

EASEMENT AGREEMENT

Easement No. 2571
Fund: School

This Easement Agreement is dated NOVEMBER 16, 2022 (the “**Effective Date**”) and is between the State of Utah, through the School and Institutional Trust Lands Administration, 675 East 500 South, Suite 500, Salt Lake City, Utah 84102 (“**SITLA**”) and Tooele County, a political subdivision of the State of Utah, Tooele County, 47 South Main Street, Tooele, Utah, 84074 (“**Grantee**”).

RECITALS

- A. SITLA is an independent state agency that manages lands held in trust by the State of Utah for certain named beneficiaries (“**trust lands**”), pursuant to Sections 6, 8, 10, and 12 of the Utah Enabling Act, Article XX, Section 2 of the Utah State Constitution, and Title 53C of the Utah Code.
- B. SITLA manages certain trust lands in Tooele County, Utah (the “**Easement Lands**”) that contain existing road(s) and related appurtenances and facilities, including without limitation culverts, cattle guards, and drainage runouts (the “**Existing Roads**”).
- C. Grantee has requested and SITLA has agreed to grant Grantee an easement on, over, and across the Easement Lands for the continued use and maintenance of the Existing Roads, as the Easement Lands and Existing Roads are described on Exhibit A are depicted on Exhibit B, on the terms and conditions of this Easement Agreement.

AGREEMENT

For \$10 and other good and valuable consideration paid by Grantee, SITLA and Grantee agree as follows:

1. **Grant of Easement/Purpose.** SITLA hereby grants Grantee a perpetual, non-exclusive easement (the “**Easement**”) on, over, and across the Easement Lands for the continued use and maintenance of the Existing Roads for the purposes such Existing Roads are used as of the Effective Date. Grantee shall ensure that the Existing Roads remain open to the general public and to OHV use.
2. **Term of Easement.** This Easement Agreement commences on the Effective Date and continues in perpetuity (the “**Term**”), unless otherwise terminated pursuant to this Easement Agreement.
3. **Third Party Rights.** The Easement Agreement is subject to valid existing rights, whether or not of record.
4. **No Cost to SITLA.** Grantee shall pay all costs and expenses arising out of or related to the use and maintenance of the Easement Lands. Grantee shall perform all work in connection with the Easement Lands in a workmanlike manner.

5. **No Warranty of Title.** SITLA disclaims all warranties of title to the Easement Lands. Grantee assumes the risk of all title defects, and hereby releases SITLA from any claim for damages or refund caused by deficiency or failure of SITLA's title, or by interference by any third party.
6. **Easement Non-Exclusive; Access.** The Easement is non-exclusive, and SITLA reserves the right to issue other non-exclusive easements, leases, or permits on or across the Easement Lands on terms that will not unreasonably interfere with the rights granted to Grantee in this Easement Agreement. SITLA may also use the Easement Lands for any purpose that is not inconsistent with the purposes for which this Easement is granted. SITLA further reserves the right to dispose of the Easement Lands by sale, lease or exchange, and the right to utilize the Easement Lands for access to and from lands owned by SITLA on both sides of the Easement Lands, including the construction of road and utility crossings.
7. **Relocation; Limitations; Cost Borne by SITLA.** SITLA may at its expense relocate or modify the Easement, in whole or in part, as SITLA deems necessary in its sole discretion to accommodate SITLA's use of the Easement Lands or the adjoining lands for any purpose. SITLA shall ensure that the relocated or modified Easement provides Grantee with access that is adequate for the purposes of this Easement Agreement.
8. **Reservation of Minerals; Leasing.** SITLA reserves the right to lease the Easement Lands for the exploration, development, and production of oil, gas, and all other minerals, together with the right of ingress and egress across the Easement Lands. This Easement Agreement does not give Grantee any right to remove or utilize sand and gravel or any other material without a separate permit from SITLA.
9. **Inspection.** SITLA and its agents may at any time access the Easement Lands to examine or inspect the condition of the Easement Lands and determine if Grantee is in compliance with this Easement Agreement.
10. **Compliance with Law; Standards.** Grantee shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to its use of the Easement Lands, whether now in existence or hereafter enacted, including without limitation any regulations enacted by SITLA or a successor agency. Grantee shall use and maintain the Existing Roads in accordance with applicable building codes and industry best practices, and shall take all precautions reasonably necessary to avoid waste and prevent pollution or deterioration of lands and waters within or in the vicinity of the Easement Lands.
11. **Assignment.** Grantee may not assign or sublease all or part of this Easement Agreement without SITLA's prior written consent. Any assignment or sublease made without SITLA's written consent will be void as from the date of the purported assignment or sublease. An assignment or sublease does not relieve Grantee of its liabilities and obligations under this Easement Agreement.
12. **Removal of Timber.** Grantee may not cut or remove trees from the Easement Lands without first obtaining a small forest products permit or timber contract from SITLA.

13. **Cultural, Archaeological, Paleontological, and Antiquities Resources.**

- a. SITLA and Grantee acknowledge that, as of the Effective Date, the disturbed width of the Existing Roads is less than the width of the Easement Lands. Grantee may not widen the Existing Road or otherwise disturb the surface of the Easement Lands outside the boundaries of the Existing Roads without first complying this Section 13.
- b. Prior to commencing any surface disturbing activities or any activities that have the potential to affect Historic Properties, whether a new surface disturbing activity or outside existing disturbed areas, Grantee shall complete a Cultural Resource Survey prepared in accordance with applicable laws and regulations, or otherwise provide evidence of compliance with Utah Administrative Code R850-60-800.
- c. Grantee must contract for and pay the costs of the Cultural Resource Survey.
- d. Grantee shall provide cultural resource compliance materials to SITLA prior to commencing operations. SITLA will review all cultural resource compliance materials provided by Grantee, and may approve, condition, or deny its consent to the activity based on impacts to Cultural Resources. SITLA may require Grantee to complete appropriate cultural resources mitigation measures as a condition of conducting surface disturbing operations.
- e. Pursuant to all applicable laws regarding cultural, archaeological, paleontological, and antiquities resources, and pursuant to Utah Administrative Code R850-60-900, upon discovery of a Site, Historic Property, Remains, Antiquities, or Critical Paleontological Resources, Grantee shall immediately cease all activities until such time as the discovery has been evaluated and treated to SITLA's satisfaction.
- f. All Specimens are and will remain the property of the State of Utah.
- g. Definitions in this clause:
 - i. "Antiquities" is defined in Utah Code § 76-6-901(1).
 - ii. "Critical Paleontological Resources" is defined in Utah Code § 79-3-102(4).
 - iii. "Cultural Resources" is defined in Utah Administrative Code R850-1-200(8).
 - iv. "Cultural Resource Survey" is defined in Utah Administrative Code R850-1-200(9).
 - v. "Historic Properties" is defined in Utah Code § 9-8-302(5).
 - vi. "Remains" is defined in Utah Code § 9-9-402(11).
 - vii. "Site", for purposes of archaeology, is defined in Utah Code § 9-8-302(17) and Utah Administrative Code R850-1-200(31), and for paleontological, is defined in Utah Code § 79-3-102(14) and Utah Administrative Code R850-1-200(20).

viii. "Specimen", for purposes of archaeology, is defined in Utah Code § 9-8-302(18) and Utah Administrative Code R850-1-200(33), and for paleontological, is defined in Utah Code § 79-3-102(15).

14. **Wildfire.** Grantee shall at all times take reasonable precautions to prevent wildfires from starting or spreading on the Easement Lands, and shall comply with all applicable laws, regulations and directives of any governmental agency having jurisdiction with respect to fire prevention and control. If Grantee or its employees, contractors or licensees cause a wildfire that necessitates suppression action, Grantee shall pay the costs of any necessary fire suppression activities incurred as a result of the wildfire, in accordance with Utah law.

15. **Hazardous Conditions.** Grantee may not permit and shall abate any hazardous condition on or associated with its use of the Easement Lands.

16. **Notice.** The parties shall send all communications and notices to the other in writing and addressed as follows:

Grantee: Tooele County
47 South Main Street
Tooele, Utah 84074

SITLA: State of Utah
School and Institutional Trust Lands Administration
675 East 500 South, Suite 500
Salt Lake City, Utah 84102-2818

or at any such other address as a party may designate by written notice to the other party. The parties may deliver communications by hand delivery, United States mail, postage prepaid and certified or registered, or by commercial carrier.

17. **General Provisions.**

a. **Indemnity.** Grantee assumes liability for and shall indemnify and hold harmless SITLA, its officers, board of trustees, and employees for, from and against any and all liability and claims, including attorney's fees, of any nature imposed on, incurred by, or asserted against SITLA that in any way relates to or arises out of Grantee's activity or presence on the Easement Lands, unless such liability is caused by SITLA's sole negligence.

b. **Grantee Liable for Actions of Representatives.** Whenever this Easement Agreement imposes obligations or liabilities on Grantee, those liabilities and obligations apply to actions or inactions of Grantee's officers, directors, owners, agents, employees, sublessees, assignees, contractors, subcontractors, invitees, and concessionaires. Grantee hereby assumes all liability arising from the actions or inactions of Grantee's officers, directors, owners, agents, employees, sublessees, assignees, contractors, subcontractors, invitees, and concessionaires on the Easement Lands or pursuant to this Easement Agreement.

- c. Survival. The following provisions survive termination of this Easement Agreement: Sections 16 (*Notice*), 17.a (*Indemnity*), 17.b (*Grantee Liable for Actions of Representatives*), 17.d (*Attorney's Fee*), 17.f (*Governing Law; Venue*), and 17.g (*No Waiver of Sovereign Immunity*).
- d. Attorney's Fees. If SITLA prevails in any legal action brought to enforce its rights under this Easement Agreement, Grantee shall reimburse SITLA's reasonable attorney's fees and court costs, as those fees and costs are determined by the court.
- e. Severability. If a court of competent jurisdiction finds any provision of this Easement Agreement invalid, such determination will not affect the validity of any other provision of this Easement Agreement.
- f. Governing Law; Venue. This Easement Agreement is governed by the laws of the State of Utah, without regard to its choice or conflicts of law principles. Grantee consents to the jurisdiction of the courts in the Third District Court for Salt Lake County, Utah, subject, however, to any legal requirement for prior exhaustion of administrative remedies.
- g. No Waiver of Sovereign Immunity. This Easement Agreement does not constitute a waiver of sovereign immunity of SITLA.
- h. Entire Agreement. This Easement Agreement sets forth all the promises, inducements, agreements, conditions, and understandings between the parties relative to the Easement, and there are no promises, agreements, conditions, or understandings, either oral or written, express or implied, between them other than as set forth in this Easement Agreement. The parties may only amend this Easement Agreement in a writing signed by both parties.
- i. Binding Effect. The Easement and the terms of this Easement Agreement constitute a covenant running with the land and are binding on and inure to the benefit of the parties and their respective successors and permitted assigns.
- j. Counterparts and Electronic Signatures. The parties may execute this Easement Agreement in counterparts, each of which when taken together will be deemed one and the same document. The parties may execute this Easement Agreement by exchange of electronic signatures and such electronic signatures are enforceable against the signing party. The parties agree that an electronic version of this Lease has the same legal effect and/or enforceability as a paper version as per Utah Code § 46-4-201.

[SIGNATURES ON NEXT PAGE]

EXHIBIT A
To Easement Agreement No. 2571

DESCRIPTION OF EASEMENT LANDS

Township 10 South, Range 9 West, SLB&M
Section 36: SW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ (Within)

Popular Name: WHAREHOUSE ROCK RD
County Road Number: tc02885

A 33 foot wide strip of land located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 36, Township 10 South, Range 9 West, of the Salt Lake Base and Meridian, Tooele County, Utah. The centerline of said strip being the travel surface centerline of County Road tc02885 as it currently exists at the time of recording, and is described as follows:

Beginning at the intersection of said centerline and the West line SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 36, Township 10 South, Range 9 West, which intersection bears S 01°08' W 4,060 feet more or less from the Northwest Corner of Section 36, Township 10 South, Range 9 West and is located at 39°54'27.51" North Latitude and 112°49'05.73" West Longitude (NAD 83), which can be converted to the Utah Coordinate System, 1983, Central Zone coordinates of X: 1,270,643 feet and Y: 7,137,807 feet; thence Northeasterly along said centerline 6,164 feet more or less to a point intersecting the North line of NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 36, Township 10 South, Range 9 West, SLB&M, said point bears S 88°04' E along the Section line 4,188 feet more or less from the Northwest Corner of said Section 36, and is located at 39°55'06.85" North Latitude and 112°48'11.71" West Longitude (NAD 83), which can be converted to the Utah Coordinate System, 1983, South Zone coordinates of X: 1,274,910 feet and Y: 7,141,725 feet. Containing 4.66 acres more or less.

All coordinates, bearings and distances are approximate.
Bearings are geodetic.

At its Western terminus, the sidelines of said strip being shortened or lengthened to terminate at West line of SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 36, Township 10 South, Range 9 West. At its Eastern terminus, the sidelines of said strip being shortened or lengthened to the North line of NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 36, Township 10 South, Range 9 West.

See Exhibit B for a cartographic representation of the course of this road.

Township 10 South, Range 9 West, SLB&M
Section 36: S $\frac{1}{2}$ S $\frac{1}{2}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ (Within)

Popular Name: tc02886
County Road Number: tc02886

A 33 foot wide strip of land located in the S½S½, NE¼SE¼ of Section 36, Township 10 South, Range 9 West, of the Salt Lake Base and Meridian, Tooele County, Utah. The centerline of said strip being the travel surface centerline of County Road tc02886 as it currently exists at the time of recording, and is described as follows:

Beginning at the intersection of said centerline and the West line SW¼SW¼ Section 36, Township 10 South, Range 9 West, which intersection bears N 01°10' E 237 feet more or less from the Southwest Corner of Section 36, Township 10 South, Range 9 West and is located at 39°54'17.58" North Latitude and 112°49'05.78" West Longitude (NAD 83), which can be converted to the Utah Coordinate System, 1983, Central Zone coordinates of X: 1,270,624 feet and Y: 7,136,803 feet; thence Easterly along said centerline 5,781 feet more or less to a point intersecting the East line of SE¼SE¼, Section 36, Township 10 South, Range 9 West, SLB&M, said point bears N 76°57' E along the Section line 5,419 feet more or less from the Southwest Corner of said Section 36, and is located at 39°54'28.09" North Latitude and 112°47'58.28" West Longitude (NAD 83), which can be converted to the Utah Coordinate System, 1983, South Zone coordinates of X: 1,275,899 feet and Y: 7,137,789 feet. Containing 4.38 acres more or less.

All coordinates, bearings and distances are approximate.
Bearings are geodetic.

At its Western terminus, the sidelines of said strip being shortened or lengthened to terminate at West line of SW¼SW¼, Section 36, Township 10 South, Range 9 West. At its Eastern terminus, the sidelines of said strip being shortened or lengthened to the East line of SE¼SE¼, Section 36, Township 10 South, Range 9 West.

See Exhibit B for a cartographic representation of the course of this road.

EXHIBIT B
To Easement Agreement No. 2571

MAP OF EASEMENT LANDS

SECTION(S) 36, T10S, R9W, S.L.B&M

Warehouse
Rock Road

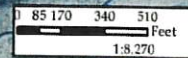

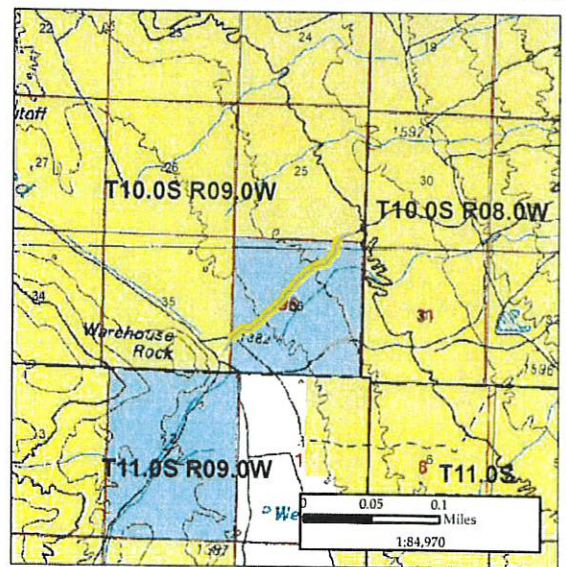


Exhibit B

Easement No. 2571 - Tooele County Road
 Township 10 South, Range 9 West, Section(s) 36, S.L.B&M
 Popular Road Name: Warehouse Rock Road
 County Road No. TC02885

 Easement
 Land Ownership and Administration
 Bureau of Land Management
 State Trust Lands



Produced: October 21, 2022 SITLA
 User: nancystuckland
 Path: V:\Surface\NancyStuckland\ExhibitB_Template.mxd

Data represented on this map is for REFERENCE USE ONLY and is not suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information. SITLA provides this data in good faith and shall in no event be liable for any incorrect results, or any special, indirect or consequential damages to any party, arising out of or in connection with the use or the inability to use the data herein.

Land parcels, lease boundaries and associated SITLA data layers may have been adjusted to allow for visual "best fit." The Surface Ownership Land Status data (if present) are maintained by SITLA to reflect current trust land status and surface ownership. Lakes, rivers, streams, highways, roads, county and state boundaries are distributed by the Utah Automated Geographic Reference Center and/or other sources as specified. Contour lines (if present) were generated from USGS 10 meter DEM.

Please Note: While SITLA seeks to verify data for accuracy and content, discrepancies may exist within the data. Acquiring the most updated SITLA ownership GIS data may require contacting the GIS staff directly 801-538-5100 or TLA-GIS@utah.gov. The SITLA GIS department welcomes your comments and concerns regarding the data and will attempt to resolve issues as they are brought to our attention. Coordinate System: NAD 1983 UTM Zone 12N. Projection: Transverse Mercator.

SECTION(S) 36, T10S, R9W S.L.B&M

TC02886

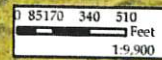



Exhibit B

Easement No. 2571 - Tooele County Road
 Township 10 South, Range 9 West, Section(s) 36, S.L.B&M
 Popular Road Name: TC02886
 County Road No. TC02886

-  Easement
- Land Ownership and Administration**
 - Bureau of Land Management
 - Private
 - Slate Trust Lands

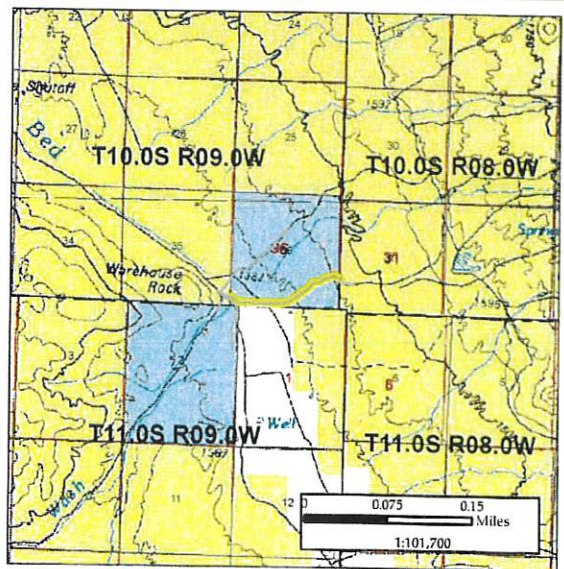


Produced: October 24, 2022 SITLA
 User: nancy@stl.land
 Path: V:\Surfaces\Nancy\Stl\land\ExhibitB_Template.mxd

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Tooele County Council Agenda Item Summary

Department Making Request:

Community Development

Meeting Date:

November 29, 2022

*Ratification***Mark Options That Apply:** **Grant**
1 time **Contract**
1 yr. or less **Purchase**

Exp date: _____

 Grant
With County Match **Contract**
More than 1 yr.

Exp date: _____

Budget Impact: **In Budget** **Over Budget****Requested Amount: \$** _____**Item Title:***Please answer the who? what? when? why?*

SITLA is selling a parcel of property that currently has a prescriptive ROW. Attached is an easement prepared by SITLA for the ROW to ensure it will remain on the property.

List who needs copies when approved: