

WHEN RECORDED, MAIL TO:

✓  
Kenneth J. Sheppard  
LeBoeuf, Lamb, Leiby & MacRae  
136 South Main, Suite 1000  
Salt Lake City, Utah 84101

ENT 12693 BK 2684 PG 157  
NINA B REID UTAH CO RECORDER BY AT  
1990 APR 24 3:02 PM FEE 39.50  
RECORDED FOR WESTERN STATES TITLE COMPAN

**GRANT OF NON-EXCLUSIVE RIGHT-OF-WAY**

This Grant of Non-exclusive Right-of-Way is made and entered into this 19<sup>th</sup> day of April, 1990, by and between TRAVERSE MOUNTAIN, INC., an Arizona corporation ("TMI") and TRAVERSE ASSOCIATES, a Utah joint venture ("Associates").

**RECITALS**

WHEREAS, Associates is the owner of that certain parcel of property located in Salt Lake and Utah Counties, State of Utah, and which is described on Schedule 1 hereto (the "Associates Property").

WHEREAS, TMI is the owner of that certain parcel of property located in Utah County, State of Utah, which is described on Schedule 2 hereto (the "TMI Property").

WHEREAS, the Associates Property and the TMI Property were the subject of a lawsuit between RCP, TMI and Associates in the United States District Court, District of Utah, Central Division, Civil No. 90-C-0096-W (the "Lawsuit").

WHEREAS, in settlement of the Lawsuit, the parties have entered into a Stipulation and Settlement Agreement pursuant to which, among other things, Associates agreed to grant TMI a non-exclusive right-of-way over and across the Associates Property for the benefit of the TMI Property.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00), the performance of the covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties do agree as follows:

1. **Right-of-Way:** Associates hereby grants to TMI a perpetual non-exclusive appurtenant easement and right-of-way 50 feet in width over and across the southern portion of the Associates Property which abuts and is adjacent to the TMI Property, for the benefit of and to provide access and underground utilities to the north central portion of the TMI Property (the "Right-of-Way"). The Right-of-Way shall, at TMI's election, run either (i) from a point on the northern boundary of the TMI Property across the Associates Property to another point on the northern boundary of the TMI Property, or (ii) from the most practicably accessible roadway located on the Associates Property to a point on the northern boundary of the TMI Property. TMI and Associates acknowledge that the Right-of-Way has not been precisely or legally described, and that the exact location of the Right-of-Way shall be more specifically described by Associates at such time as either TMI or Associates is prepared to construct a road or install utilities thereon provided that

the Right-of-Way shall be in such location as will permit the construction of a road and the installation of utilities thereon in compliance with all government regulations concerning public roads and underground utilities. Associates further grants to TMI such reasonable temporary construction easements and slope easements along the Right-of-Way as may be necessary for the construction of improvements on the Right-of-Way pursuant to paragraph 2.

2. Improvements: Each of Associates and TMI shall have the right to construct, operate and maintain, at its own expense, any and all improvements within the Right-of-Way which it deems necessary or desirable for the purpose of providing access, utilities and other benefits to the Associates Property or the TMI Property, including, but not limited to, a road, pavement, retaining walls, curbs, gutters, road lights, and sewer, water, electricity, telephone, gas and other utility transmission facilities, provided that all utilities shall be located underground unless otherwise consented to by Associates.

3. First Improvements: In the event either Associates or TMI decides to construct any improvements on the Right-of-Way (the "First Party"), such party shall notify the other party (the "Other Party") of such decision and of the nature and, in the case of utilities, the capacity of the intended improvements and the Other Party, at the Other Party's expense, shall have the right to direct the First Party to add to such improvements or to expand such capacity, with the cost of such addition or expansion to be born by the Other Party, so long as the Other Party provides the First Party with a surety bond or other guaranty acceptable to the First Party which will guarantee the payment by the Other Party for the cost of such addition or expansion and so long as such addition or expansion will not significantly delay the installation of the improvements to be installed by the First Party.

4. Additional Grants of Easement: Each of Associates and TMI may freely grant perpetual non-exclusive easements and rights-of-way over and across the Right-of-Way for the benefit of subdivisions of the Associates Property or the TMI Property and the owners and invitees of the subdivision parcels. Associates and TMI shall also each have the right to dedicate the Right-of-Way for public roadway purposes to Utah County or other applicable governmental authority.

5. Connection to and Use of Road on Right-of-Way: In the event TMI constructs a road on the Right-of-Way, Associates shall have the right to connect onto and use such road as access to the Associates Property at as many points as shall be necessary to facilitate the development of the Associates Property.

6. Run with the Land: The Right-of-Way shall run with the land as an encumbrance on the Associates Property and for the benefit of the TMI Property. The rights and duties of each of the parties hereto shall inure to the benefit of and be binding upon the respective successor owners of the TMI Property and the Associates Property.

IN WITNESS WHEREOF, the parties have set their hands the day and year first set forth above.

TRAVERSE MOUNTAIN, INC., an Arizona corporation

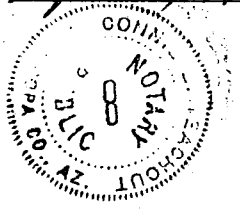
By: *J. L. Baldwin*  
Its: *Authorized Agent*

STATE OF *Arizona* )  
COUNTY OF *Maricopa* ) ss.

The foregoing instrument was acknowledged before me this day of *April*, 1990 by *J. L. Baldwin* the *Authorized Agent* of Traverse Mountain, Inc., an Arizona corporation.

*Carrie E. Jackson*  
Notary Public  
Residing in *Arizona*

My Commission expires: *April 18, 1991*







STATE OF Utah )

COUNTY OF Salt Lake )

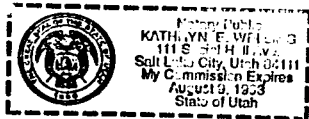
: ss.

ENT12693 BK 2684 PG 162

The foregoing instrument was acknowledged before me this 6th day of April, 1990 by DAN C. SIMONS, general partner of Geodyne II, a Utah general partnership, the general partner of Alpine, Ltd., a Utah limited partnership.

Kathryn E. Welling  
Notary Public  
Residing in Sandy, Utah

My Commission expires:  
08-09-93



## SCHEDULE 1

That certain real property situated in the Counties of Salt Lake and Utah, State of Utah, all in Township 4 South, Range 1 East, Salt Lake Base and Meridian, described as follows:

PARCEL NO. 1:

The South half of the Southeast quarter and the Northeast quarter of the Southeast quarter of Section 7, Township 4 South, Range 1 East, Salt Lake Base and Meridian.

PARCEL NO. 2:

The Northwest quarter of the Southwest Quarter of Section 8, Township 4 South, Range 1 East, Salt Lake Base Meridian.

PARCEL NO. 3:

The Southeast quarter, the South half of the Southwest quarter, and the Northeast quarter of the Southwest quarter of Section 9, Township 4 South, Range 1 East, Salt Lake Base and Meridian.

EXCEPTING THEREFROM the following:

BEGINNING at a point West 1500 feet from the Southeast corner of Section 9, Township 4 South, Range 1 East, Salt Lake Base and Meridian; and running thence West 375 feet; thence North 585 feet; thence East 375 feet; thence South 585 feet to the point of BEGINNING.

PARCEL NO. 4:

Lots 3 and 4 and the Southwest quarter of Section 10, Township 4 South, Range 1 East, Salt Lake Base and Meridian.

EXCEPTING THEREFROM the following:

- A. That portion of the Northeast quarter of the Southwest quarter of Section 10, Township 4 South, Range 1 East, Salt Lake Base and Meridian lying within Salt Lake County, consisting of a 4.01 acre parcel.
- B. A 50-foot wide strip of land owned by the United States of America for the Salt Lake City Aqueduct Tunnel beginning at a point which is West 492.41 feet and South 184.37 feet from the Northeast corner of Section 22, Township 4 South, Range 1 East, Salt Lake Base and Meridian; and running thence North 30°30'00" West 9222.31 feet to the North line of the

South half of Section 10; thence north 89°06'01" East 57.41 feet along said North line; thence South 20°20'00" East 9196.80 feet; thence South 62°46'00" West 50.07 feet to the point of BEGINNING.

PARCEL NO. 5:

Lots 1, 2, 3 and 4 and Section 15, Township 4 South, Range 1 East, Salt Lake Base and Meridian.

EXCEPTING THEREFROM the following:

A 50-foot wide strip of land owned by the United States of America for the Salt Lake City Aqueduct Tunnel beginning at a point which is West 492.41 feet and South 184.37 feet from the Northeast corner of Section 22, Township 4 South, Range 1 East, Salt Lake Base and Meridian; and running thence North 30°30'00" West 9222.31 feet to the North line of the South half of Section 10; thence north 89°06'01" East 57.41 feet along said North line; thence South 20°20'00" East 9196.80 feet; thence South 62°46'00" West 50.07 feet to the point of BEGINNING.

PARCEL NO. 6:

All of Section 16, Township 4 South, Range 1 East, Salt Lake Base and Meridian.

PARCEL NO. 7:

All of Section 17, Township 4 South, Range 1 East, Salt Lake Base and Meridian.

PARCEL NO. 8:

All of the North half of Section 18, Township 4 South, Range 1 East, Salt Lake Base and Meridian.

PARCEL NO. 9:

- A: That portion of the Southwest quarter of the Northwest quarter, and the Northwest quarter of the Southwest quarter, of Section 11, Township 4 South, Range 1 East, Salt Lake Base and Meridian, lying within Utah County.
- B. ALSO, that portion of the North half of the North half of Section 11, Township 4 South, Range 1 East, Salt Lake Base and Meridian, lying within Utah County.



- C. ALSO that portion of the Southeast quarter of the Northwest quarter of Section 11, Township 4 South, Range 1 East, Salt Lake Base and Meridian, lying within Utah County.
- D. ALSO, the Southwest quarter of the Southeast quarter, the South half of the Southwest quarter, and the Northeast quarter of the Southwest quarter, of Section 11, Township 4 South, Range 1 East, Salt Lake Base and Meridian.

PARCEL NO. 10:

ALL of Section 14, Township 4 South, Range 1 East, Salt Lake Base and Meridian.

EXCEPTING THEREFROM the East half of the Northeast quarter of said Section 14.

PARCEL NO. 11:

ALL of Section 21, Township 4 South, Range 1 East, Salt Lake Base and Meridian.

EXCEPTING THEREFROM the following:

- A. COMMENCING 3765 feet West from the Southeast corner of said Section 21, Township 4 South, Range 1 East, Salt Lake Base and Meridian; <sup>Hence</sup> North 1170 feet; thence East 375 feet; thence South 1170 feet; thence West 375 feet to COMMENCEMENT.
- B. COMMENCING 3015 feet West and 1170 feet <sup>Hence</sup> North from the Southeast corner of said Section 21, Township 4 South, Range 1 East, Salt Lake Base and Meridian; North 585 feet; thence West 375 feet; thence South 585 feet; thence East 375 feet to the point of COMMENCEMENT.

PARCEL NO. 12:

- A: COMMENCING on the North line of Section 22, Township 4 South, Range 1 East, Salt Lake Base and Meridian, 134.64 feet West from the Northeast corner of said Section 22; and running thence South  $62^{\circ}46'$  West 590.04 feet; thence South  $54^{\circ}39'$  West 810.48 feet; thence North 738.54 feet to the North line of Section 22; thence East 1185.36 feet along the North line of Section 22, to the point of COMMENCEMENT.

EXCEPTING THEREFROM the following:

A 50-foot wide strip of land owned by the United States of America for the Salt Lake City Aqueduct Tunnel beginning at a point which is West 492.41 feet and South 184.37 feet from the Northeast corner of Section 22, Township 4 South, Range 1 East, Salt Lake Base and Meridian; and running thence North 30°30'00" West 9222.31 feet to the North line of the South half of Section 10; thence north 89°06'01" East 57.41 feet along said North line; thence South 20°20'00" East 9196.80 feet; thence South 62°46'00" West 50.07 feet to the point of BEGINNING.

- B. ALSO, COMMENCING on the North line of Section 22, 1320 West from the Northeast corner of Section 22; and running thence South 738.54 feet; thence South 54°39' West 858.66 feet; thence South 66°29' West 211.86 feet; thence South 66°29' West 1328.58 feet; thence South 73°57' West 899.58 feet; thence South 28°01' West 205.92 feet; thence South 30°13' West 564.3 feet; thence South 31°11' West 171.6 feet; thence South 31°11' West 1050.72 feet; thence North 3715.14 feet, more or less, to the North line of Section 22; thence East along the North line of Section 22, 4000.36 feet to the point of COMMENCEMENT.

EXPLANATORY NOTE: The Utah County Recorder has recently re-drawn the Plat for Section 22 with the aid of computer graphics. The computer ignores description calls to the Section line and computes footage only. The legal descriptions which the Recorder formerly platted without objection are now flagged as "defective". The Company believes the description closes.

PARCEL NO. 13:

The North half of the Northeast quarter of Section 23, Township 4 South, Range 1 East, Salt Lake Base and Meridian, lying within Utah County.

PARCEL NO. 14:

- A. COMMENCING at the Northeast corner of Section 28, Township 4 South, Range 1 East, Salt Lake Base and Meridian; thence South 20 chains; thence South 76° West 41.59 chains; thence North 30 chains, thence East 40 chains to the point of COMMENCEMENT.

- B. ALSO, the Northwest quarter of Section 28, Township 4 South, Range 1 East, Salt Lake Base and Meridian, lying within Utah County.

EXCEPTING THEREFROM the following:

COMMENCING at the Northeast corner of Section 28, Township 4 South, Range 1 East, Salt Lake Base and Meridian; and running thence South 1320 feet; thence South  $76^{\circ}$  West 1496.50 feet; thence North 1682 feet to the North line of said Section; thence East 1452 feet to the point of COMMENCEMENT.

PARCEL NO. 15:

- A. The Northeast quarter of the Southwest quarter, and the Northwest quarter of the Southeast quarter, of Section 29, Township 4 South, Range 1 East, Salt Lake Base and Meridian, lying within Utah County.
- B. ALSO, COMMENCING at the Northwest corner of the Southeast quarter of the Northwest quarter of Section 29, Township 4 South, Range 1 East, Salt Lake Base and Meridian; and running thence East 20 chains; thence South 8.68 chains; thence North  $72^{\circ}05'$  West 4.80 chains; thence North  $64^{\circ}12'$  West 16.58 chains; thence South  $0^{\circ}20'$  East 9.81 chains; thence South  $66^{\circ}41'$  East 16.20 chains; thence South  $72^{\circ}05'$  East 4.75 chains; thence South 2.29 chains; thence West 20 chains; thence North 20 chains to the point of COMMENCEMENT.
- C. ALSO, COMMENCING 9.90 chains East and 1.14 chains North from the Southwest corner of Section 20, Township 4 South, Range 1 East, Salt Lake Base and Meridian, and running thence East 70.10 chains; thence South 21.48 chains; thence West 59.12 chains; thence North  $25^{\circ}$  West 6.85 chains; thence North  $33^{\circ}45'$  West 7.88 chains; thence North  $32^{\circ}15'$  West 5.68 chains; thence North  $9^{\circ}15'$  West 3.98 chains to the point of COMMENCEMENT.

Exceptions to the foregoing Parcels 1-15: ENT12693 BK 2684 PG 168

Less and excepting therefrom the following described parcel:

A parcel of land lying within Sections 21, 22 and 28 of Township 4 South, Range 1 East, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the Southeast Corner of Section 21, Township 4 South, Range 1 East, Salt Lake Base and Meridian (basis of bearing being North 89°20'59" West from the Southeast Corner of Section 21 to the South Quarter Corner of Section 21); and running thence North 89°20'59" West 1446.96 feet along the south line of the Southeast Quarter of Section 21, thence South 00°01'47" East 1697.24 feet; thence South 76°00'00" West 1248.44 feet to a point on the easterly line of the Northwest Quarter of Section 28; thence South 00°00'57" East 649.56 feet along said quarter of section line to the Southeast Corner of the Northwest Quarter of Section 28; thence North 89°50'00" West 2658.17 feet along the southerly line of the Northwest Quarter of Section 28 to the West Quarter Corner of Section 28, said point also being the East Quarter Corner of Section 29; thence North 00°04'20" West 2666.68 feet along the westerly line of the Northwest Quarter of Section 28 to the Northwest Corner of Section 28; thence North 01°19'02" West 3978.48 feet along the westerly line of Section 21; thence East 3540.31 feet; thence South 715.93 feet; thence East 2900.00 feet; thence South 28°01'00" West 205.92 feet; thence South 30°13'00" West 564.30 feet; thence South 31°11'00" West 1284.73 feet to a point on the easterly line of the Southeast Quarter of Section 21; thence South 00°35'18" East 1535.05 feet along said easterly quarter section line to the point of beginning.

Excepting therefrom the following two parcels:

Beginning at a point which is West 3764.83 feet and North 35.16 feet from the Southeast Corner of Section 21, Township 4 South, Range 1 East, Salt Lake Base and Meridian and running thence North 00°15'30" East 1170.00 feet; thence South 89°44'30" East 375.00 feet; thence South 00°15'30" West 1170.00 feet; thence North 89°44'30" West 375.00 feet to the point of beginning. Contains 10.02 acres, more or less.

Beginning at a point which is West 3009.57 feet and North 1201.77 feet from the Southeast Corner of Section 21, Township 4 South, Range 1 East, Salt Lake Base and Meridian and running thence North 00°15'30" East 585.00 feet; thence South 89°44'30" East 375.00 feet; thence South 00°15'30" West 585.00 feet; thence North 89°44'30" West 375.00 feet to the point of beginning. Contains 5.04 acres, more or less.

Contains a net total of 680.063 acres, more or less.

SCHEDULE 2

ENT12693 BK 2684 PG 169

BOUNDARY DESCRIPTION

Traverse Release Parcel  
March 28, 1990

A parcel of land lying within Sections 21, 22 and 28 of Township 4 South, Range 1 East, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at the Southeast Corner of Section 21, Township 4 South, Range 1 East, Salt Lake Base and Meridian (basis of bearing being North 89°20'59" West from the Southeast Corner of Section 21 to the South Quarter Corner of Section 21); and running thence North 89°20'59" West 1446.96 feet along the south line of the Southeast Quarter of Section 21, thence South 00°01'47" East 1697.24 feet; thence South 76°00'00" West 1248.44 feet to a point on the easterly line of the Northwest Quarter of Section 28; thence South 00°00'57" East 649.56 feet along said quarter of section line to the Southeast Corner of the Northwest Quarter of Section 28; thence North 89°50'00" West 2658.17 feet along the southerly line of the Northwest Quarter of Section 28 to the West Quarter Corner of Section 28, said point also being the East Quarter Corner of Section 29; thence North 00°04'20" West 2666.68 feet along the westerly line of the Northwest Quarter of Section 28 to the Northwest Corner of Section 28; thence North 01°19'02" West 3978.48 feet along the westerly line of Section 21; thence East 3540.31 feet; thence South 715.93 feet; thence East 2900.00 feet; thence South 28°01'00" West 205.92 feet; thence South 30°13'00" West 564.30 feet; thence South 31°11'00" West 1284.73 feet to a point on the easterly line of the Southeast Quarter of Section 21; thence South 00°35'18" East 1535.05 feet along said easterly quarter section line to the point of beginning.

Excepting therefrom the following two parcels:

Beginning at a point which is West 3764.83 feet and North 35.16 feet from the Southeast Corner of Section 21, Township 4 South, Range 1 East, Salt Lake Base and Meridian and running thence North 00°15'30" East 1170.00 feet; thence South 89°44'30" East 375.00 feet; thence South 00°15'30" West 1170.00 feet; thence North 89°44'30" West 375.00 feet to the point of beginning.

Contains 10.02 acres, more or less.

Beginning at a point which is West 3009.57 feet and North 1201.77 feet from the Southeast Corner of Section 21, Township 4 South, Range 1 East, Salt Lake Base and Meridian and running thence North 00°15'30" East 585.00 feet; thence South 89°44'30" East 375.00 feet; thence South 00°15'30"

ENT12693 BK 2684 PG 170

West 585.00 feet; thence North 89°44'30" West 375.00 feet to  
the point of beginning.

Contains 5.04 acres, more or less.

Contains a net total of 680.063 acres, more or less.