

Metropolitan Water District of Salt Lake & Sandy  
Engineering Committee Packet Information  
Last Update: April 28, 2011

**Agenda Item:**

Right-of-way Licensing Program

- b. Encroachment licensing fees for member cities

**Objective:** For the Board to consider waving licensing fees for member cities.

**Background:** Attached is a letter from Shane Pace, Sandy City Public Utilities Director, requesting that a license fee be waived for an irrigation line crossing of the Point of the Mountain Aqueduct (POMA). The letter also expresses concern over the necessity of a license agreement.

Staff engaged in further dialogue at the April 20<sup>th</sup> Member Cities meeting.

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**Committee Activity:** The Engineering Committee is to review and discuss the request to waive fees for Member Cities.

**Recommendation:** Staff recommends the Board not waive fees for Member Cities.



## DEPARTMENT OF PUBLIC UTILITIES

Thomas M. Dolan  
Mayor

Byron Jorgenson  
Chief Administrative Officer

Shane E. Pace  
Director

April 13, 2011

Mike Wilson  
Metropolitan Water District of Salt Lake and Sandy  
3430 East Danish Road  
Sandy, Utah 84093

Dear Mike:

Recently Sandy City Public Utilities has been asked by Metropolitan Water District of Salt Lake and Sandy (Metro) to sign a license agreement and pay a fee associated with a storm drain line/irrigation line crossing the Point of the Mountain Aqueduct (POMA). Discussions have occurred in Metro's engineering committee about this situation. I am requesting that the fee be waived by Metro's Board of Directors and want to express concern about the necessity of a licensed agreement.

As you are aware, this storm drain/irrigation line has been in place for over forty years and is in the Sandy City's public right-of-way. The irrigation prescriptive easement has been in place for over 100 years. Sandy City worked with Metro to provide an easement for the POMA in the Highland Drive corridor because of its substantial benefit to both Metro and Sandy City. This easement was provided at a total cost of ten dollars. (see attached) It is difficult to understand the requirement of a license agreement and fee for a pre-existing line in the City's own right-of-way. Traditionally, Metro has not required a license agreement and fee from Salt Lake City to cross the Salt Lake Aqueduct in its community.

We, of course, understand the need for a license agreement of a new line crossing POMA but are still concerned about paying a fee as a member city. Please ask the board to consider these issues not just for Sandy City but for both member cities. Now is the time to establish a fair policy that can be followed by your engineering group as they struggle to protect Metro's infrastructure well into the future.

Sincerely,

Shane E. Pace  
Public Utilities Director

WHEN RECORDED MAIL TO:  
Metropolitan Water District  
of Salt Lake & Sandy  
3430 East Danish Road  
Sandy, UT 84093  
Attn: Robyn Clayton

9411594  
06/22/2005 01:05 PM #0.00  
Book - 9148 Pg - 4853-4858  
GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
METROPOLITAN WATER DIST OF SL  
WELLS FARGO PLAZA  
170 S MAIN STE. 650  
SLC UT 84101  
BY: ZJM, DEPUTY - MI 6 P.

Please return to:  
Dianne H. Aubrey, MMC  
Sandy City Recorder  
10000 Centennial Parkway  
Sandy, Utah 84070

PARCEL ID #28-02-326-021  
28-02-326-022  
28-02-326-024  
28-02-401-009

POMA 141, 142 and 143

### NON-EXCLUSIVE PIPELINE RIGHT-OF-WAY AND EASEMENT AGREEMENT

SANDY CITY CORPORATION, a Utah municipal corporation, Grantor, hereby grants and conveys, to the METROPOLITAN WATER DISTRICT OF SALT LAKE & SANDY, a metropolitan water district organized under the laws of the State of Utah, Grantee, for the sum of TEN DOLLARS and other valuable consideration, a perpetual non-exclusive right-of-way and easement to locate, survey a route, conduct environmental and cultural surveys, construct, entrench, maintain, protect, inspect, operate, maintain, repair, replace and enlarge a water pipeline and associated communication lines and water system facilities and equipment (collectively referred to as the "Pipeline") over, under and through land situated in Salt Lake County, State of Utah, more particularly described as follows:

See Exhibit "1"

hereinafter the "Easement Property." This right-of-way and easement shall carry with it the right of reasonably necessary vehicular and pedestrian ingress and egress to and from, and access on and along the Easement Property for the purpose of inspection, maintenance, repair, upgrading and removal of the Pipeline and its appurtenances, with the right to use existing and future roads and trails, for the purposes of constructing, inspecting, repairing, protecting and maintaining the Pipeline and the removal or replacement of same at will, either in whole or in part, and the replacement of the Pipeline with either like or different sized facilities, provided that no second or larger pipeline shall be placed in the Easement Property without the written consent of the Grantor, and provided that Grantee shall make reasonable efforts, including notice to the Grantor's Parks and Recreation Department, to avoid interfering with normal or scheduled park activities.

This Agreement and the rights-of-way and easements granted hereby are subject to the following terms and conditions:

I. Grantee may place in the Easement Property such reasonably necessary air vents and valves, water vents, blow-offs, other valves, cathodic protection facilities and other structures for the normal operation and maintenance of the Pipeline, provided that such vents, valves, blow-offs, and facilities do not unreasonably interfere with the use of any road, path, trail or other park facilities, and provided that they do not pose a significant risk to public safety or damage to property; provided, however, above-ground facilities other than those shown in Grantee's Contract Documents for Construction of Point of the Mountain Aqueduct, dated

November, 2004, shall be placed in the Easement Property only upon the prior written consent of Grantor, which consent may not be unreasonably withheld, and upon such terms as Grantor may reasonably require.

2. Following the completion of any construction, repair or replacement of the Pipeline, Grantor's land shall be restored to the same or better condition than before such work, taking into account the nature of Grantee's use of the Easement Property and the restrictions and limitations on Grantor's use of the Easement Property, except as otherwise approved in writing by the department head of Grantor.

3. Grantee shall have the right to cut, damage or remove trees, vegetation, landscaping and other improvements from the Easement Property as necessary during the construction, maintenance, repair or replacement of the Pipeline and the other improvements related to the construction of the Pipeline, provided that it reasonably repair any such damage, and replace any vegetation removed with the same type or variety of vegetation in similar or better condition, except as approved in writing by the head of Grantor's Parks and Recreation Department.

4. Grantor hereby reserves its own uses of the Easement Property and the right of the general public to use the Easement Property incidental to its use of Quail Hollow Park, provided that such uses shall not unreasonably interfere with the Pipeline or the other purposes for which this easement and right-of-way are granted. In allowing other uses of the Easement Property, Grantor shall comply with such safety and encroachment specifications as are standard practice for large culinary water pipelines, or as may be required by applicable laws and regulations. In addition, Grantor agrees:

a. crossing utilities shall maintain a vertical offset of not less than an 18 inches from the outside wall of the Pipeline;

b. angles of crossing utilities shall be 90 degrees in relation to the Pipeline whenever practicable, and not less than 60 degrees, unless otherwise approved in writing by Grantee, which approval shall not be unreasonably withheld;

c. parallel buried power lines and metallic gas mains protected by impressed current shall maintain a horizontal offset of not less than fifteen (15) feet from the centerline of the Pipeline and other parallel utilities shall maintain a horizontal offset of not less than ten (10) feet from the centerline of the Pipeline, except when otherwise agreed by the parties in writing;

d. no parallel electric rail lines or overhead high voltage power lines shall be permitted in the Easement Property; and

e. Grantor shall notify Grantee of any additional easements, licenses or rights-of-way granted within the Easement Property and shall require the holders of such easements, licenses or rights-of-way to consult and cooperate with Grantee in the location, maintenance and operation of their facilities.

5. Grantor further agrees that:

a. Grantor shall not build, install, allow or otherwise place upon the Easement Property within fifteen feet of the centerline of the Pipeline (i) any permanent structure, including but not limited to buildings or masonry fences, or (ii) any structure which interferes with, or renders

more difficult or expensive Grantee's use of the rights-of-way and easements granted under this Agreement, without Grantee's written permission. Upon demand of Grantee, Grantor shall remove any prohibited structure immediately from the Easement Property.

b. Grantor shall not plant trees within the Easement Property within fifteen feet of the centerline of the Pipeline, and shall not plant shrubs with roots that are reasonably expected to contact or interfere with the Pipeline;

c. Grantor shall not remove cover or materials from, or place fill or materials within the Easement Property within seven and a half (7.5) feet of the centerline of the Pipeline without the prior written consent of Grantee, which consent shall not be unreasonably withheld;

d. Grantor may cross or cover the Easement Property with sidewalks, curbs and gutters, asphalt roadways, driveways, irrigation pipelines and appurtenances, or other similar non-permanent improvements, but only upon the prior written consent of Grantee, which consent may not be unreasonably withheld, and upon such terms as Grantee may reasonably require.

6. Grantee may assign this Agreement, any of its rights under this Agreement, and the rights-of-way and/or easements granted it by this Agreement to a parent, subsidiary or successor operator of the Pipeline but to no other without the written consent of the Grantor.

7. Grantor represents that it knows of no unrecorded liens, encumbrances, contracts or leases which burden, claim an interest in, are secured by, or otherwise affect the interests and/or rights granted by this Agreement to Grantee in the Easement Property.

8. This Agreement anticipates use of the Easement Property by Grantee for the Pipeline and for services it deems appropriate for the installation and operation of the Pipeline. In addition, Grantee is hereby given the right to use the Easement Property for additional water pipelines, utility lines, communications lines reasonably necessary for the operation of the Pipeline, provided that such additional water pipelines, utility lines, communications lines they do not materially increase burden on Grantor's remaining property and provided Grantee receives prior written consent of Grantor's Director of Parks and Recreation for any such additional installations, which consent shall not be unreasonably withheld. Any such additional installation shall be subject to such terms as Grantor may reasonably require.

9. Grantee may at any time permanently abandon these rights-of-way and easements and may remove or, if allowed in writing by the Grantor, abandon in place improvements constructed thereon; otherwise, Grantee shall within six months remove its facilities at its sole expense, and shall restore Grantor's property to the same condition it was in prior to the construction of the Pipeline, except as allowed in writing by the City's Chief Administrative Officer, or a department director. In the event Grantee fails to do so in a timely way, then the Grantor may, in its discretion, perform such work itself or by one or more contractors, and charge the cost thereof to the Grantee, which Grantee shall promptly pay. Upon such abandonment action, if allowed in writing by Grantor, Grantee may at its discretion execute and record a reconveyance and release hereof, whereupon these rights-of-way and easements shall be fully canceled and terminated.

10. This Agreement may be amended only by written instrument executed by all parties.



Exhibit 1

Four strips of land located in the SE ¼ of Section 2, Township 3 South, Range 1 East, S.L.B.&M., Salt Lake County, Utah, as recorded at the Office of the Salt Lake County Recorder more particularly described as follows:

A strip of land being 35.00 feet in width, lying 17.50 feet each side of the following described centerline:

Beginning at a point on the westerly line of said Lot 1, 53 Acre Park Subdivision, being 634.92 feet S.00°00'44"E. from the northwest corner of said Lot 1, 53 Acre Park Subdivision; thence N.89°47'39"E. 255.05 feet to a point of curvature of a 385.00-foot radius curve to the right; thence southeasterly 239.73 feet along the arc of said curve, having a central angle of 35°40'38", subtended by a chord that bears S.72°22'02"E. 235.88 feet; thence S.54°31'43"E. 156.13 feet to the point of terminus, said point being on the southerly line of Lot 1, 53 Acre Park Subdivision, N.89°59'12"E. 576.95 feet from the northwest corner of Lot 2, 53 Acre Park Subdivision, containing 22,782 sq. ft or 0.52 acres of land.

Also:

A strip of land being 35.00 feet in width, lying 17.50 feet each side of the following described centerline:

Beginning at a point on the northerly line of said Lot 2, 53 Acre Park Subdivision, being 576.95 feet N.89°59'21"E. from the northwest corner of said Lot 2, 53 Acre Park Subdivision; thence S.54°31'43"E. 176.55 feet to a point of curvature of a 385.00-foot radius curve to the left; thence southeasterly 154.45 feet along the arc of said curve, having a central angle of 22°59'08", subtended by a chord that bears S.66°01'17"E. 153.42 feet; thence S.77°30'51"E. 592.03 feet to a point of curvature of a 385.00-foot radius curve to the left; thence northeasterly 222.72 feet along the arc of said curve, having a central angle of 33°08'43", subtended by a chord that bears N.85°54'47"E. 219.63 feet to the point of terminus, said point being N.13°15'20"E. 1604.89 feet from the South 1/4 corner of said Section 2, containing 40,101 sq. ft or 0.92 acres in area.

Also:

A strip of land being 30.00 feet in width, lying 15.00 feet each side of the following described centerline:

Beginning at a point in the southerly line of above described perpetual easement, said point being 3746.80 feet S.0°03'53"W and 225.86 feet East from the North Quarter corner of said Section 2; and running thence S.0°34'02"W, 110.63 feet, containing 3328 sq. ft or 0.076 acres in area.

Also:

Beginning at the southeast corner of Lot 11, Cobble Cove Subdivision, a Subdivision of Salt Lake County, as recorded at the Office of the Salt Lake County Recorder, and running thence S. 26°22'26"E. 22.06 feet; thence S.54°01'42"W. 212.18 feet; thence S.56°00'35"W. 140.43 feet; thence S.55°52'21"W. 29.84 feet to the point of tangency with a 402.50-foot radius curve

to the right; thence southwesterly 79.31 feet along the arc of said curve, chord bears S.61°31'01"W. 79.18 feet; thence northwesterly 13.47 feet along the arc of a 50.79-foot non-tangent radius curve to the right, chord bears N.65°24'50"W. 13.43 feet; thence N.57°49'05"W. 31.89 feet; thence northeasterly 41.11 feet along the arc of a 367.50-foot radius curve to the left, chord bears N.68°13'40"E. 41.09 feet; thence S.34°50'23"E. 8.71 feet to the southeast corner of Lot 210, Willow Creek Canyon Estates No. 2, Plat "B", a subdivision of Salt Lake County, as recorded at the Office of the Salt Lake County Recorder's Office; thence N.48°35'00"E. 36.85 feet along the southerly boundary line of said Lot 210; thence northeasterly 21.80 feet along the arc of a 393.72-foot radius curve to the left, chord bears N.57°34'19"E. 21.80 feet; thence N.55°59'08"E. 169.75 feet; thence N.54°01'42"E. 178.08 feet; thence N.73°38'47"E. 39.46 feet to the point of beginning, containing 16217 sq. ft or 0.372 acres in area.

The boundary lines of said strip easements shall be prolonged and/or shortened to begin and end on, and conform to, the Grantor's property lines.