

REQUEST FOR COUNCIL ACTION

SUBJECT: Trade Temporary Access Licenses with Rocky Mountain Power

SUMMARY: Rocky Mountain Power and City staff propose to trade temporary access licenses for mutual benefit to cross each other's property. The attached Licenses meet staff approval.

**FISCAL
IMPACT:** None.

STAFF RECOMMENDATION:

Staff recommends approval.

MOTION RECOMMENDED:

"I move to adopt Resolution No. 14-32, authorizing and directing the Mayor to sign the attached Temporary Access Licenses between the City of West Jordan and Rocky Mountain Power.

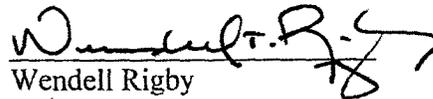
Roll Call vote required

Prepared by:



David Clemence
Real Estate Services Manager

Recommended by:



Wendell Rigby
Public Works Director

Reviewed as to legal sufficiency:



Jeffrey Robinson
City Attorney

Recommended by:



Richard L. Davis
City Manager

BACKGROUND DISCUSSION:

The City of West Jordan has an imminent project to construct the Jordan River Trail, but much of the project crosses property owned by Rocky Mountain Power (RMP), so permission from RMP to construct the project is necessary.

In October of 2013 the City purchased a permanent trail easement from RMP, but it has since been determined that an additional temporary construction easement is required to construct the project. Rather than requesting a cash payment from the City for the additional property, RMP proposes to trade for a similar temporary access license across City-owned property so RMP can access its land-locked property in a different part of West Jordan. More specifically, RMP's land-locked property is located at 5852 West New Bingham Highway.

The proposed access route across the City's property is along the future 8600 South Street, which is part of the City's master planned road system, but which is not currently constructed.

The access license to the City across the RMP property encompasses approximately 1.73 acres, and the access license to RMP across the City's property encompasses approximately 0.66 acres. In addition, the property values of each parcel are roughly equivalent, so, on the surface, the offer from RMP appears to be greater in value than what is requested of the City. However, it should be noted that the temporary access license to the City will expire upon completion of the trail project, or after two years, whichever first occurs, whereas the temporary access license to RMP will expire upon the dedication of 8600 South Street as a public road, or after two years, whichever first occurs, with the understanding that if 8600 South Street is not dedicated within two years, RMP can request an extension of the license.

Attachments:

Resolution

Temporary Access Licenses (2)

Exhibits (3)

THE CITY OF WEST JORDAN, UTAH

A Municipal Corporation

RESOLUTION NO. 14-32

**A RESOLUTION TO TRADE TEMPORARY ACCESS LICENSES
WITH ROCKY MOUNTAIN POWER**

Whereas, the City of West Jordan has an imminent project to construct the Jordan River Trail (the "Project"); and

Whereas, the City requires temporary access across property owned by Rocky Mountain Power in order to construct the Project; and

Whereas, Rocky Mountain Power requires temporary access across City-owned property in order to access land-locked property Rocky Mountain Power owns in another area of West Jordan; and

Whereas, the City and Rocky Mountain Power have agreed to trade temporary access licenses to each other to realize mutual benefits; and

Whereas, the City is allowed to enter into contracts, agreements and licenses pursuant to the Utah Code.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST JORDAN, UTAH, THAT:

Section 1. The Mayor is hereby authorized and directed to sign the attached Temporary Access Licenses between the City of West Jordan and Rocky Mountain Power.

Section 2. This resolution shall take effect immediately.

Adopted by the City Council of West Jordan, Utah, this 26th day of February, 2014.

CITY OF WEST JORDAN

By: _____
KIM V. ROLFE
Mayor

ATTEST:

By: _____
MELANIE S. BRIGGS, MMC
City Clerk

Voting by the City Council

"AYE"

"NAY"

- Council Member Jeff Haaga
- Council Member Judy Hansen
- Council Member Chris McConnehey
- Council Member Chad Nichols
- Council Member Ben Southworth
- Council Member Justin D. Stoker
- Mayor Kim V. Rolfe

PARCEL ID NO(s):
21-35-400-004, 21-35-400-005
21-35-327-008, 27-02-200-013
27-02-200-008, 27-02-200-007

TEMPORARY ACCESS LICENSE
Salt Lake County

For Ten Dollars (\$10.00) and other valuable consideration, PacifiCorp, an Oregon corporation, d/b/a Rocky Mountain Power, the owner(s) of the above identified parcel or the designated representative thereof ("Grantor"), hereby grants to West Jordan City, a municipal corporation of the State of Utah ("Grantee"), its designated contractors and agents a temporary access license as may be reasonably necessary in connection with the construction of a public trail across, along, adjacent and upon the following described real property (the "Property") owned by Grantor located in Salt Lake County, State of Utah, to-wit:

A non-exclusive temporary access license shown being part of an entire tract situate in Section 35, Township 2 South, Range 1 West, and in Section 2, Township 3 South, Range 1 West, Salt Lake Base and Meridian, U.S. Survey. The boundaries of said license are described as follows:

North Trail Section

A perpetual easement being part of two entire tracts of land located in the East Half of the Southwest Quarter and the West Half of the Southeast Quarter of Section 35, Township 2 South, Range 1 West, Salt Lake Base and Meridian. Said perpetual easement is described as follows:

Beginning at the intersection of the centerline of the proposed Jordan River trail with an easterly boundary line of said entire tracts, which point is S. 0°07'34" E. 475.17 feet along the easterly line of said southwest quarter and S. 89°52'26" W. 60.34 feet and S. 73°54'18" W. 124.95 feet from the center of said Section 35; thence S. 18°42'18" E. 22.52 feet along said easterly boundary line; thence S. 73°42'33" W. 2.31 feet to a point of tangency with a 62.50 foot radius curve to the left; thence Southwesterly 8.15 feet along the arc of said curve (chord bears S. 69°58'22" W. 8.15 feet); thence N. 23°45'53" W. 12.50 feet to a point 10.00 feet radially distant southeasterly from said trail centerline; thence Southerly along a line 10.00 feet radially distant easterly and concentric to said trail centerline the following six (6) courses: (1) Southwesterly 116.14 feet along the arc of a 75.00 foot radius curve to the left (chord bears S. 21°52'30" W. 104.87 feet) to the point of reverse curvature with a 260.00 foot radius curve to the right; (2) Southerly 144.17 feet along the arc of said curve (chord bears S. 6°36'04" E. 142.33 feet) to the point of reverse curvature with a 490.00 foot radius curve to the left; (3) Southerly 360.48 feet along the arc of said curve (chord bears S. 11°47'25" E. 352.40 feet) to the point of reverse curvature with a 1310.00 foot radius curve to the right; (4) Southeasterly 678.66 feet along the arc of said curve (chord bears S. 18°01'27" E. 671.10 feet) to the point of reverse curvature with a 445.00 foot radius

curve to the left; (5) Southeasterly 431.54 feet along the arc of said curve (chord bears S. 30°57'50" E. 414.83 feet) to the point of reverse curvature with a 570.00 foot radius curve to the right; (6) Southeasterly 128.45 feet along the arc of said curve (chord bears S. 52°17'21" E. 128.18 feet) to an easterly boundary line of said entire tracts; thence S. 18°42'18" E. 47.42 feet along said easterly boundary line to a point 10.00 feet radially distant southwesterly from said trail centerline; thence northerly along a line 10.00 feet radially distant westerly and concentric to said trail centerline the following five (5) courses: (1) Northwesterly 166.19 feet along the arc of a 550.00 foot radius curve to the left (chord bears N. 50°05'20" W 165.56 feet) to the point of reverse curvature with a 465.00 foot radius curve to the right; (2) Northwesterly 450.93 feet along the arc of said curve (chord bears N. 30°57'50" W. 433.47 feet to the point of reverse curvature with a 1290.00 foot radius curve to the left; (3) Northwesterly 668.30 feet along the arc of said curve (chord bears N. 18°01'27" W. 660.85 feet) to the point of reverse curvature with a 510.00 foot radius curve to the right; (4) Northerly 375.19 feet along the arc of said curve (chord bears N. 11°47'25" W. 366.79 feet) to the point of reverse curvature with a 240.00 foot radius curve to the left; (5) Northerly 133.09 feet along the arc of said curve (chord bears N. 6°36'04" W. 131.39 feet) to the point of reverse curvature with a 150.00 foot radius curve to the right; thence Northeasterly 45.30 feet along the arc of said curve (chord bears N. 13°50'14" W. 45.12 feet) to the point of compound curvature with a 90.00 foot radius curve to the right; thence Northeasterly 123.93 feet along the arc of said curve (chord bears N. 34°15'43" E. 114.37 feet); thence N. 73°42'33" E. 4.61 feet along a line parallel with said trail centerline to an easterly boundary line of said entire tracts; thence S. 18°42'18" E. 22.52 feet along said easterly boundary line to the point of beginning.

The above described perpetual easement contains 39,707 square feet in area or 0.912 acres, more or less.

Basis of Bearing – S. 0°01'31" E. along the west line of the Southwest Quarter of Section 35, Township 2 South, Range 1 West, Salt Lake Base & Meridian.

South Trail Section

A 20.00 strip of land situate in the Northeast Quarter of Section 2, Township 3 South, Range 1 West, Salt Lake Base & Meridian, located in West Jordan City, County of Salt Lake, State of Utah, said parcel being more particularly described as follows:

Commencing at the Northeast Corner of said Section 2, and running thence South 0° 02' 24" West, along the east line of said Section 2, a distance of 2643.53 feet, to the East Quarter Corner; thence South 89° 45'28" West, along the east-west center section line, a distance of 2224.65 feet; thence North 0° 14' 32" West, perpendicular to said east-west center section line, a distance of 114.80 feet, to the point of beginning for this description, said point being on the north line of 90th South Street, (UDOT Project No.: 1012) as describe in Quit-Clam Deed recorded in Book 6690, at Page 2130 of official records, on file with the Salt Lake County Recorder's Office; and running thence North 87° 47' 25" West, along said right of way line, a distance of 20.04 feet; thence North 05° 46' 25" East, a distance of 37.53 feet to the beginning of a curve; thence northerly 107.41 feet along the arc of said curve turning to the left through a central

angle of 15° 46' 48", having a radius of 390.00 feet, and whose long chord bears North 02° 06' 59" West, a distance of 107.07 feet, to the beginning of a reverse curve; thence northerly 105.71 feet, along the arc of said curve turning to the right through an angle of 15° 08' 31", having a radius of 400.00 feet and whose long chord bears North 02° 26' 08" West, a distance of 105.40 feet; thence North 05° 08' 08" East, a distance of 51.29 feet to the beginning of a non-tangential curve; thence northwesterly 99.08 feet along the arc of said curve turning to the left through an angle of 23° 00' 27", having a radius of 246.75 feet, and whose long chord bears North 07° 35' 08" West, a distance of 98.42 feet to a point of intersection with a non-tangential line. thence North 27° 24' 05" West, a distance of 36.29 feet; thence North 25° 54' 53" West, a distance of 90.80 feet to the beginning of a curve; thence northwesterly 20.54 feet along the arc of said curve turning to the left through an angle of 06° 11' 44", having a radius of 190.00 feet, and whose long chord bears North 29° 00' 45" West, a distance of 20.53 feet; thence North 32° 06' 36" West, a distance of 103.44 feet to the beginning of a curve; thence northerly 115.38 feet along the arc of said curve turning to the right through an angle of 55° 05' 19", having a radius of 120.00 feet, and whose long chord bears North 04° 33' 57" West, a distance of 110.98 feet; thence North 22° 58' 42" East, a distance of 157.92 feet to the beginning of a curve; thence northerly 35.79 feet along the arc of said curve turning to the right through an angle of 09° 45' 51", having a radius of 210.00 feet, and whose long chord bears North 27° 51' 38" East, a distance of 35.74 feet; thence north 32° 44' 34" east, a distance of 111.81 feet to the beginning of a curve: thence northerly 51.16 feet along the arc of said curve turning to the right through an angle of 02° 54' 09", having a radius of 1010.00 feet, and whose long chord bears North 34° 11' 38" East a distance of 51.16 feet; thence north 35° 38' 43" east, a distance of 172.77 feet to the beginning of a curve; thence easterly 141.55 feet along the arc of said curve turning to the right through an angle of 54° 04' 08", having a radius of 150.00 feet, and whose long chord bears North 62° 40' 48" East for a distance of 136.36 feet; thence North 89° 43' 29" East, a distance of 118.26 feet to the beginning of a curve; thence northeasterly 232.12 feet along the arc of said curve turning to the left through an angle of 69° 43' 28", having a radius of 190.74 feet, and whose long chord bears North 54° 51' 45" East, a distance of 218.06 feet to a point of intersection with a non-tangential line. thence South 18° 46' 32" East, a distance of 29.87 feet to the beginning of a non-tangential curve; thence southwesterly 233.12 feet along the arc of said curve turning to the right through an angle of 63° 22' 47", having a radius of 210.74 feet, and whose long chord bears South 58° 02' 06" West, a distance of 221.41 feet; thence South 89° 43' 29" West, a distance of 118.26 feet to the beginning of curve; thence southwesterly 122.68 feet, along the arc of said curve turning to the left through an angle of 54° 04' 08", having a radius of 130.00 feet, and whose long chord bears South 62° 40' 48" West, a distance of 118.1786 feet; thence South 35° 38' 43" West, a distance of 172.77 feet to the beginning of a curve; thence southerly along the arc of said curve turning to the left through an angle of 02° 54' 09", having a radius of 990.0000 feet, and whose long chord bears South 34° 11' 38" West, a distance of 50.15 feet. thence South 32° 44' 34" West, a distance of 111.81 feet to the beginning of a curve; thence southerly 32.38 feet along the arc of said curve turning to the left through an angle of 09° 45' 51", having a radius of 190.00 feet, and whose long chord bears South 27° 51' 38" West, a distance of 32.34 feet; thence South 22° 58' 42" West, a distance of 157.92 feet to the beginning of a curve; thence southeasterly 96.15 feet along the arc of said curve turning to the left through an angle

of 55° 05' 19", having a radius of 100.00 feet, and whose long chord bears South 04° 33' 57" East, a distance of 92.49 feet; thence South 32° 06' 36" East, a distance of 103.44 feet to the beginning of a curve; thence southeasterly 22.71 feet along the arc of said curve turning to the right through an angle of 06° 11' 44", having a radius of 210.00 feet, and whose long chord bears South 29° 00' 45" East, a distance of 22.70 feet; thence South 25° 54' 53" East, a distance of 90.54 feet; thence South 27° 24' 05" East, a distance of 37.45 feet to the beginning curve; thence southeasterly 108.81 feet along the arc of said curve turning to the right through an angle of 23° 22' 20", having a radius of 266.75 feet, and whose long chord bears South 07° 43' 17" East, a distance of 108.06 feet thence South 05° 08' 08" West, a distance of 51.49 feet to the beginning of a curve; thence southeasterly 100.43 feet along the arc of said curve turning to the left through 15° 08' 31", having a radius of 380.00 feet and whose long chord bears South 02° 26' 08" East, a distance of 100.13 feet to the beginning of a reverse curve; thence southerly 112.92 feet, along the arc of said curve turning to the right through an angle of 15° 46' 48", having a radius of 410.00 feet, and whose long chord bears South 02° 06' 59" East, a distance of 112.5624 feet; thence South 05° 46' 25" West, a distance of 36.29 feet to the point of beginning.

containing 35,477 square feet, or 0.814 acres.

This temporary access license is granted to Grantee subject to the following conditions:

1. Grantee shall not make or allow to be made any use of the Property that is inconsistent with, or interferes in any manner with Grantor's operation, maintenance or repair of Grantor's existing installations or additional facilities or improvements constructed after the granting of this temporary access license, including electric transmission and distribution circuits that cross over or above the property as herein described.

2. Grantee shall not use or permit to be used on the Property, construction cranes or other equipment that violate NESC, OSHA or Utah High Voltage Act clearance standards. Grantee shall not store materials within the Property. Grantee shall not excavate within 50 feet of Grantor's transmission structures. The storage of hazardous materials or refueling of vehicle/equipment is prohibited within the Property. At no time shall Grantee place any equipment or materials of any kind that exceeds fifteen (15) feet in height, or that creates a material risk of endangering Grantor's facilities, or that pose a risk to human safety within the Property. Grantee's use of the Property area shall comply with NESC, OSHA and Utah High Voltage Act Safety clearance standards.

3. Release and Indemnification.

(a) Grantee shall use the Easement at its own risk. Grantee shall release, indemnify, defend, and hold harmless Grantor from and against all other liabilities, claims, damages, losses, suits, judgments, causes of action, liens, fines, penalties, costs, and expenses (including, but not limited to, court costs, attorneys' fees, and costs of investigation) directly or indirectly arising out of, caused by, or resulting from in whole or in part, (i) a breach by Grantee of any provision of this agreement, (ii) Grantee's use and occupation of the Easement, or (iii) any act or omission of Grantee, any independent contractor retained

by Grantee, or anyone directly or indirectly employed by them, while working on and/or maintaining the Easement. Grantee shall not be obligated to indemnify, defend or hold Grantor harmless to the extent any liability under this section ~~2.2~~ is caused by any negligent or willful act or failure to act of the Grantor. Grantee's obligations under this section ~~2.2~~ are subject to the limitations set forth in the Governmental Immunity Act of Utah.¹

4. Grantee and its designated contractors and agents shall ensure the current grade of the Property is unchanged.

5. This temporary access license shall expire upon completion of the construction of the public trail, or two years after the date of execution of this instrument, whichever occurs first.

6. This temporary access license shall be binding upon the grantor, their heirs, successors, or assigns, for the duration of the temporary access license as noted above.

7. To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

PacifiCorp, an Oregon corporation d/b/a Rocky Mountain Power

Dated this 3rd day of Feb, 2014

Grantor:

By: Douglas N. Bennion

Its: vice President

Douglas N. Bennion

Grantee:

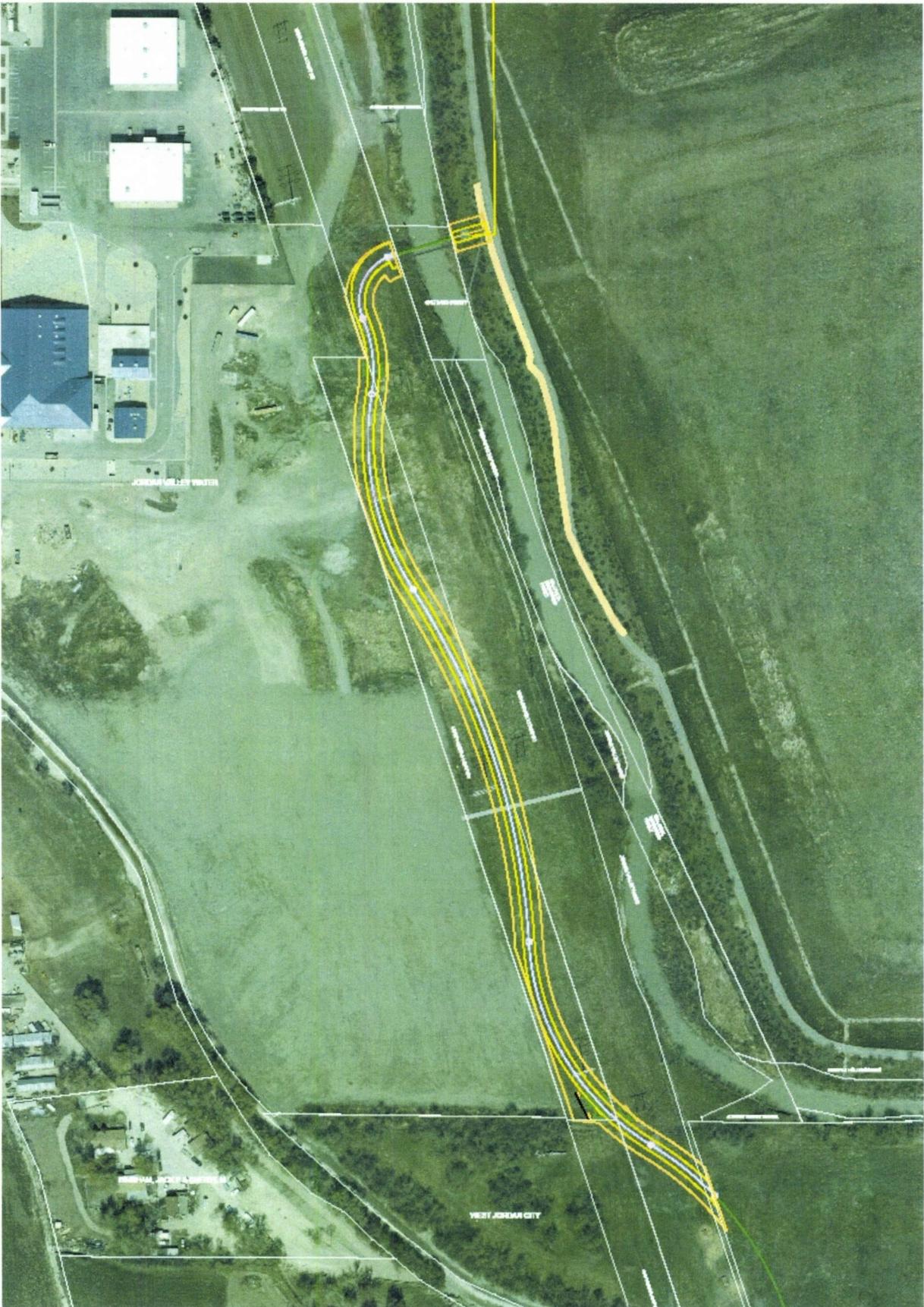
Dated this _____ day of _____, 2014

Grantee: _____

By: _____

Its: _____

¹ Utah Code Ann. § 63G-7-101 et. seq.



TEMPORARY ACCESS LICENSE

For Ten Dollars (\$10.00) and other valuable consideration, the City of West Jordan, a municipal corporation of the State of Utah ("Grantor"), hereby grants to PacifiCorp, an Oregon corporation, d/b/a Rocky Mountain Power ("Grantee"), its designated contractors and agents, a non-exclusive temporary access license as may be reasonably necessary to access Grantee's adjacent property, across, upon and along the following described real property (the "Property") owned by Grantor located in Salt Lake County, State of Utah, to-wit:

[See Exhibit "A" attached hereto and by this reference incorporated herein].

This temporary access license is granted to Grantee subject to the following conditions:

1. Grantee shall not make or allow to be made any use of the Property that is inconsistent with, or interferes in any manner with Grantor's operation, maintenance or repair of Grantor's existing installations or additional facilities or improvements constructed after the granting of this temporary access license, including underground utility systems that cross under the Property.
2. Grantee shall not store materials on or excavate within the Property. The storage of hazardous materials or refueling of vehicle/equipment is prohibited within the Property. Grantee's use of the Property shall comply with all federal, state and local laws, rules and customs.
3. Release and Indemnification.
 - (a) Grantee shall use the Property at its own risk. Grantee shall release, indemnify, defend, and hold harmless Grantor from and against all other liabilities, claims, damages, losses, suits, judgments, causes of action, liens, fines, penalties, costs, and expenses (including, but not limited to, court costs, attorneys' fees, and costs of investigation) directly or indirectly arising out of, caused by, or resulting from in whole or in part, (i) a breach by Grantee of any provision of this agreement, (ii) Grantee's use and occupation of the Property, or (iii) any act or omission of Grantee, any independent contractor retained by Grantee, or anyone directly or indirectly employed by them, while working on and/or maintaining the Property. Grantee shall not be obligated to indemnify, defend or hold Grantor harmless to the extent any liability under this section 3(a) is caused by any negligent or willful act or failure to act of the Grantor.
4. Grantee and its designated contractors and agents shall not change the current grade of the Property without express written permission from Grantor.
5. This license shall not be assigned to any other party by Grantor or Grantee.

6. This temporary access license shall automatically expire two years after the last dated signature hereon (the "Expiration Date"), except as follows:

- (a) If a public road is dedicated over the Property prior to the Expiration Date, then this license shall automatically expire upon the date of the public road dedication.
- (b) If a public road is dedicated over only a portion of the Property prior to the Expiration Date, then this license shall automatically expire as to that portion subject to the public road dedication only and the license shall remain in full force and effect as to the remainder.
- (c) If Grantee needs to extend this license beyond the Expiration Date, then Grantee must request an extension in writing not less than ninety (90) calendar days prior to the Expiration Date, and the extension shall not be unreasonably withheld, conditioned or delayed. Any request for an extension must be addressed to the following:

City of West Jordan
 Attn: City Recorder
 8000 South Redwood Road
 West Jordan, Utah 84088

7. This temporary access license shall be binding upon Grantor, Grantee, and their heirs, successors, or assigns, for the duration of the temporary access license as noted above.

8. To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

City of West Jordan

Dated this _____ day of _____, 2014

Grantor: _____
 By: Kim V. Rolfe
 Its: Mayor

APPROVED AS TO LEGAL FORM
 West Jordan City Attorney
 By: Daniel Olson Date: 2/18/14

PacifiCorp, an Oregon corporation d/b/a Rocky Mountain Power

Dated this ____ day of _____, 2014

Grantee: _____
 By: _____
 Its: _____

Exhibit "A"

That portion of Section 2, Township 3 South, Range 2 West of the Salt Lake Base and Meridian, more particularly described as follows, to wit:

Beginning at the intersection of the Easterly line of Three Forks Subdivision Phase 5 and the Northerly section line of Section 2, Township 3 South, Range 2 West of the Salt Lake Base and Meridian, said point being located 2001.37 feet South 89°40'00" East along the section line from the Southwest corner of Section 35, Township 2 South, Range 2 West of the Salt Lake Base and Meridian; thence South 89°40'00" East 1435.00 feet, more or less, along said section line to the Northeast corner of that certain tract of land conveyed to the City of West Jordan by Warranty Deed dated July 23, 1996, and recorded July 30, 1996, under Entry Number 6416876, in Book 7453, at Page 2962, in the office of the Salt Lake County Recorder, said point also being on the Westerly line of the Rocky Mountain Power (RMP) corridor; thence South 00°18'17" West along the property line common to the City and RMP property boundaries, a distance of 20.00 feet; thence North 89°40'00" West 1435.00 feet, more or less, to the Easterly line of said Three Forks Subdivision Phase 5; thence North 00°19'59" East 20.00 feet, more or less, along said subdivision boundary to the point of beginning.

The foregoing contains 28,700 square feet, or 0.66 acres, more or less.

TEMPORARY ACCESS LICENSE

ROCKY MOUNTAIN POWER

MOUNTAIN VIEW

MOUNTAIN VIEW

5600 West

OUTH

WEST JORDAN
26-02-100-040

WEST JORDAN
26-02-200-026

NEW BIN

3 A

