SUCCESSORS AND ASSIGNS**: All covenants and agreements therein contained shall be binding upon the parties hereto, their successors and assigns.

(22) **UDOT MAINTENANCE OPERATIONS**: Underground facilities must be buried to the proper depth to avoid conflict with **UDOT's** normal and routine maintenance activities. In entering into this utility line agreement with **UDOT** and obtaining a permit for the work, the **COUNTY** acknowledges this requirement and agrees to avoid such conflicts by placing its facilities to the required horizontal clearance and minimum depth of bury. Normal maintenance operations are those not requiring excavations in excess of the minimum horizontal clearance and depth of bury.

In all cases the **COUNTY** shall protect, indemnify and hold harmless **UDOT** for damages to lines within the horizontal or vertical clearances. Any noncompliance to the above may result in annulment of the **COUNTY's** permit. If the **COUNTY** is found to be in violation of its permit with respect to vertical or horizontal location, such violation may result in annulment of its permit.

(23) **TERMINATION OF LICENSE AGREEMENT**: Except as may be otherwise provided, this Agreement may be terminated at any time by either party upon thirty (30) days' advance written notice to the other, provided, however, that such termination shall not affect any permits theretofore issued and approved under the terms of this agreement, and such permits shall continue beyond the termination of this agreement on the same terms and provisions as are herein contained.

Approved by **TOOELE COUNTY**, a COUNTY in the State of Utah:

Colleen Johnson

Signature

31 MAY 2011

Date

COLLEEN JOHNSON

Name (printed)

COMMISSIONER

Title

Notary: SUBSCRIBED AND SWORN TO BEFORE ME THIS 31 DAY OF May, 2011,



BY Colleen Johnson

Michelle Lenore Pruden
NOTARY PUBLIC

RECOMMENDED FOR APPROVAL FOR THE UTAH DEPARTMENT OF TRANSPORTATION

By:

Rex Harris
Rex Harris, P.E.
Statewide Utility Engineer

6/1/11
Date

COMPTROLLER'S OFFICE

By:

Cherise Young
Cherise Young
Contract Administrator

6-8-11
Date

APPROVED AS TO FORM: This Form Agreement has been previously approved as to form by the office of the Legal Counsel for the Utah Department of Transportation.

