



UDOT Contract # \_\_\_\_\_

UDOT Comptroller # \_\_\_\_\_

Contract Setup Initials \_\_\_\_\_

## STATEWIDE UTILITY LICENSE AGREEMENT NON-INTERSTATE

This **AGREEMENT** is made by and between the **Utah Department of Transportation** (“UDOT”) and **County Of Weber dba Weber County Corporation** (“Local Government”), a political subdivision of the State of Utah, each as party (“Party”) and together as parties (“Parties”).

### RECITALS

**WHEREAS**, the Parties desire to assist in expediting the approval of UDOT permits for operating, constructing, and maintaining utility lines and related facilities (“Facilities”) within state highway rights-of-way; and excluding longitudinal installations within the interstate highway rights-of-way; and

**WHEREAS**, the terms of this agreement shall apply to all issued encroachment permits; and

**WHEREAS**, this agreement shall apply to approved location and encroachment 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 utility license agreements executed between the Parties.

### AGREEMENT

**NOW THEREFORE**, the Parties agree as follows:

1. **LICENSE:** UDOT grants a non-exclusive license to the Local Government for Facilities that have been granted or will be granted an encroachment permit pursuant to Utah Administrative Code R930-7.
2. **UDOT AGREEMENT TO REVIEW APPLICATIONS:** This agreement is not an encroachment permit or a guarantee of an encroachment permit. However, UDOT agrees to promptly review any application for an encroachment permit that the Local Government files pursuant to the procedures established in this agreement and Utah Administrative Code R930-7.

3. **APPROVAL:** Unless otherwise stated herein, or in any particular encroachment permit or agreement, all permits executed pursuant hereto will be deemed to be governed by the provisions of this agreement. Encroachment permit applications shall be presented to the appropriate UDOT Region/District Permits Office. UDOT may apply special limitations for any work within the right-of-way, per Utah Administrative Code R930-6-10. The issuance and approval of an encroachment permit enables the Local Government to proceed with the utility construction and permitted use in accordance with the terms of the encroachment permit.
4. **RESERVATION AND SPECIAL PROVISIONS:** UDOT has the right to require an agreement or specific encroachment permit for any particular location and construction. Special provisions, as particular circumstances may dictate and as required by UDOT may be incorporated into any encroachment permit issued after this agreement is executed.
5. **INSPECTION:** UDOT may perform routine inspection of utility construction to monitor compliance with this agreement, encroachment permit, and with state and federal laws and regulations. UDOT's inspection does not relieve the Local Government of its responsibilities in meeting the encroachment permit conditions and UDOT's specifications. The Local Government is responsible for UDOT's inspection costs.
6. **COSTS:** Unless agreed otherwise in writing, the Local Government shall pay the entire cost of the Facilities installation. For UDOT projects, Utah Code 72-6-116 shall apply.
7. **BEGINNING CONSTRUCTION:** The Local Government shall not begin any utility construction on UDOT right-of-way until UDOT issues the encroachment permit. The Local Government shall complete the utility construction in accordance with UDOT requirements and within the allowable time period.
8. **TRAFFIC CONTROL:** The Local Government shall conduct its utility construction and maintenance operations in compliance with UDOT's current Utah MUTCD or UDOT TC Series Drawings, whichever is more restrictive. All utility construction and maintenance operations shall be planned to keep interference with traffic to an absolute minimum. On heavily traveled highways, utility operations interfering with traffic shall not be conducted during periods of peak traffic flow. This work shall be performed to minimize closures of intersecting streets, road approaches, or other access points. The Local Government shall submit in advance traffic control plans showing detours and signing operations to allow UDOT reasonable time to review the plans. The Local Government shall not perform full or partial lane closure without prior approval of the UDOT Region/District Director or authorized representative. The Local Government shall conform to UDOT approved traffic control plans and encroachment permit conditions.
9. **EXCAVATION, BACKFILL, COMPACTION, AND SITE RESTORATION:** The Local Government shall perform all utility construction on UDOT right-of-way in compliance with R930-7, UDOT's then current Standard

Specifications for Highway and Bridge Construction, UDOT's Permit Excavation Handbook, and all applicable state and federal laws and regulations.

10. **EMERGENCY WORK:** Emergency work may be done without prior encroachment permit if imminent danger of loss of life or significant damage to property exists. In emergency work situations where traffic lanes will be partially or fully blocked, the Local Government or its representative will contact the UDOT Traffic Operations Center at (801) 887-3710 prior to establishing traffic control. In all emergency work situations, the Local Government or its representative shall immediately contact UDOT on the first business day after the emergency and complete a formal encroachment permit application. Failure to contact UDOT for an emergency work situation and obtain an encroachment permit within the stated time period is considered to be a violation of the terms and conditions of this agreement and R930-7. At the discretion of the Local Government, emergency work may be performed by a bonded contractor, public agency, or by Local Government. In all cases the Local Government shall comply with the state law requiring notification of all utility owners prior to excavation. None of the provisions of this agreement are waived for emergency work except for the requirement of a prior encroachment permit.
11. **RESTORATION OF TRAFFIC SIGNAL EQUIPMENT OR TRANSPORTATION FACILITIES:** Any traffic signal equipment or transportation facilities, which are disturbed or relocated as a result of the Local Government's work, must be restored in accordance with plans approved by UDOT. Restoration of traffic signal equipment or transportation facilities must be done at the Local Government's expense by a qualified electrical contractor experienced in signal installation or a qualified contractor experienced in restoring other transportation facilities, retained by Local Government and approved in advance by UDOT. Work shall be scheduled to ensure that disruption of any traffic signal or transportation facilities operation is kept to a minimum.
12. **ENCROACHMENT PERMIT:** Access to UDOT right-of-way for installation of Facilities shall be allowed only pursuant to an encroachment permit issued by UDOT to the Local Government. The Local Government will obtain the permit and abide by all conditions for policing and other controls in conformance with Utah Administrative Codes R930-6.
13. **MAINTENANCE:** The Local Government shall at all times maintain, repair, construct and operate its Facilities at its expense. The Facilities will be serviced without access from any interstate highway or ramp. If the Local Government fails to maintain its Facilities, UDOT may notify the Local Government of any required maintenance needs. If the Local Government fails to comply with UDOT's notification and complete the needed maintenance, then UDOT reserves the right, without relieving the Local Government of its obligations, to reconstruct or make repairs to the Facilities to protect the right-of-way, as it may consider necessary, and the Local Government shall reimburse UDOT for its cost.

14. **LIABILITY:** The Local Government is not required to post a continuous bond as long as the Local Government is a current member of a public indemnity pool as identified below. If the Local Government is not a current member, the Local Government shall maintain continuous commercial general liability (CGL) insurance with UDOT as an additional insured, in the minimum amount of \$1,000,000 per occurrence with a \$2,000,000 general aggregate and \$2,000,000 completed operations aggregate. The liability of the Local Government shall not be limited to the amount of the insurance policy. The policy shall protect the Local Government and UDOT from claims for damages for personal injury, including accidental death, and from claims for property damage that may arise from the Local Government's operations in the right-of-way. The Local Government shall notify UDOT immediately in writing at the address listed below if this insurance is planned to be terminated or is terminated.

Or the Local Government shall be self-insured to the limits stated in the Governmental Immunity Act, Utah Code Section 63G-7-604(1). Evidence of self-insurance must be provided by a letter from the Local Government's Attorney or Risk Department. The Local Government shall require CGL insurance with the same limits as described above of all its contractors and subcontractors naming the Local Government and UDOT as additional insureds. Such insurance shall protect the Local Government and UDOT from claims for damages for personal injury, including accidental death, and from claims for property damage that may arise from work or operations performed in the right-of-way by itself, contractors, subcontractors or anyone directly or indirectly employed by any of them. Such insurance shall provide coverage for premises operations, acts of independent contractors, products, and completed operations. This insurance coverage shall be maintained for a continuous period until the Local Government's Facilities are removed from UDOT's right-of-way.

Utah Department of Transportation  
Statewide Utilities Manager  
4501 South 2700 West  
Salt Lake City, Utah 84129

Per Utah Administrative Code R930-7-6(d), the State Agency may be exempt from the bond requirement and certifies that it:

- Is a member of the [Utah Counties Indemnity Pool \(UCIP\)](#) for purposes of commercial general liability insurance; or
- Is insured with the Division of Risk Management;  
or
- Is self-insured with a minimum of \$1,000,000 per occurrence;  
or
- Carries liability insurance with a minimum of \$1,000,000 per occurrence, with Utah Department of Transportation listed as an additional insured.

UDOT may require a bond from the Local Government for encroachment permits issued under this agreement (Utah Administrative Code R930-7-6(6)(b)). The amount of the bond will be set according to the permitted scope of work but not less than \$10,000. UDOT may proceed against the bond to recover all expenses incurred by UDOT, its employees or representatives to restore the sections of roadway not completed or damaged by the Local Government to UDOT standards. The liability of the Local Government shall not be limited to the amount of the bond.

The Local Government agrees to hold harmless, defend, and indemnify UDOT, its officers, employees and agents (“Indemnities”) from and against all claims, suits and costs, including attorney’s fees, for injury or damage of any kind, arising out of the Local Government’s negligent acts, errors or omissions in the performance of this agreement, and from and against all claims, suits and costs, including attorney’s fees, for injury or damage of any kind arising out of Indemnities’ failure to inspect, correct, or otherwise address any defect, dangerous condition or other condition created by or resulting from the Local Government’s negligent acts, errors or omission in the performance of this agreement. UDOT and the Local Government are governmental entities under the Governmental Immunity Act, Utah Code § 63G-7-101. Notwithstanding any provision to the contrary in this Agreement, the obligations in this Agreement are subject to and limited to the dollar amounts set forth in the Governmental Immunity Act and are further limited only to the claims that arise from the negligent acts or omissions of the parties, and nothing in this Agreement shall be construed to be a waiver of either party of any defenses or limits of liability available under the Government Immunity Act. This paragraph shall survive termination of the Agreement. The failure of either party to insist upon the strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights shall not waive such rights and such party can enforce such rights at any time.

15. **CANCELLATION OF ENCROACHMENT PERMITS AND LICENSE AGREEMENT:** UDOT may cancel the encroachment permit or this agreement for the following: a) any failure on the part of the Local Government to comply with the terms and conditions set forth in the license agreement or the encroachment permit; and b) the failure of the Local Government to pay any sum of money for costs incurred by UDOT in association with installation or construction review, inspection, reconstruction, repair, or maintenance of the Facilities. UDOT also may remove the Facilities and restore the highway and right-of-way at the sole expense of the Local Government. Prior to any cancellation, UDOT shall notify the Local Government in writing, setting forth the violations, and will provide the Local Government a reasonable time to correct the violations to the satisfaction of UDOT. This agreement does not limit UDOT’s authority under Utah Administrative Code R930-7.
16. **ASSIGNMENT:** Permits shall not be assigned without the prior written consent of UDOT. All assignees shall be required to execute a license agreement.

17. **SUCCESSORS AND ASSIGNS:** All obligations and agreements herein contained shall be binding upon the parties, their successors and assigns.

18. **FACILITIES CLEARANCE REQUIREMENT:** Facilities must be installed both above ground and buried to the proper vertical and horizontal clearances and minimum depth of bury according to the encroachment permit and Utah Administrative Code R930-7 to avoid conflict with UDOT's normal and routine maintenance activities. The Local Government shall avoid such conflicts by placing its Facilities in compliance with the required horizontal and vertical clearances and minimum depth of bury. If a variance in horizontal or vertical clearances or minimum depth of bury occurs in the field during utility construction, the Local Government will seek a deviation approval from UDOT and amend the original encroachment permit to reflect the variance and deviation approval. UDOT's normal and routine maintenance operations are those not requiring excavations in excess of the minimum horizontal and vertical clearances and depth of bury.

In all cases the Local Government shall protect, indemnify and hold harmless UDOT, its employees, and the State of Utah for damages because of the failure of the Facilities to meet the required horizontal and vertical clearances and minimum depth of bury. Any noncompliance to the above requirements may result in cancellation of the Local Government's encroachment permit or this agreement. If the noncompliant Facilities need to be moved due to a UDOT project and there was no deviation granted by UDOT for the variance in horizontal or vertical clearances or minimum depth of bury less than minimum standards, the Local Government must pay 100% of the relocation costs for that portion of the Facilities that were installed in violation of UDOT's required clearances at the time the encroachment permit was issued. If the Local Government was granted a deviation, the Local Government must provide the permit describing the deviation.

19. **TERM:** The initial term of this Agreement shall be five (5) years from the Effective Date. This Agreement will automatically renew for additional terms of five years unless a Party terminates the Agreement pursuant to paragraph 20. Approximately six months prior to the renewal date, UDOT will send a notice of renewal to the Local Government. No later than 30 days prior to each five-year renewal date, the Local Government must provide UDOT with confirmation of the utility's bond, insurance, and business entity status.

20. **TERMINATION OF LICENSE AGREEMENT:** This Agreement may be terminated as follows:

- A. By mutual agreement of the Parties, in writing.
- B. By either Party, upon 30 days advance written notice to the other Party.
- C. By UDOT for the Local Government's default in performing its obligations as set forth in and reasonably contemplated by the provisions of this Agreement. Thirty days' written notice of intent to terminate is required and shall specify the reasons for termination, delivered per paragraph 21. The Agreement will not terminate if

the Local Government commences a cure within such thirty-day period and diligently pursues it to completion. If the breach is not remedied within such period, then UDOT may send a notice of termination, and this Agreement will terminate immediately upon delivery of such notice. Active encroachment permits previously issued and approved under a terminated agreement are not affected and remain in effect on the same terms and conditions set forth in the agreement, permits, and R930-7. The obligation to maintain the continuous bond as described in paragraph 14 continues until the Local Government's Facilities are removed from UDOT's right-of-way. The indemnification obligations in this Agreement shall survive termination of this Agreement.

**21. GENERAL TERMS:** The following terms apply to this Agreement:

A. Any Party may give a written notice under this Agreement by delivering it to the following physical address (an email may be used in addition as a courtesy), and notice is effective upon delivery when delivered by hand or by overnight delivery service with confirmation of delivery (or, if placed in the U.S. mail, notice is effective three days after such notice receives a postmark):

<p>To UDOT:</p> <p>Utah Department of Transportation          Statewide Utilities Division          4501 South 2700 West, 4<sup>th</sup> Floor          Salt Lake City, UT 84129          Attention: Statewide Utilities Manager</p> <p>With a Copy To:</p> <p>Assistant Attorney General (UDOT)          4501 South 2700 West          Box 148455          Salt Lake City, UT 84114</p>	<p>From Local Government:</p> <p><b>County Of Weber dba Weber County Corporation</b>  <b>2380 Washington Blvd. Ste 350</b>  <b>Ogden, UT 84401</b>  <b>Federal ID No. 87-6000308</b></p>
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B. The Parties agree to undertake and perform all further acts that are reasonably necessary (except when expressly prohibited by law) to carry out the intent and purpose of the Agreement and to assist UDOT with maintaining compliance with the legal requirements applicable to UDOT after receiving a written notice that explains the need for such action. The Parties further agree to work together cooperatively and in good faith to accomplish the intent of this Agreement.

C. UDOT's consent, review, acceptance, approval, or other action or inaction relating to any conditions, inspections, plans, specifications, or other work arising out of this Agreement is for purposes of administering this Agreement only, and it does not constitute an assumption by UDOT of any responsibility or liability for the same; it does not relieve the other Party of any duties (including but not limited to duties to ensure compliance with

applicable standards); and it does not constitute a waiver by UDOT of the other Party's obligation to comply with applicable standards. Any consent, review, acceptance, approval or other action or inaction must be provided by UDOT's authorized employee or representative.

D. No part of this Agreement may be waived, whether by a Party's failure to insist on strict performance of this Agreement or otherwise, except in a writing signed by an authorized representative of the Party waiving. No Party may assign or delegate this Agreement and actions required by it without the other Party's prior written authorization, and any purported assignment or delegation to the contrary is void. This Agreement is governed by Utah law without reference to choice or conflict of law provisions. Jurisdiction for any judicial action brought in connection with this Agreement shall be in brought in a court in Salt Lake County, Utah, and ALL PARTIES KNOWINGLY AND VOLUNTARILY WAIVE THEIR RIGHTS TO A JURY TRIAL. This Agreement (or, if any part hereof is invalidated by law, this Agreement's remaining provisions) shall be construed to enforce its terms to the fullest extent allowed under applicable law to give effect to the intent of the Parties. This Agreement shall not be construed against a drafter. Before taking any legal action in connection with this Agreement, each Party agrees to first advise the other of a dispute and to meet to discuss it in good faith in an effort to resolve it. All remedies in this Agreement are cumulative and nonexclusive and they do not limit any other remedies available to the Parties. The indemnity provision, remedies, and other terms that by their nature are intended to survive this Agreement's termination shall survive. Nothing in this Agreement shall be construed to limit or alter UDOT's governmental powers and authority. This Agreement may only be amended in a written document that is signed by an authorized representative of each Party. This is the entire agreement of the Parties with respect to the subject matter hereof and it shall supersede all prior negotiations, understandings, and agreements with respect to such subject matter. Each Party warrants that all of its representatives who are necessary to make this Agreement fully binding against the Party (and its successors and assigns, if any) have signed below with the Party's authorization, and that this Agreement's terms do not violate laws, contracts, or commitments that apply to the Party. This Agreement may be signed in counterparts and signed electronically. This Agreement does not create any power of agency, joint venture, partnership, or other relationship among the Parties, and it is intended only for the Parties hereto and does not create any third-party beneficiaries.



County Of Weber dba Weber County Corporation  
2380 Washington Blvd. Ste 350  
Ogden, UT 84401  
Federal ID No. 87-6000308

**IN WITNESS WHEREOF**, the Parties hereto have caused these presents to be executed by their duly authorized officers as of the day and year first above written.

APPROVED BY **County Of Weber dba Weber County Corporation** REPRESENTATIVE

By: \_\_\_\_\_  
Signature Date  
\_\_\_\_\_  
Name: (printed) Title

**FOR THE UTAH DEPARTMENT OF TRANSPORTATION**

By: \_\_\_\_\_  
Statewide Utilities Manager Date

**UDOT CONTRACT ADMINISTRATION**

By: \_\_\_\_\_  
Contract Administrator Date