

EASEMENT

**Fund: School
Easement No. DEVL 612**

THE STATE OF UTAH, by and through the School and Institutional Trust Lands Administration, (the "Trust Lands Administration") GRANTOR, for good and valuable consideration of the payment of Ten Dollars (\$10.00), receipt of which is hereby acknowledged and the performance of the obligations pursuant to that certain Memorandum of Understanding ("MOU") dated March 23, 1999 entered among St. George City, Sun River St. George Development, LC and Trust Lands Administration, hereby grants to City of St. George, GRANTEE, the right to construct, operate, repair and maintain a roadway and water line on state trust lands described as follows:

Township 43 South, Range 15 W SLB&M
Section: 18, as follows:

WASHINGTON COUNTY

Beginning at a point which is North 88°51'13" West 758.21 feet along the Section line and South 00°00'00" West 579.51 feet from the Northeast Corner of Section 18, Township 43 South, Range 15 West of the Salt Lake Base and Meridian, and running thence North 43°05'39" West 33.38 feet to the point of curvature of a 1,585.00 foot radius curve concave to the Northeast; thence Northwesterly 528.47 feet along the arc of said curve through a central angle of 19°06'13" to the point of tangency; thence North 23°59'26" West 168.48 feet; thence South 66°00'34" West 85.65 feet to the point of curvature of a 582.00 foot radius curve concave to the Southeast; thence Southwesterly 67.24 feet along the arc of said curve through a central angle of 06°37'11" to the point of reverse curvature of a 618.00 foot radius curve concave to the Northwest; thence Southwesterly 71.40 feet along the arc of said curve through a central angle of 06°37'11" to the point of tangency; thence South 66°00'34" West 1,307.94 feet to the point of curvature of a 1,450.00 foot radius curve concave to the Southeast; thence Southwesterly 461.40 feet along the arc of said curve through a central angle of 18°13'55" to the point of tangency; thence South 47°46'40" West 49.23 feet to the point of curvature of a 418.00 foot radius curve concave, to the Northwest; thence Southwesterly 123.87 feet along the arc of said curve through a central angle of 16°58'45" to the point of tangency; thence South 64°45'25" West 1,232.51 feet to the point of curvature of a 782.00 foot radius curve concave to the Southeast; thence Southwesterly 181.54 feet along the arc of said curve through a central angle of 13°18'04" to the point of tangency; thence South 51°27'21" West 274.82 feet to the point of curvature of a 718.00 foot radius curve concave to the Northwest; thence Southwesterly 368.10 feet along the arc of said curve through a central angle of 29°22'27" to the point of tangency; thence South 80°49'48" West 728.25 feet to the point of curvature of a 382.00 foot radius curve concave to the Southeast; thence Southwesterly 142.25 feet along the arc of said curve through a central angle of 21°20'09" to the point of tangency; thence South 59°29'39" West 200.94 feet to the point of curvature of a 1,982 foot radius curve concave to the Southeast; thence Southwesterly 70.14 feet along the arc of said curve through a central angle of 02°01'39" to the point of tangency; thence South 57°28'00" West 880.88

feet to the point of curvature of a 382.00 foot radius curve concave to the Southeast; thence Southwesterly 64.85 feet along the arc of said curve through a central angle of 09°43'36" to a point on a radial line; thence North 42°15'36" West 47.82 feet along said radial line to the point of curvature of a 400.00 foot radius curve concave to the Southwest; thence Northwesterly 80.23 feet along the arc of said curve through a central angle of 11°29'31" to the point on the United States of America, BLM Administered Property Line, from which the radius point bears South 35°14'53" West, said point being the point of termination of center line. Contains 4.937 acres.

TO HAVE AND TO HOLD in perpetuity subject to the following terms and conditions and any valid and existing rights or until GRANTEE, its successors and assigns shall fail to fulfill its obligations pursuant to the MOU. The \$600 application fee shall be waived. This easement is granted only for the purpose described above as far as it is consistent with the principles and obligations in the Enabling Act of Utah (Act of July 16, 1894, Ch. 138, 28 Stat. 107) and the Constitution of the State of Utah.

1. GRANTEE shall perform the construction, operation, repair, replacement, and maintenance of said roadway and water line, pursuant to the MOU and hold GRANTOR harmless from any and all liability (including expenses for attorney's fees) which may arise from the construction, operation, and maintenance of said roadway and water line, so long as the easement shall remain in force and effect.

2. GRANTEE shall contact all existing easement holders and cooperate with them with respect to where and how material may be removed so as not to cause damage to existing easements.

3. GRANTEE assumes liability for and agrees to indemnify GRANTOR for and against any and all liability, including attorney's fees, of any nature imposed upon, incurred by, or asserted against GRANTOR which in any way relates to or arises out of the activity or presence upon the easement of GRANTEE, its servants, employees, agents, sublessees, assignees or invitees.

4. GRANTEE consents to suit in the courts of the State of Utah in any dispute arising under the terms of this easement or as a result of operations carried on under this easement. Service of process in any such action is hereby agreed to be sufficient if sent by registered mail to the GRANTEE at the last known address of GRANTEE appearing on the GRANTOR'S records.

5. The acquisition or assumption by another party under an agreement with the GRANTEE of any right or obligation of the GRANTEE under this easement shall be ineffective

as to the GRANTOR unless and until GRANTOR shall have been notified of such agreement and shall have recognized and approved the same in writing, and in no case shall such recognition or approval: (i) operate to relieve the GRANTEE of the responsibilities or liabilities assumed by GRANTEE hereunder; or (ii) be given unless such other party is acceptable to GRANTOR as a GRANTEE, and assumes in writing all of the obligations of the GRANTEE under the terms of this easement as to the balance of the term thereof, or acquires the rights in trust as security and subject to such conditions as may be necessary for the protection of the public interests.

6. GRANTEE shall at all times observe reasonable precautions to prevent fire on said easement and shall comply with all applicable laws and regulations of any governmental agency having jurisdiction. In the event of a fire on said easement proximately caused by GRANTEE, its servants, employees, agents, sublessees, assignees or licensees which necessitates suppression action by the State Forester, GRANTEE agrees to reimburse GRANTOR for the cost of such fire suppression action.

7. GRANTEE, in exercising the privileges granted by this easement, shall comply with the provisions of all valid Federal, State, County, and Municipal laws, ordinances, and regulations which are applicable to the subject tract and operations covered by this easement. GRANTEE shall neither commit nor permit any waste on the easement premises. GRANTEE shall take reasonable precautions to prevent pollution or deterioration of lands or waters which may result from the exercise of the privileges granted pursuant to this easement.

8. GRANTOR for itself, its successors-in-interest and assigns, herein reserves the right to utilize said easement for access to and from the lands owned by GRANTOR, its successors-in-interest and assigns. GRANTOR reserves the right to convey its interest in the subject land subject to this easement. GRANTEE acknowledges that GRANTOR may sub-divide its lands in the future.

9. It is expressly understood and agreed that the right herein granted is non-exclusive and GRANTOR hereby reserves the right to issue other non-exclusive easements, leases, or permits on or across the subject property where such uses are appropriate and compatible or to dispose of the property by sale or exchange.

10. GRANTOR expressly reserves the right to lease said land for the exploration, development and production of oil, gas and all other minerals, together with the right of ingress and egress across said easement; provided that no drilling of oil wells shall be conducted, nor will mining shafts be located within the boundaries of said easement.

11. GRANTEE agrees that the removal of ordinary sand and gravel or similar materials from the easement is not permitted except when the GRANTEE has applied for and received a materials permit from the GRANTOR.

12. GRANTEE agrees that no trees may be cut or removed from the easement except when the GRANTEE has applied for and received a small forest products permit or timber contract from the GRANTOR.

13. It is hereby understood and agreed that all treasure-trove and all articles of antiquity in or upon the subject lands are and shall remain the property of the GRANTOR. GRANTEE shall report any discovery of a "site" or "specimen" to the GRANTOR and the Division of State History in compliance with Section 9-8-305 Utah Code Annotated (1953) as amended.

14. GRANTOR claims title in fee simple, but does not warrant to GRANTEE the validity of title to these premises. GRANTEE shall have no claim for damages or refund against the GRANTOR for any claimed failure or deficiency of GRANTOR'S title to said lands or for interference by any third party.

15. GRANTOR reserves the right to inspect the area of operation at a later date and recall GRANTEE for correction of any violations of the above stipulations. If the GRANTEE fails to correct such violations within a reasonable time the GRANTOR may, after thirty (30) days written notice, re-enter and terminate this grant.

16. This easement is granted pursuant to the provisions of all applicable laws and subject to the rules of the departments and agencies of the State of Utah presently in effect and to such laws and rules as may be hereafter promulgated by the State.

17. Any notice contemplated herein to be served upon GRANTEE shall be in writing and shall be deemed sufficient if deposited in the United States mail, postage prepaid and certified or registered, and addressed as follows:

City of St. George
175 E. 200 North
St. George, UT 84770

or at any such other address as GRANTEE may from time to time designate by written notice to GRANTOR.

18. This EASEMENT shall be interpreted and governed by the laws of the State of Utah and the provisions hereof shall inure to and be binding upon the successors and assigns of GRANTEE.

IN WITNESS WHEREOF, the State of Utah, by and through the School and Institutional Trust Lands Administration, has caused these presents to be executed this 29 day of March, 1999, by the Director.

GRANTOR: STATE OF UTAH
School and Institutional
Trust Lands Administration
675 East 500 South, Suite 500
Salt Lake City, Utah 84102-2818

By: 
For DAVID T. TERRY, DIRECTOR

GRANTEE: City of St. George
175 E. 200 North
St. George, UT 84770

By: 

APPROVED AS TO FORM
JAN GRAHAM
ATTORNEY GENERAL

BY: 
Dawn Soper
Special Assistant Attorney General

STATE OF UTAH)
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COUNTY OF SALT LAKE

On the 25th day of March, 1999, personally appeared before me Kevin S. Carter, who being duly sworn did say that he is the Director of the Utah School and Institutional Trust Lands Administration, and authorized to execute the above instrument.

My commission expires: 5-25-2000

Effie M Burns
Notary Public



STATE OF UTAH)
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COUNTY OF WASHINGTON

On the 25 day of March, 1999, personally appeared before me Daniel D. McArthur, who being duly sworn did say that he is the Mayor of City of St. George, and authorized to execute the above instrument.



My commission expires: 09/10/02

Miriam C. Palma
Notary Public, residing at