

37076

AGREEMENT AND EASEMENT

THIS AGREEMENT made this 27th day of April, 1977, by and between TIMPANOGOS SPECIAL SERVICE DISTRICT, a body politic of the State of Utah, hereinafter referred to as "DISTRICT," and David E. Holindrake, Russell Holindrake, Linda H. Brakel, Carol H. Nielson, and Pamela H. Peterson, hereinafter referred to as "PROPERTY OWNER," Utah County, State of Utah.

WHEREAS, the PROPERTY OWNER has or will convey and grant unto the DISTRICT an easement allowing the DISTRICT to construct, install, and maintain and repair a certain sewer line, and

WHEREAS the parties hereto desire to enter into an Agreement for their mutual benefit,

NOW THEREFORE, in consideration of the mutual execution of this Agreement, the parties hereto agree as follows:

1. Construction of the sewer pipeline and appurtenances thereto shall begin no sooner than the 1st day of October, and shall be completed by the 1st day of April, of the following year, for any given construction year, except that construction will not begin in the fall until crops are harvested. PROPERTY OWNER agrees that crops shall be removed as soon as practical.
2. The DISTRICT agrees to construct cut-off walls at locations specified by the Engineer on PROPERTY OWNER'S property in such a manner as to haul run off of irrigation and groundwater from the PROPERTY OWNER'S land.
3. DISTRICT agrees to be liable for and pay any crop loss due to construction or servicing of sewer line including crops which have been planted, or crops which are prevented from being planted due to construction of said sewer line, or damage to crops due to the fact that said construction prevents irrigation of certain crops.
4. DISTRICT agrees to construct sewer line in such a manner and at such a depth that future cultivation by PROPERTY OWNER of his property over easement shall not be effected by such construction. All manholes shall be placed so that the tops of said manholes are 30" below the existing ground level except that manholes immediately adjacent to fences can protrude from the ground surface.
5. Prior to DISTRICT making any change in construction route of pipeline, written permission must be received from PROPERTY OWNER.
6. DISTRICT agrees to remove all stones of undesirable size or any debris from easement granted by PROPERTY OWNER. District agrees not to stockpile gravel on undisturbed ground or on property of PROPERTY OWNER not included in easement granted to the DISTRICT.
7. Any top soil removed during construction of the sewer line shall be replaced to its original depth. The property of PROPERTY OWNER

as respecting the easement shall be left by DISTRICT as level after construction of the sewer line, as said property was prior to construction.

8. Grantee's right of ingress and egress for installation and maintenance herein shall not preclude or interfere with Grantor's egress and ingress, or use of said premises for agricultural, building or other purposes, except as specifically set out herein.

9. Grantee agrees that said Easement shall be employed, conveyed, or assigned exclusively for the construction or use of a sewer line, except that nothing contained herein shall prevent Grantor from constructing a temporary or permanent access road over all, or any part of Grantee's Easement.

10. Grantee hereby grants unto Grantor, his heirs or assigns, the subsequent right to hook-up and use the aforesaid sewer line for any residential development purposes upon the aforesaid property, subject only to any applicable statutes, ordinances, hookup fees and user fees.

11. Grantee covenants and agrees that the aforesaid sewer line shall not interfere with the direction, contour, or flow of Grantor's water used for irrigation. The Grantee agrees to pay for damage and loss of crops belonging to Grantor, his Lessee or Assigns resulting from said interference of irrigation water.

12. Grantee covenants and agrees to promptly fill all construction trenches and to remain liable to Grantor for any and all damages to Grantor's livestock or crops during the construction process.

13. For any future maintenance resulting in damage to Grantor, Grantee agrees to pay resulting damages. Grantee further agrees to notify Grantor of before any future ingress.

14. Grantor agrees that they will be responsible for livestock and fences during construction to insure that animals will not escape or be injured.

15. Grantor agrees to be responsible for assessing current or future damages should the damages be deemed fair and equitable, Grantee agrees to pay said damages promptly.

16. Grantee agrees to be responsible for replanting any crops disturbed during construction and maintenance of the sewer line. The Grantor shall, at his option elect to replant the crop and be reimbursed by Grantee accordingly or have Grantee replant crop.

17. Grantee agrees to replace fences, culverts or all other appurtenances which will be disturbed during construction or maintenance.

18. Grantee agrees to be responsible for settlement of ground and resulting damage. All settlement will be promptly repaired by Grantor.

19. Grantee agrees that pipe shall be placed so that top of pipe is at least 42" below ground surface except at ditch flow lines.

20. In the event a court of competent jurisdiction should hear and decide a condemnation decision involving acquisition of an ease-

ment by the DISTRICT, it is agreed that property owner shall receive an additional sum from the DISTRICT, said sum being the difference between the amount originally paid for the easement and the unit value determined by such court.

21. Should property owner claim damages from District and District in return offers a lesser sum in settlement of such claims, and property owner initiates civil action for such claim; and then should the court award judgment in excess of District's offer, the District agrees to pay both parties attorneys fees. If judgment is awarded in the amount of the District's offer or a lesser sum, the property owner agrees to pay all parties attorneys fees incurred in such action.

In accordance with the above covenants, agreements and rights, WE, THE UNDERSIGNED owners of real property situated and located in Utah County, State of Utah, do hereby convey, grant, and release to TIMPANOGOS SPECIAL SERVICE DISTRICT, Utah County, State of Utah, an easement and right-of-way for a certain sewer pipeline, and related facilities, unto the said TIMPANOGOS SPECIAL SERVICE DISTRICT, over, under, and through the following described real property situated in Utah County, State of Utah, and more particularly described as follows:

A twenty foot wide permanent easement for a sewer line, ten feet on each side of the following described center line.

Beginning at a point on the Grantor's West property line said point being 310.26 feet South and 2141.02 feet East of the West 1/4 Corner of Section 22, Township 5 South, Range 1 East, Salt Lake Base and Meridian; thence S 45° 46' 12" E 727.21 feet more or less to the Grantor's East property line.

Also: A thirty foot temporary construction easement immediately adjacent to and Northeast of the above described permanent easement.

THE CONSIDERATION to be paid for this easement is the sum of Four Hundred Forty and 73/100 Dollars, (\$440.73), said sum to be paid to the Grantor's upon execution of this easement. Grantors hereby agree that TIMPANOGOS SPECIAL SERVICE DISTRICT shall have the right of ingress to and egress from the property above described for the purpose of constructing, maintaining, and repairing that certain sewer pipeline, and related facilities, to be located on the above-described property.

The easement herein granted by the undersigned is a perpetual easement. The property of grantors shall be restored in as good condition as when the same was entered upon by the grantee or its agents. Grantors, for the consideration aforesaid, hereby agree not to construct or maintain any building or structure of a permanent nature upon the property above described.

Agreement and Easement
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DATED this 1 day of Oct, 1977.

David E. Holindrake
David E. Holindrake

Russell Holindrake
Russell Holindrake

Linda H. Brakel
Linda H. Brakel

Carol H. Nielson
Carol H. Nielson

Pamela H. Peterson
Pamela H. Peterson

SUBSCRIBED AND SWORN to before me a Notary Public, in and for the State of Utah, on this day and year above written.

[Signature]
Notary Public

Residing at: Ames Fork Utah

Commission Expires: April 19, 1977



TIMPANOGOS SPECIAL SERVICE
DISTRICT

By: [Signature]

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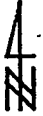
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Timpanogos Special Service Dist.

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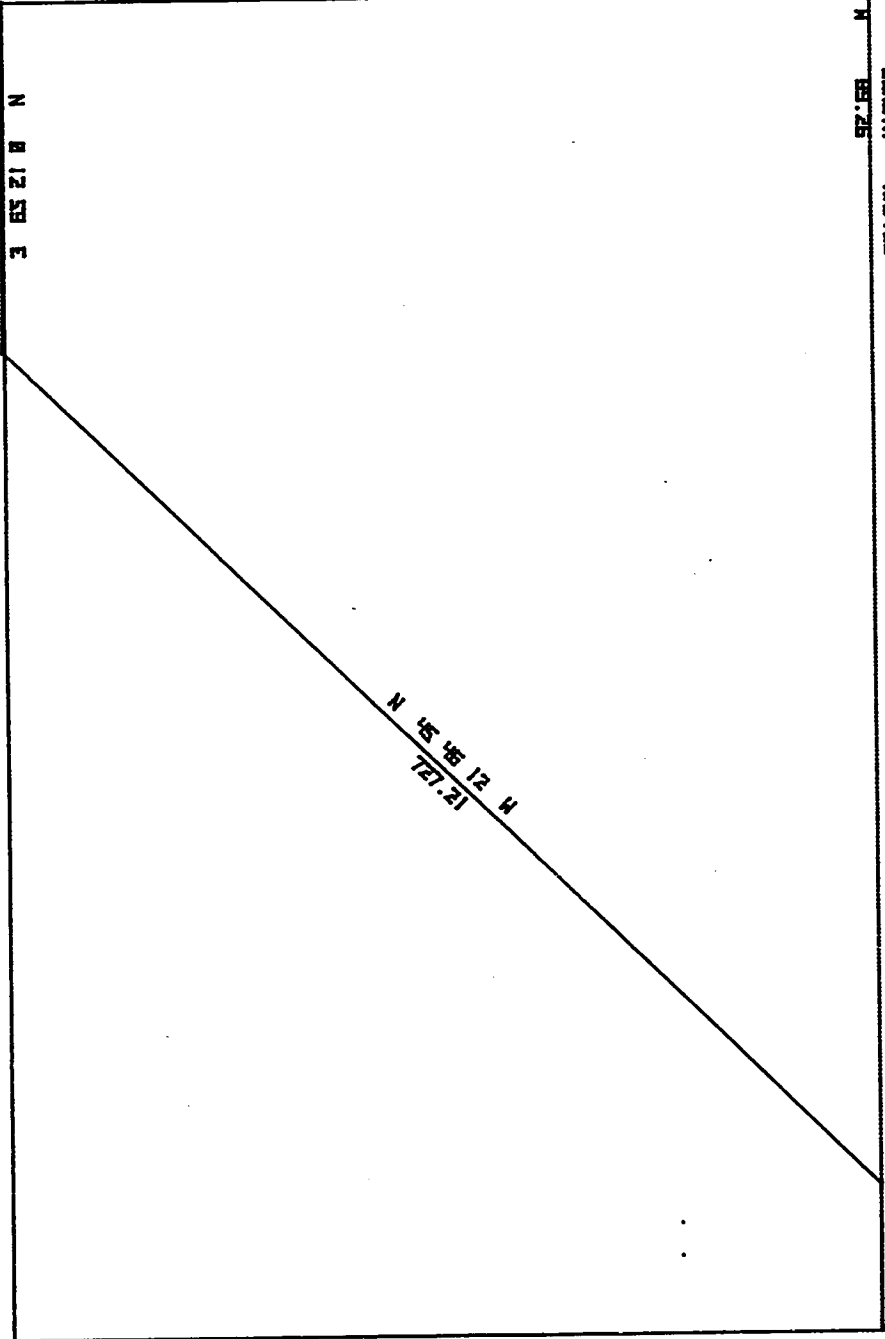
NINA B. REID
CLERK
COUNTY RECORDER
DEPUTY
PH. _____ ABS. _____ IND. _____
ST. _____ S. _____ T. _____ R. _____



DAVID E. HOLINDRAKE, RUSSELL HOLINDRAKE
 LINDA H. BRAKEL, CAROL H. NIELSON, & PAMELA H. PETERSON

L/C
 1 N B B 55 N
 BRG/DLTH
 89.25
 LENGTH
 BRD LIES

N B 12 59 E
 211.84



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1" = 80'