

STORM DRAIN EASEMENT AGREEMENT

We, HEBER LEE DAVIS and JoANN W. DAVIS, of Route 1, Box 311A, Provo City, Utah County, State of Utah, Grantors, in consideration of the sum of TEN (\$10.00) DOLLARS and other valuable consideration, receipt of which is hereby acknowledged, and the prospective benefits to be derived by reason of the locating, establishing, constructing and maintenance of a certain storm drain line under the supervision of the City of Provo, Utah, as hereinafter described, do hereby convey and release to WESTGATE DEVELOPMENT, L.C., a Utah limited liability company, 2230 North at University Parkway, Bldg 6D, Provo, Utah 84604, Grantee, an easement and right of way for a certain storm drain line, hereinafter more particularly designated and described, over and across lands owned by us and situated in the County of Utah, State of Utah, and more particularly described in Exhibit "A" attached hereto and to which reference is hereby made.

This grant of easement is made, subject to the following terms and conditions and pursuant to the following agreement:

1. DOMINANT ESTATE

This easement is granted for the benefit of property described in Exhibit "B" attached hereto and Grantors property and for no

other property without the prior written consent of Grantors first had and obtained.

2. PLAT AND LOCATION OF EASEMENT

The location of said storm drain line in said easement shall be set forth in the plat of the area as shown in Exhibit "C" attached hereto as prepared by Sowby and Berg, Consulting Engineers, and to which reference is hereby made.

3. POINTS OF INGRESS AND EGRESS

Grantee shall have the right of ingress and egress from said easement only from the east and west ends thereof, except as otherwise expressly permitted by Grantors. Grantee shall have the right and be required to install, maintain and use gates in all fences which now cross or shall hereafter cross said easement.

4. RIGHT TO CONSTRUCT AND MAINTAIN

Grantee shall have the right at its sole expense to construct and maintain within said easement a storm drain line for the benefit of the property referred to in Exhibit "B", which line shall be constructed and maintained in accordance with all applicable code provisions and regulations of Provo City, Utah. During construction Grantee, with the prior consent of Grantor, shall have the right to make temporary use of Grantor's property outside the described easement as may reasonably be necessary to accomplish construction, subject to satisfactory restoration of Grantors' premises as herein provided.

5. COVENANTS OF GRANTEE

Grantee, in accepting this easement, covenants and agrees as

follows:

(a) Said storm drain line will be completed and Grantors' property fully restored as hereinafter provided on or before the three (3) years from the date hereof, although once commenced, Grantee will pursue construction diligently to completion.

(b) Grantee shall not fence or obstruct the easement area.

(c) Grantee shall promptly, to the reasonable satisfaction of Grantors, restore, repair and provide as required fences, gates, culverts, water lines and ditches which may be affected by construction of said line. All new material will be used in the restoration of said property unless otherwise agreed to by Grantors.

(d) Grantee shall promptly compact and grade any excavated area, reseed any pasture area affected, replace any trees with like size, kind and species and regravell and reslag any feed yards and/or road affected by such construction.

(e) The manholes, and any other features of the project, shall be constructed and located so as to minimize disruption of the area, and in such connection, all manholes shall be constructed at ground level, and all pipe shall be buried as deep as possible and at least one foot below ground level.

(f) Grantee shall indemnify Grantors, their heirs and assigns, against any loss and damage which may be caused by said construction, or the exercise of the right of ingress and egress for repairs or other purposes, or for any wrongful or negligent act or omission by Grantee, its agents or employees.

(g) The Westgate storm drain system will be laid is to be designed and constructed at grantees (Westgate) expense to accommodate future development of Grantors' property based on the assumption that, Grantor's property would be developed to not more than the density of Grantee's approved project, The Villages of Westgate. No connection shall be made to said storm drain line within the boundaries of Grantors' property by anyone other than Grantors without the prior written consent of Grantors and then only upon such further terms and conditions as Grantors may require.

(h) The Grantee shall assure that all persons connected with the project shall be informed and recognize that said easement is through private property. Grantors shall have the right to refuse entry to anyone who abuses the property or livestock of Grantors, or who refuses to abide by the terms of this Agreement.

(i) Any excess dirt or other material generated as a result of the construction shall be the property of the Grantors and Grantee agrees to remove and deliver such dirt to whatever location (not in excess of one (1) mile) Grantors shall specify.

(j) Temporary fences and gates shall be constructed and used by the Grantee at the expense of Grantee where needed to maintain Grantors' livestock operation.

(k) Grantee shall assume and pay attorney's fees and other expenses incurred in the preparation or modification of this Agreement.

6. RESERVATIONS BY GRANTORS

Grantors expressly reserve the following:

(a) The right to use said easement area for purposes which will not interfere with Grantee's full enjoyment of the rights herein granted.

(b) The right to connect onto said storm drain line, including lines adjacent to or bordering on Grantors' property, to serve any future approved development of Grantors' property, such connections to be without charge to Grantors for any costs relative to Grantee's construction and maintenance of said storm drain line and easement.

7. INTENT

The intent of the parties in entering into this Agreement is to provide for the present and future development of their respective properties.

8. DEFAULT

Each party hereto agrees that in the event of default by either, such defaulting party shall pay to the other all costs, damages and expenses incurred in enforcing this Agreement, or in protecting any of the rights conferred hereunder, including reasonable attorneys' fees, whether suit be brought or not.

9. SUCCESSORS AND ASSIGNS

The provisions of this Agreement shall inure to and be binding upon the parties hereto and their successors or assigns.

(The balance of this page is intentionally left blank)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the 13 day of August, 1992, the same being done on behalf of Grantee pursuant to its Operating Agreement duly authorizing the indicated managers to execute and deliver the same.

## GRANTORS:

Heber Lee Davis  
HEBER LEE DAVIS

Joann W. Davis  
JOANN W. DAVIS

## GRANTEE:

WESTGATE DEVELOPMENT, L.C.

By:

David K. Gardner Co-Manager

By:

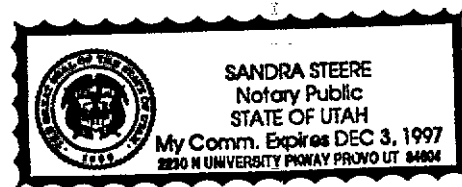
H.M. Magleby Co-Manager

STATE OF UTAH                    )  
                                      : ss.  
COUNTY OF UTAH                )

ENT 17669 BK 4210 PG 501

On this 13 day of August 1992, personally appeared before  
HEBER LEE DAVIS and JOANN W. DAVIS, his wife, two of the signers of  
the foregoing instrument, who duly acknowledged to me that they  
executed the same.

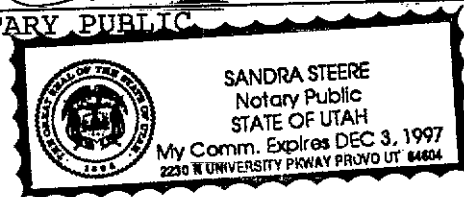
  
\_\_\_\_\_  
NOTARY PUBLIC



STATE OF UTAH                    )  
                                      : ss.  
COUNTY OF UTAH                )

On this 13 day of August 1992, personally appeared before  
me, David K. Gardner and H.M. Magleby, who, being by me duly sworn,  
did say that they are the Co-Managers of WESTGATE DEVELOPMENT,  
L.C., a Utah limited liability company, that said instrument was  
signed by them in behalf of said company pursuant to authority; and  
that said company executed the same.

  
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NOTARY PUBLIC



ACCEPTANCE BY PROVO CITY CORPORATION

Comes now PROVO CITY CORPORATION and hereby accepts and approves the forgoing Sewer Easement Agreement and agrees to be bound by the terms thereof to the extent that PROVO CITY may be affected thereby.

DATED this 27<sup>th</sup> day of February, 1997

PROVO CITY CORPORATION

By 



A 20 foot wide easement for the construction, operation, and maintenance of a sewer line, the centerline of said easement being described as follows:

Beginning at a point located North 89 deg. 27'54" East 95.14 feet and South 2296.08 feet from the North quarter corner of Section 3, Township 7 South, Range 2 East, Salt Lake Base and Meridian; thence East 596.78 feet to a point in a fence line located North 89 deg 27'54" East along section line 691.95 feet and South 2301.65 feet from the North quarter corner of said Section 3.

This easement will be parallel to and abut the Provo River Parkway trail in its entirety. The north south drainage line easement will be shared equally by the Westgate development and the Davis property with the pipe installed on the Westgate property. A description of these two property lines will be added to this easement when the property line is determined.

Beginning at a point located North 89 deg. 27'54" East along section line 689.88 feet and South 1737.63 feet from the North quarter corner of Section 3, Township 7 South, Range 2 East, Salt Lake Base and Meridian; thence East 274.66 feet; thence North 50.81 feet; thence East 118.53 feet; thence North 82 deg. 00'00" East 292.54 feet; thence South 35 deg. 26'05" East 118.42 feet; thence South 89 deg. 07'01" East 133.11 feet; thence South 24 deg. 52'50" East 133.25 feet; thence South 89 deg. 07'01" East 428.92 feet; thence South 02 deg. 48'59" East 217.48 feet; thence East 247.59 feet; thence South 03 deg. 31'33" East 150.09 feet; thence the following fifteen courses along the southeasterly boundary of Westgate Pointe PUD, plat "A": South 03 deg. 31'33" East 80.76 feet, North 88 deg. 21'54" East 200.99 feet, South 03 deg. 43'46" East 85.42 feet, South 87 deg. 28'08" West 155.98 feet, South 01 deg. 39'33" East 84.00 feet, South 87 deg. 38'08" West 76.58 feet, South 58 deg. 07'08" West 35.70 feet, South 87 deg. 40'20" West 46.44 feet, South 03 deg. 27'15" East 219.06 feet, North 89 deg. 17'35" West 161.01 feet, North 86 deg. 42'05" West 49.71 feet, North 88 deg. 53'54" West 54.81 feet, South 89 deg. 10'58" West 85.47 feet, South 87 deg. 19'47" West 69.48 feet, and South 89 deg. 46'22" West 139.91 feet; thence the following six courses along a chain link fence: South 89 deg. 46'22" West 511.97 feet, South 02 deg. 14'42" East 173.98 feet, North 81 deg. 32'52" West 150.29 feet, North 85 deg. 49'37" West 33.90 feet, North 89 deg. 33'46" West 219.38 feet and South 86 deg. 00'46" West 76.60 feet; thence North 567.12 feet; thence East 8.63 feet; thence North 00 deg. 44'50" East along a fence line 256.58 feet; thence North 14 deg. 41'39" West 31.67 feet; thence North 00 deg. 33'13" East along a fence line 294.82 feet to the point of beginning. Area = 36.1175 acres

Exhibit C

ENT 17669 BK 4210 PG 505

REVISED centerline description of  
Storm Drain Easement from H.L. Davis

April 13, 1993

Beginning at a point located North 89 deg 27'54" East along the section line 700.35 feet and South 2870.22 feet from the North 1/4 corner section 3, Township 7 South, Range 2 East, SLB&M; thence along the centerline of a twenty five (25') foot easement as follows:

South 88 deg 21'11" West	146.71 feet; thence
North 78 deg 02'55" West	57.38 feet; thence
North 73 deg 09'37" West	216.62 feet; and
North 83 deg 13'43" West	98.96 feet

Boundary description of UTAH COUNTY PARCEL  
to be used for storm detention basin

Beginning at a point which is South 00 deg 21'07" East 2764.59 feet and East 174.84 feet from the North 1/4 corner of Section 3, Township 7 south, Range 2 East, SLB&M thence

South 00 deg 11'09" East	102.21 feet; thence
North 81 deg 50'42" West	17.45 feet; thence
South 70 deg 31'51" West	456.19 feet; thence
North 76 deg 02'01" West	388.17 feet; thence
South 89 deg 53'28" West	189.92 feet; thence
North 00 deg 41'00" East	143.15 feet; thence
North 88 deg 44'33" East	446.50 feet; thence
North 89 deg 29'48" East	452.83 feet; thence
North 89 deg 40'17" East	20.73 feet; thence
North 89 deg 06'59" East	92.03 feet to the point of beginning

Containing 4.0884 acres