

**AFTER RECORDING, PLEASE RETURN TO:**

Lamont Richardson, Esq.  
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185 South State Street, Suite 1300  
Salt Lake City, Utah 84111

File no. 348790-CP

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**EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT (this "**Easement**") is made this 13th day of November, 2008, by the REDEVELOPMENT AGENCY OF SANDY CITY, a body corporate and politic of the State of Utah, having a business address at 10000 Centennial Parkway, Suite 301, Sandy, Utah 84070 ("**Sandy RDA**") and SANDY REDEVELOPMENT COMPANY, LLC, a Utah limited liability company, having an address at 515 South 700 East, Suite 2R, Salt Lake City, Utah 84102 ("**Redevelopment Company**").

**RECITALS:**

- A. Sandy RDA owns certain real property located in Sandy, Salt Lake County, Utah, more particularly described on Exhibit "A" attached hereto (the "**Sandy Parcel**").
- B. Redevelopment Company acquired from USSO Development Parcel Owner, LLC, a Utah limited liability company, and now, owns certain parcels of real property adjacent to the Sandy Parcel more particularly described on Exhibit "B" attached hereto (individually and collectively, as the context may require, the "**Development Parcel**").
- C. Sandy RDA and Utah Soccer Stadium Owner, LLC, a Delaware limited liability company ("**Ground Lessee**"), entered into that certain Agreement for the Development of Land for the 9400 South Community Development Project Area, dated August 21, 2007 (the "**Development Agreement**"), and that certain Ground Lease, dated September 13, 2007, related to the Sandy Parcel (the "**Ground Lease**"), pursuant to which Sandy RDA agreed to grant easements over the Sandy Parcel in connection with the development of the Development Parcel.
- D. Redevelopment Company desires to obtain utility easements and vehicular and pedestrian access easements over the Sandy Parcel for the benefit of the Development Parcel.
- E. In accordance with the Development Agreement and Ground Lease, Sandy RDA has agreed to grant to Redevelopment Company the easements contemplated by this Easement.

NOW, THEREFORE, for the foregoing purposes, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Sandy RDA hereby grants the following easements:

1. Definitions. Certain capitalized terms which are used in this Easement are defined in this Easement prior to this Section. In addition to those previously defined capitalized terms, the following capitalized terms shall have the meanings or references indicated below:

**“Benefited Parties”** means, with respect to a Parcel, the Owners and Occupants of that Parcel, and their respective employees, agents, contractors, customers, guests, invitees, successors and assigns.

**“Governmental Authorities”** means all governmental or quasi-governmental units, commissions, councils, boards, agencies, staffs or similar bodies having jurisdiction over a specified matter.

**“Government Requirements”** means all laws, ordinances, statutes, regulations or other similar laws with respect to a specified matter promulgated by Governmental Authorities.

**“Mortgage”** means a recorded mortgage, deed of trust or other security agreement creating a lien on any interest in a Parcel as security for the payment of indebtedness or performance of other obligations.

**“Mortgagee”** means a Person which is the mortgagee, beneficiary, secured party or other person holding the lien or security interest under a Mortgage.

**“Occupant”** means any Person that, pursuant to a lease, concession, rental arrangement, license or any other instrument, agreement, contract, document, understanding or arrangement (whether written or oral) is entitled to or does occupy, possess or use any Parcel or any portion of a Parcel.

**“Owner”** means the Person that, at a specified time, is the owner of record in the office of the County Recorder of Salt Lake County, Utah, of a fee or an undivided fee interest as a tenant-in-common in a Parcel or portion of a Parcel and does not include a Person who owns any lessee interest in a Parcel, except that, with respect to the Sandy Parcel, while the Ground Lease is in effect, the Owner for the Sandy Parcel shall mean both the tenant under the Ground Lease and Sandy RDA. In the event that, at any time, there is more than one Owner of a Parcel, the liability of each such Owner for performance or compliance with the applicable provisions of this Easement shall be joint and several. Notwithstanding any applicable theory relating to a Mortgage, the term **“Owner”** shall not mean or include a Mortgagee unless and until such Person has acquired fee title to the Parcel encumbered by a Mortgage pursuant to foreclosure, trustee's sale or any arrangement or proceeding in lieu thereof.

**“Parcel”** means either of the Sandy Parcel or the Development Parcel separately.

**“Parcels”** means, collectively, the Sandy Parcel and the Development Parcel.

“**Person**” means a natural person, legal entity or trust.

“**Real Plat**” means the Real Salt Lake Subdivision, according to the official plat thereof, recorded September 6, 2007 as entry No. 10214892 in the office of the Salt Lake County Recorder, a copy of which is attached as Exhibit “C” to this Easement.

2. Grant of Easements.

a. Sandy RDA hereby creates and grants to and for the benefit of the Owner of each lot which comprises the Development Parcel a non-exclusive easement for vehicular and pedestrian ingress and egress (i) across the portion of the Sandy Parcel designated as “Private Street” on the Real Plat (and commonly known as “**Stadium Way**”), which easement shall be appurtenant to the Development Parcel, and (ii) across that portion of the Sandy Parcel situated between the southern boundary of Stadium Way and the northern boundary of Lot 2 on the Real Plat, which is depicted as the cross-hatched area on the copy of the Real Plat attached as Exhibit “C” to this Easement (the “**Gap Area**”).

b. Sandy RDA hereby creates and grants to and for the benefit of the Owner of each lot which comprises the Development Parcel a non-exclusive easement for connecting to any existing or installing any new, at such Owner’s sole cost and expense, utility pipes, lines, wires, conduits and related facilities (including, without limitation, pipes, lines, wires, conduits and related facilities for electricity, natural gas, other fuels or power sources, telephone, sewage, storm water drainage and all types of water) under, through and across, Stadium Way and the Gap Area. All of such work shall be subject to the prior reasonable approval of the Owner of the Sandy Parcel.

3. No Interference. Except to the extent necessary (on a temporary basis) for reasonable construction, repair, maintenance, traffic regulation and control (including reasonable traffic regulation and control in connection with soccer, sporting and other entertainment events on the Sandy Parcel), or to prevent a public dedication or the accrual of any rights to the public, no fence, gate, wall, barricade or other obstruction, whether temporary or permanent in nature, which limits or impairs the free and unimpeded use of the rights-of-way and easements granted in Paragraph 2 above shall be constructed or erected, nor shall any Owner in any other manner obstruct or interfere with the use of such rights-of-way and easements. No charge of any type shall be made to or collected from any Benefited Party in connection with such traffic regulation and control.

4. Construction and Maintenance.

a. Construction of Curb Cuts. In the event any curb cuts or other improvements are required to be constructed by an Owner of a lot which comprises the Development Parcel to utilize the access easements granted by this Easement, the Owner of the Development Parcel shall construct such curb cuts or other improvements at its sole cost and expense in accordance with the Governmental Requirements. All of such work shall be subject to the prior reasonable approval of the Owner of the Sandy Parcel. Once commenced, construction of such curb cuts or other improvements shall be diligently pursued to completion. Construction of the curb cuts or other

improvements shall be performed in a good and workmanlike manner and in a manner so as to avoid unreasonable interference with the use of Stadium Way by the Benefited Parties, and, in connection with the foregoing, the Owner of the Development Parcel and the Owner of the Sandy Parcel shall in their reasonable judgment agree upon a time when such curb cuts and other improvements can be constructed in order to avoid unreasonable interference with events held on the Sandy Property.

b. Ground Lessee's Obligations. So long as the Ground Lease is in effect, Stadium Way shall be constructed, maintained, operated, and kept clean in good order, condition, and repair under the supervision and at the sole expense of the Ground Lessee.

5. Title and Mortgage Protection. No amendment to this Easement shall in any way affect the rights of any Mortgagee pursuant to a Mortgage that is recorded at the time of the recordation of the amendment, or the rights of any successor in interest or title to such Mortgagee, either before or after such Mortgagee or its successor enters into possession or acquires title pursuant to foreclosure, trustee's sale or any arrangement or proceeding in lieu thereof, unless such Mortgagee consents or subordinates its lien in writing to such amendment. A breach of any of the covenants, provisions, or requirements of this Easement shall not result in any forfeiture or reversion of title or of any other interest in a Parcel. A breach of any of the covenants, provisions, or requirements of this Easement shall not defeat, impair or render invalid the lien of or other rights under any Mortgage. Unless and until it enters into possession or acquires title pursuant to foreclosure, trustee's sale or any arrangement or proceeding in lieu thereof, a Mortgagee shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, any of the covenants, provisions, or requirements of this Easement except the obligation to subordinate its lien or security interest to this Easement.

6. Amendment or Termination; Duration of Declaration. This Easement may be amended or terminated only by an instrument filed for record in the office of the County Recorder of Salt Lake County, Utah that is executed by all of the Owners and Mortgagees of each of the Parcels. The term of this Easement is perpetual; this Easement shall be and remain in force and effect until terminated by a written agreement pursuant to this Section. Notwithstanding any language in this Easement to the contrary, for purposes of any amendment or termination of this Easement, the Owner of the Sandy Parcel shall mean Sandy RDA or its successor or assignee.

7. Covenants to Run with Land. This Easement and the easements, provisions, restrictions and covenants created by this Easement are intended by the Owners to be, and shall constitute, covenants running with the land as to each of the Parcels, and shall be binding upon and shall inure to the benefit of each Owner, Mortgagee and Occupant and any other Person who acquires or comes to have any interest in any Parcel, and their respective grantees, transferees, lessees, heirs, devisees, personal representatives, successors, and assigns. This Easement and all of the easements, covenants, provisions, and restrictions of this Easement shall also inure to the benefit of each Person owning any interest in or occupying any portion of a Parcel. Each Owner shall have the obligation to comply with, and all interests in each Parcel shall be subject to, the terms of this Easement. By acquiring, in any way coming to have an interest in, or occupying a Parcel, the Person so acquiring, coming to have such interest in, or occupying a Parcel, shall be deemed to have consented to, and shall be bound by, each and every provision of this Easement.

8. Enforcement. The Owner of a Parcel shall have the right to enforce, through any permitted proceeding at law or in equity, the terms, provisions, covenants and requirements of this Easement. Any failure to insist upon the strict performance of or compliance with any of the terms, provisions, restrictions, covenants and requirements of this Easement shall not result in or be construed to be an abandonment or termination of this Easement or any waiver of the right to insist upon such performance or compliance with the terms of this Easement in the future. If any action is brought because of a default under, or to enforce or interpret any of the covenants, provisions, or requirements of this Easement, the party prevailing in such action shall be entitled to recover from the unsuccessful party in such action reasonable attorneys' fees (including those incurred in connection with any appeal), the amount of which shall be fixed by the court and made a part of any judgment rendered.

9. Indemnification. Redevelopment Company shall and hereby agrees to indemnify, defend (with counsel reasonably acceptable to Sandy RDA), hold harmless and reimburse Sandy RDA and all associated, affiliated, allied, and subsidiary entities of Sandy RDA, now existing or hereafter created, and their respective elected and non-elected officials, boards, commissions, officers, representatives, employees, contractors, and agents, as applicable (collectively, the "Grantor Parties"), from and against and for any and all liabilities, obligations, penalties, fines, suits, claims, demands, actions, judgments, costs and expenses of any kind or nature, including without limitation reasonable attorneys' fees (collectively, "Claims"), which may be imposed upon or asserted against any of the Grantor Parties by reason of death of or injury to persons, or damage to property (of the party asserting the Claim) arising from or related to (a) Redevelopment Company's failure to comply with the terms and conditions of this Easement, and/or (b) the use of the easements granted in this Easement (including, but not limited to, any mechanic's liens arising in connection with any construction, alteration, maintenance or repair work related to the easements granted in this Easement) by the Redevelopment Company or its officers, members, managers, representatives, employees, contractors, or agents. Notwithstanding the above, Redevelopment Company's obligation to so indemnify, defend and hold harmless shall not apply to Claims to the extent arising from the negligence or intentional acts or omissions of any of the Grantor Parties or the Occupants of the Sandy Parcel.

10. Effective Date. This Easement, any amendment or termination of this Easement, and any supplement hereto shall take effect upon its being filed for record in the office of the County Recorder of Salt Lake County, Utah.

11. Miscellaneous.

a. Titles, Captions and References. All Section titles or captions in this Easement are for convenience only, shall not be deemed part of this Easement and in no way define, limit, extend or describe the scope or intent of any provisions of this Easement. When this Easement refers to a Section by number or other designation, such reference shall be deemed to be to the correspondingly numbered Section of this Easement unless the context refers to a section in another agreement, document or instrument.

b. Pronouns and Plurals. Whenever the context may require, any pronoun used in this Easement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa.

c. Applicable Law. This Easement shall be construed in accordance with and governed by the laws of the State of Utah, without reference to its choice of law rules that would apply the law of another jurisdiction.

d. Counterparts. This Easement may be executed in any number of counterparts. Each such counterpart of this Easement shall be deemed to be an original instrument, and all such counterparts together shall constitute but one agreement.

e. Exhibits. All exhibits attached to this Easement are expressly made a part of and incorporated in this Easement as fully as though completely set forth in this Easement.

f. Time of Essence. Time is of the essence with respect to the obligations set forth in this Easement.

g. Notices. Any notice, demand, request, covenant, approval or other communication (collectively, "Notices") to be given by one party to the other, shall be given by nationally-recognized commercial overnight courier or mailing through the United States Postal Service, postage prepaid, return receipt requested, registered or certified mail, addressed to the respective parties at the addresses first written above. All Notices shall be effective upon receipt.

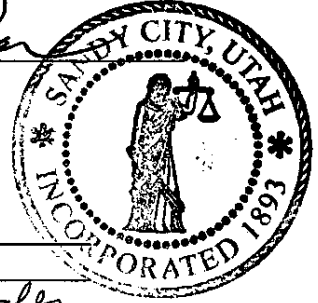
[SIGNATURE PAGE FOLLOWS]

This Easement is executed as of the date first written above.

REDEVELOPMENT AGENCY OF SANDY CITY,  
a body corporate and politic of the State of Utah

By: \_\_\_\_\_  
Name: Thomas M. Dolan  
Its: Executive Director

Attest: \_\_\_\_\_  
Name: MOLLY SPIRA  
Title: Deputy Recorder



SANDY REDEVELOPMENT COMPANY, LLC,  
a Utah limited liability company

By: \_\_\_\_\_  
Name: Christopher P. McKee  
Its: Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

This Easement is executed as of the date first written above.

REDEVELOPMENT AGENCY OF SANDY CITY,  
a body corporate and politic of the State of Utah

By: \_\_\_\_\_  
Name: Thomas M. Dolan  
Its: Executive Director

Attest: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

SANDY REDEVELOPMENT COMPANY, LLC,  
a Utah limited liability company

By: Kenneth Murray  
Name: KENNETH MURRAY  
Its: MANAGER

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_



STATE OF UTAH )  
 : ss.  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of October, 2008, by Thomas M. Dolan, the Executive Director, and \_\_\_\_\_, the Secretary of the Redevelopment Agency of Sandy City, a body corporate and politic of the State of Utah.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing at: Salt Lake County, Utah

My Commission Expires:

STATE OF New York )  
 : ss.  
COUNTY OF Queens )

The foregoing instrument was acknowledged before me this 27 day of October, 2008, by Kenneth Munoz, the Manager of Sandy Redevelopment Company, LLC, a Utah limited liability company.

CLARE GLUCK  
Notary Public - State of New York  
No. 01GL6176026  
Qualified in Queens County  
Commission Expires 10/29/2011

Clare Gluck  
\_\_\_\_\_  
NOTARY PUBLIC  
Residing at: Queens, New York

My Commission Expires:

STATE OF \_\_\_\_\_ )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of October, 2008, by \_\_\_\_\_, the \_\_\_\_\_ of Sandy Redevelopment Company, LLC, a Utah limited liability company.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing at: \_\_\_\_\_

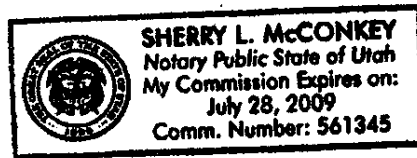
My Commission Expires:

STATE OF UTAH )  
 : ss.  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this 3 day of November, 2008, by Thomas M. Dolan, the ~~Executive Director~~ <sup>Mayor</sup>, and \_\_\_\_\_, the ~~Secretary~~ of the ~~Redevelopment Agency of Sandy City~~, a body corporate and politic of the State of Utah.

*Sherry L. McConkey*  
NOTARY PUBLIC  
Residing at: Salt Lake County, Utah

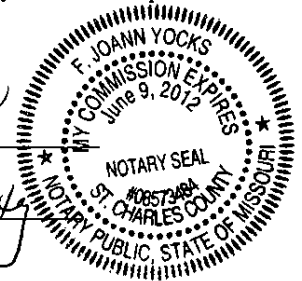
My Commission Expires:



STATE OF Missouri )  
 : ss.  
COUNTY OF St. Charles )

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of October, 2008, by Christopher P. McKee, the Manager of Sandy Redevelopment Company, LLC, a Utah limited liability company.

*Joann Yocks*  
NOTARY PUBLIC  
Residing at: St. Charles County



My Commission Expires:

STATE OF \_\_\_\_\_ )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

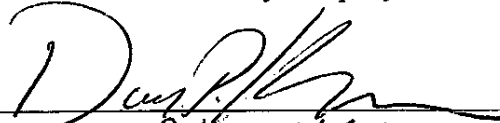
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of October, 2008, by \_\_\_\_\_, the \_\_\_\_\_ of Sandy Redevelopment Company, LLC, a Utah limited liability company.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing at: \_\_\_\_\_

My Commission Expires:

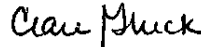
ACKNOWLEDGED AND AGREED TO:

UTAH SOCCER STADIUM OWNER, LLC,  
a Delaware limited liability company

By:   
Name: DAVID P. KERSCHNER  
Its: SUP-DEVELOPMENT

STATE OF New York )  
: ss.  
COUNTY OF Queens )

The foregoing instrument was acknowledged before me this 21 day of October, 2008, by David Kerschner, the SUP Development of UTAH SOCCER STADIUM OWNER, LLC, a Delaware limited liability company.



NOTARY PUBLIC

Residing at: ~~Salt Lake County, Utah~~ Queens NY

My Commission Expires:

CLARE GLUCK  
Notary Public - State of New York  
No. 01GL6176026  
Qualified in Queens County  
Commission Expires 10/29/2011

**Exhibit A**  
**to**  
**Easement Agreement**

Legal Description of Sandy Parcel

Lot 4, Real Salt Lake Subdivision, according to the official plat thereof, recorded September 6, 2007 as entry No. 10214892 in the office of the Salt Lake County Recorder

Tax Parcel No. 27-01-476-027

**Exhibit B**  
**to**  
**Easement Agreement**

Legal Description of Development Parcel

Lots 1, 2 and 3 Real Salt Lake Subdivision, according to the official plat thereof, recorded September 6, 2007 as entry No. 10214892 in the office of the Salt Lake County Recorder

Tax Parcel Nos. 27-01-427-029, 27-01-427-030 and 27-01-476-028

**Exhibit C  
to  
Easement Agreement**

Copy of Real Plat

(Attached)

