

WHEN RECORDED, RETURN TO:

Gerald H. Kinghorn
PARSONS, DAVIES, KINGHORN & PETERS
185 South State Street, Suite 700
Salt Lake City, Utah 84111

ENT 106500 BK 4819 PG 101
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
1998 Oct 20 9:30 am FEE 0.00 BY SS
RECORDED FOR TOWN OF EAGLE MOUNTAIN

AGREEMENT AND GRANT OF EASEMENT TO THE TOWN OF EAGLE MOUNTAIN

This AGREEMENT AND GRANT OF EASEMENT made this ____ day of _____, 1998, by and between Town of Eagle Mountain, Utah, a municipal corporation of the State of Utah referred to in this easement as "the Town" or "the Grantee," and the Valley View Stake of the Church of Jesus Christ of Latter Day Saints, a corporation sole, hereinafter referred to as "Grantor."

The Town is in the process of developing and constructing a wastewater outfall line (sewer) to serve the residents of the Town. The Grantor owns certain land and is willing to grant an easement to the Town as provided herein;

NOW, THEREFORE, in consideration of the payment of Ten Thousand Six Hundred Forty-Seven Dollars and 00/100 (\$10,647.00) and other consideration consisting of the construction and completion of natural gas service lines to the two farm homes on the Grantor's property and sewer laterals stubbed out to serve the two farm homes on the Grantor's property (at an estimated cost of \$8,955.00), including any and all cost overruns payable to contractors, and the mutual covenants of the Parties herein, the Grantor does hereby grant and convey to the Town temporary construction easements, and permanent easements as described more specifically on **Exhibit 1**, to survey, clear and excavate for, lay, construct, operate, inspect, maintain, protect, repair, replace or remove a wastewater transportation and collection system (sewer) and appurtenances only for the transportation of waste water and waste materials which can be transported through said sewer pipeline along a route on, under, across and through the land owned by the Grantor as described on the attached **Exhibit 1**, together with the right of ingress and egress to and from said easement at a location convenient to Grantor and Grantee.

Said grant of easement is subject to the following conditions, exceptions and reservations:

1. Grantee shall be totally responsible for disposing of all trees, stumps, and roots and cleanup of other debris unless the Grantor agrees in writing to assume responsibility for removal of all debris from clearing and grubbing the construction site.
2. Grantee shall backfill each trench excavated by Grantee or its agents and grade out the disturbed easement areas and return the area to the original pre-construction condition of the

land as far as is practicable (including topsoil and reseeded) . Grantee shall keep and maintain the sewer pipeline and backfill thereon in a good and workmanlike condition in accordance with generally accepted standards of pipeline construction.

3. Grantee shall bear the entire cost and expense incurred in connection with the construction, maintenance, repair and renewal, and any or all modification, revision, relocation, removal or reconstruction of the sewer pipeline.

4. Grantee shall fully pay for all materials joined or affixed to and labor performed upon said easement and right of way in connection with the construction, maintenance, repair, renewal or reconstruction of the sewer pipeline and the services not on the easement regardless of the cost to the Grantee and which will be constructed to benefit the homes on the property, and shall not permit or suffer any mechanic's or materialmen's lien of any kind or nature to be enforced against said easement, adjacent lands used for residential purposes, or any other lands of the Grantor for any work done or materials furnished thereon at the instance or request of Grantee; and Grantee shall indemnify and hold harmless Grantor from and against any and all liens, claims, demands, costs, and expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished to or on the Grantor's land.

5. Grantee shall indemnify and hold harmless the Grantor from and against any and all liability, loss, damage, claims, demands, costs, and expenses of whatsoever nature, including court costs and attorney's fees, which may result from injury to or death of persons whomsoever, or damage to or loss or destruction of property whatsoever, whether such injury, death, loss, destruction or damage grows out of, or arises because of the existence of the sewer pipeline or the operation, construction, maintenance, repair, renewal modification, reconstruction, or removal of the sewer pipeline or any part thereof, or the contents therefrom or therein, provided, however, that the foregoing shall not apply to liability, loss damage, claims, demands, costs and expenses to Grantor which are the result of the negligence or willful misconduct of Grantor, its officers, employees or agents.

6. This easement shall be non-exclusive. Grantor shall have the right to construct and maintain fences over and across the easement herein granted, as it may find necessary in operation of its farming business. Grantor may grant other easements, including but not limited to road easements and other utility easements on the same property; provided, however, Grantor will not build or construct or in any way permit to be built or constructed any building or other improvement over or across the right of way or therewith alter the right-of-way in manner which will in any way damage or endanger the sewer line or unreasonably interfere with Grantees ability to construct, operate, maintain, repair, or replace the sewer pipeline, or any part thereof, or change without the written consent of Grantee.

7. Grantor agrees that the consideration listed above does not include crop damages, and Grantee shall be responsible to pay additional damages for any injury to growing crops and

native grasses, which injury, may be caused by Grantee, its agents, employees, or contractors after consultation and agreement between the agent of the Grantee and the farm manager to determine the existence or the extent of such crop losses. Grantee shall use diligence and cooperate with Grantor in all respects so as to interfere as little as possible with Grantor's operations; Grantee shall reimburse Grantor for any livestock loss sustained by such Grantor directly caused by Grantee's activities under the terms of this easement on the aforescribed lands.

8. Grantee shall restore to original or better conditions bridges and current irrigation paths such as streams, creeks and ditches that may be damaged due to construction or heavy equipment.

9. Grantee shall be responsible for necessary fencing specified to contain livestock during construction and shall restore existing permanent fences to original or better condition following construction. Grantee shall not maintain upon the lands within this easement fences or other structures which will retard or prevent livestock from grazing the lands covered by this easement, without the written permission of Grantor.

10. Grantee shall lay, bury and maintain said sewer pipeline so it will avoid interference with the present use of any ditch or roadway, interference with the present use of the surface of said premises, or damage to existing septic tanks and connecting drainfields. Grantee shall repair any such damage so not to disrupt service to existing homes. Grantee shall use generally accepted good construction practices to backfill and compact all trenches to avoid diverting water inadvertently from Grantor's springs along the construction route and to use such practices as reasonably necessary to prevent water from entering the pipe placed in the trench through seepage or other means.

11. Except for the temporary construction easement which shall expire 18 months after the recording of this Easement, this easement shall continue in perpetuity and for a minimum of twenty-five (25) years and so long as said lands are used for maintenance and operation of a sewer pipeline for transportation of wastewater or sewage, water, waste matter, or products therefore, but should such use terminate and Grantee, its successors or assigns, fail to use the line in the easement for a period of twenty-four (24) consecutive calendar months after the initial twenty-five year period, this easement shall terminate, cease and be nullified as fully and effectually as though this instrument had never been subscribed and delivered. Provided, however, that the Grantor shall give notice of the termination of such easement to the Guarantee, and Grantee, its successors or assigns, may remove its sewer pipeline and all of its fixtures, appurtenances and other property within the said easement, and shall remove the same within six (6) months after Grantor shall mail Grantee, its successors or assigns, a written request therefor, in default of which said sewer pipeline and all of the other property of Grantee, its successors or assigns, within said easement shall become and remain the property of Grantor, and Grantee, its successors or assigns, shall have no further rights, thereto. Grantee, its successors or assigns, after any such removal, shall restore the ground surface to its present condition and pay all damages caused Grantor thereby; such restoration shall include reseeding said ground to present conditions.

12. All rights herein granted are subject to all rights of way, easements and licenses heretofore granted to Grantor and to the continuing right of Grantor to extend or renew any or all of said rights, of way, easements and licenses or to grant new easements, rights of way, easement or license which is extended, renewed or granted, provided, however, that any newly granted easements shall be subject to the provisions of the grant herein.

13. The rights and permission granted thereunder are granted only for the purpose stated herein. The rights and permission granted thereunder are granted only to Grantee and Grantee's agents, employees or contractors and such permission and rights are restricted to the uses indicated herein and are given for no other purposes whatsoever.

14. Grantor reserves the right to use the lands covered thereunder for its own purposes, so long as such use does not interfere with the Grantee's use thereof.

15. If default or breach shall be made in any of the conditions herein contained to be kept on the part of the Grantee, Grantor may, at the election of Grantor declare this Easement terminated and said Easement shall thereafter be null and void and of no further force and effect, provided, however, anything herein contained to the contrary notwithstanding, that the Grantor shall not exercise such termination by reason of any default or breach, unless and until the Grantor shall have given the Grantee written notice, by certified mail, of such default or breach, and unless the Grantee shall have failed to remedy such default or breach within a period of thirty (30) days after the mailing of such notice, and provided further, that any indemnification provision thereunder shall survive such termination.

16. In the event there is a dispute as to the terms and conditions of this agreement, the prevailing parties in such dispute shall be entitled to recover reasonable costs and attorneys fees incurred in enforcing the terms of this agreement.

17. Waiver by either Grantor or Grantee of any breach of any condition or provision of this Easement shall be limited to the particular instance and shall not operate or be deemed to waive any future breach or breaches of said condition or provision; the failure of either Grantor or Grantee to insist, in any one instance or more, upon the performance of any of the conditions or provisions of this Easement or exercise any right or privilege herein conferred, shall not be construed as thereafter waiving any such condition, provision, right of privilege, but the same shall continue and remain in full force and effect.

18. Except as may be herein otherwise provided, all notice required or permitted herein, shall be deemed to have been properly given when sent by certified United States mail, addressed to the Grantor or Grantee at the addresses attached on a separate page; the date of such service shall be the date on which the notice is deposited in the United States Post Office; all notices shall be sufficient within the terms of this Easement when signed by any one or more of the notifying parties or their agents and mailed to any one or more of the opposite parties; personal delivery of such written notice shall have the same effect as notice given by mail; the

attached addresses may be changed for the purposes of this Easement by notification of the opposite party in writing.

19. Whenever used, the singular number shall include the plural, the plural the singular, and the use of gender shall include all genders, the covenants herein contained shall bind, and the benefits and advantages shall insure to, the respective successors and assigns of the parties hereto; and Grantee, its successors and assigns, may assign the rights herein granted in whole or in part, provided, however, Grantee, shall give prompt written notice of any such assignment to Grantor or its successor or assigns.

IN WITNESS WHEREOF, the parties have duly executed this Agreement and Grant of Easement the day and year written above.

TOWN OF EAGLE MOUNTAIN
1680 East Heritage Drive
Eagle Mountain, Utah 84043

By: Robert E. Bateman
Mayor

ATTEST:
Janet B. Valentine
Clerk

STATE OF UTAH)
 : ss
COUNTY OF _____)

On the ____ day of _____, 1998, personally appeared before me the Mayor of the Town of Eagle Mountain, Utah, who being sworn by me did say that she is the Mayor of the Town of Eagle Mountain, and acknowledged before me that she executed the foregoing on behalf of the Town of Eagle Mountain.

Notary Public

EXHIBIT 1

(Attached to and forming a part of
Agreement and Grant of Easement
by and between
the Town of Eagle Mountain
and the Valley View Stake of
the Church of Jesus Christ
of Latter-Day Saints)

Valley View Stake of the Church of Jesus Christ of Latter-day Saints, a Utah corporation sole, Bk. 776 Pg. 562.

EXHIBIT "A"

ENT 106500 BK 4819 PG 108

A permanent easement more particularly described as follows:

Beginning at a point which is S. $0^{\circ}33'27''$ W. 649.17 ft. along the section line from the NE corner of Section 26, T5S, R1W, Salt Lake Meridian;

thence S. $0^{\circ}33'27''$ W. 40.05 ft. along said section line;
thence N. $86^{\circ}40'39''$ W. 24.24 ft.;
thence N. $86^{\circ}46'27''$ W. 429.06 ft.;
thence N. $73^{\circ}47'52''$ W. 69.38 ft.;
thence N. $86^{\circ}30'00''$ W. 2116.51 ft. to the easterly right-of-way line of Redwood Rd. (Utah SR 68);
thence N. $0^{\circ}30'29''$ E. 14.30 ft. along said right-of-way line;
thence S. $86^{\circ}46'27''$ E. 2613.87 ft.;
thence S. $86^{\circ}40'39''$ E. 22.34 ft. to the Point of Beginning. 1.405 Acres

Also

A temporary easement 30 feet wide, being more particularly described as follows:

Beginning at a point which is S. $0^{\circ}33'27''$ W. 689.22 ft. along the section line from the NE corner of Section 26, T5S, R1W, Salt Lake Meridian;

thence S. $0^{\circ}33'27''$ W. 30.03 ft. along said section line;
thence N. $86^{\circ}40'39''$ W. 25.66 ft.;
thence N. $86^{\circ}46'27''$ W. 298.84 ft.;
thence N. $73^{\circ}47'52''$ W. 133.60 ft.;
thence S. $86^{\circ}46'27''$ E. 429.06 ft.;
thence S. $86^{\circ}40'39''$ E. 24.24 ft. to the Point of Beginning. 0.268 Acres

Also

A Permanent easement, more particularly described as follows:

Beginning at a point which is S. $0^{\circ}33'27''$ W. 649.17 ft. along the section line from the NW corner of Section 25, T5S, R1W, Salt Lake Meridian;

thence S. $86^{\circ}40'39''$ E. 477.69 ft.;
thence S. $86^{\circ}46'55''$ E. 499.96 ft.;
thence S. $87^{\circ}19'10''$ E. 499.86 ft.;
thence S. $86^{\circ}40'18''$ E. 485.77 ft.;

thence N. 33°39'13" E. 341.50 ft.;

thence S. 59°28'00" E. 11.00 ft. to the westerly right-of-way
line of a county road;

thence S. 26°08'49" W. 317.01 ft. along said right-of-way;

thence S. 13°04'08" W. 38.09 ft. along said right-of-way;

thence N. 86°40'18" W. 538.37 ft.;

thence N. 87°19'10" W. 499.82 ft.;

thence N. 86°46'55" W. 500.18 ft.;

thence N. 86°40'39" W. 475.79 ft. to the section line;

thence N. 0°33'27" E. 40.05 ft. to the Point of Beginning. **2.097 Acres**

Also

A temporary easement 30 feet wide immediately adjacent to and contiguous with the southerly side line of the permanent easement described immediately above. **1.384 Acres**

Also

A temporary easement described as follows:

Beginning at a point which is S. 89°51'11" E. 33.00 ft. along the section line and S. 0°30'29" W 304.90 ft. along the easterly right-of-way line of Redwood Rd. (Utah SR 68);

thence S. 86°30'00" E. 30.04 ft.;

thence S. 0°30'29" W. 188.98 ft.;

thence N. 86°46'27" W. 30.03 ft. to said right-of-way;

thence N. 0°30'29" E. 189.13 ft. along said right-of-way to the Point of Beginning. **.13 Acres**