

After Recording return to:  
David D. Jeffs, Jeffs & Jeffs, P.C.  
90 North 100 East, PO Box 888  
Provo, Utah 84603

ENT 75402:2009 PG 1 of 9  
**RANDALL A. COVINGTON**  
**UTAH COUNTY RECORDER**  
2009 Jul 10 11:39 am FEE 31.00 BY CS  
RECORDED FOR JEFFS AND JEFFS, P.C.  
ELECTRONICALLY RECORDED

**EASEMENT AGREEMENT**  
(Utility Easements)

THIS EASEMENT AGREEMENT (this "Agreement") is made and entered into this 9<sup>th</sup> day of July, 2009, by and among Block 29 Developers, LLC, a Utah limited liability company ("Block 29"), Earl Corporation, a Utah corporation, ("Earl") and John A. Beesley and Christine H. Beesley ("Beesley"). Block 29, Earl and Beesley collectively may be referred to as the "Parties".

**RECITALS**

A. Block 29 is the owner of the real property located at approximately 172 North University Avenue, Provo, Utah, more particularly described on Exhibit A, attached hereto and by this reference incorporated herein (the "Block 29 Property"), on which Block 29 intends to build a multi-story building, parking structure and other improvements (collectively, the "Block 29 Building").

B. Earl is the owner of real property located at approximately 112 and 120 North University Avenue, Provo, Utah, located adjacent to and to the south of the Block 29 Property, more particularly described on Exhibit B, attached hereto and by this reference incorporated herein (the "Earl Property"), and on which Earl has certain buildings and improvements (collectively, the "Earl Building").

C. Beesley is the owner of real property located at approximately 100 North University Avenue, Provo, Utah, located adjacent to and to the south of the Earl Property, more particularly described on Exhibit C, attached hereto and by this reference incorporated herein (the "Beesley Property"), and on which Beesley has certain buildings and improvements (collectively, the "Beesley Building").

D. Block 29 has requested certain easements on, over and under the Earl Property and the Beesley, as more particularly set forth in this Agreement, and Earl and Beesley are willing to grant certain easements on the terms and conditions set forth in this Agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Grant of Easements.**

A. **Storm and Sanitary Sewer Easement.** Beesley grants to Block 29 and Earl and Earl grants to Block 29 a non-exclusive perpetual Storm and Sanitary Sewer easement (the "Sewer Easement") over, upon, under, across and through that portion of the Earl Property and the Beesley Property as is more fully set described and forth on Exhibit D, attached hereto and by this reference incorporated herein, for the purpose of construction, installation, repair,

replacement and maintenance of a storm sewer and a sanitary sewer for the Block 29 Property and Block 29 Building.

B. **Public Utility Easement.** Earl and Beesley grant to all public utility agencies, as defined in Utah Code Annotated Section 54-2-1(16), as amended, a non-exclusive public utility easement (the "Public Utility Easement") under, across and through the area described on Exhibit D (also referred to herein as the "Public Utility Easement Area") for the purpose of the installation, use, occupancy, maintenance and repair of underground utility lines for electricity, water, sewer, telephone and gas (the "Utilities") to provide services to both the Block 29 Property and any improvements thereon and the Earl Property and any improvements thereon.

C. The Sewer Easement and the Public Utility Easement are collectively referred to as the "Easements"

2. **Use of Easements.**

A. **Owner Rights.** The Easements will be used in such a manner so as not unreasonably to disturb Earl and Beesley's use or enjoyment of their respective Properties.

B. **Non-Exclusive Use.** This Agreement does not grant to Block 29 the exclusive use of the Easements, and Earl and Beesley expressly reserve to themselves and their invitees, licensees, guests, tenants, agents, servants, employees and their permitted users the right to use the Easements for all legal purposes. Block 29 agrees that it will not obstruct or block access by Earl or Beesley to their respective facilities or their respective Buildings, except that Block 29 may reasonably obstruct access to such portion of their Properties from time to time during the actual periods of construction, maintenance or repair; provided, however, Block 29 will use best efforts to minimize such period

C. **Restoration.** Upon the earlier completion or termination of the construction or installation, Block 29 will restore the Easements to the same, or better, condition than existing immediately prior to Block 29's use of the Easements.

3. **Term.** The term of the Easements will commence upon commencement of construction for the installation of the sewers and any utilities and will continue for such period of time as such utilities are in use and operational.

4. **Encroachment of Surface Easement.** It is acknowledged that Earl Corporation has an easement across the easternmost 16.5 foot portion of the Beesley Property (hereafter referred to as the "Access Easement") for ingress and egress to the Earl Property and to the Block 29 Property. It is further acknowledged that a planter located on the Beesley Property encroaches approximately 2 feet on to the Access Easement, that the branches of a tree in the planter overhang or encroach on the Access Easement and that the back portion of the easternmost 45 degree parking stall on the Beesley Property also encroaches on to the Access Easement. Earl Corporation and Block 29 acknowledge such existing encroachments and agree that such existing encroachments may continue in their current locations. This acknowledgement and agreement shall not grant Beesley any right to increase the extent of such

encroachments on to the Access Easement. Beesley shall use reasonable commercial efforts to have the easternmost parking stall not used by a larger car or truck including an extended cab truck so that the parked vehicle does not unreasonably encroach on the Access Easement. In the event Beesley, or its successors and assigns, shall abandon or otherwise cease to use the easternmost stall for parking, other than a temporary cessation of such use or periodic non-use of the parking stall, then the right for the back portion of such parking stall to encroach on to the Access Easement shall also cease. In the event Beesley, or its successors or assigns, shall remove or replace the planter, then the right for such planter to encroach on to the Access Easement shall cease.

5. **Successors and Assigns.** This Agreement and the covenants, conditions, restrictions and easements created hereby shall inure to the benefit of and be binding upon the parties and their permitted successors in interest in and to the Block 29 Property, the Earl Property and the Beesley Property.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date and year first above written.

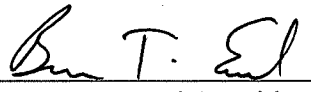
BLOCK 29:

Block 29 Developers, LLC,  
a Utah limited liability company

By: PEG Development, L.L.C., a Utah limited liability company, Manager

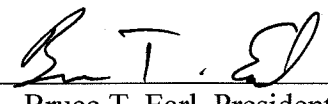
By:   
Cameron S. Gunter, Manager

By: Earl Corporation, a Utah corporation, Manager

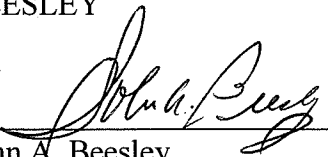
By:   
Bruce T. Earl, President

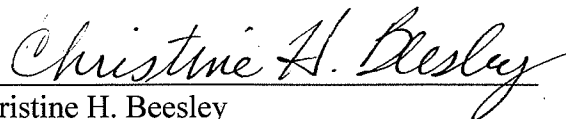
EARL :

Earl Corporation, a Utah corporation

By:   
Bruce T. Earl, President

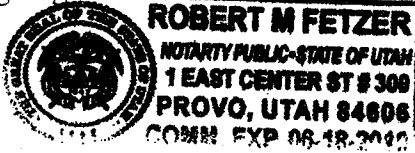
BEESLEY

  
John A. Beesley

  
Christine H. Beesley

STATE OF UTAH )  
 )  
 ) ss:  
COUNTY OF UTAH )

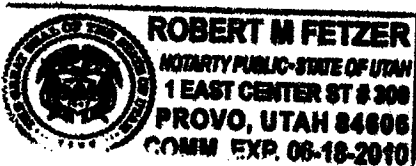
On the 9<sup>th</sup> day of July, 2009, personally appeared before me, Cameron S. Gunter, who represented to me that he is manager of PEG Development, L.L.C., a Utah limited liability company, which is a manager of Block 29 Developers, LLC, a Utah Limited liability company, the signer of the above instrument, who duly acknowledged to me that he executed the within and foregoing instrument in behalf of said limited liability company.



*Robert M Fetzer*  
\_\_\_\_\_  
Notary Public

STATE OF UTAH )  
 ) ss:  
COUNTY OF UTAH )

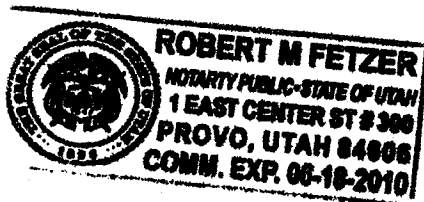
On this 9<sup>th</sup> day of July, 2009, personally appeared before me Bruce T. Earl, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn (or affirmed), did say that he is the President of Earl Corporation, a Utah corporation, a Manager of Block 29 Developers, LLC, a Utah limited liability company and that said document was signed by him in behalf of said corporation and limited liability company, and acknowledged to me that said corporation and limited liability company executed the same.



*Robert M Fetzer*  
\_\_\_\_\_  
Notary Public

STATE OF UTAH )  
 ) ss:  
COUNTY OF UTAH )

On this 9<sup>th</sup> day of July, 2009, personally appeared before me Bruce T. Earl, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn (or affirmed), did say that he is the President of Earl Corporation, a Utah corporation, and that said document was signed by him in behalf of said corporation, and acknowledged to me that said corporation executed the same.



*Robert M Fetzer*  
\_\_\_\_\_  
Notary Public

STATE OF UTAH )



**Exhibit A**

**The Block 29 Property**

LOT 1, OF THAT CERTAIN PLAT ENTITLED "ZIONS BANK FINANCIAL CENTER", WHICH PLAT WAS FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF UTAH, STATE OF UTAH ON NOVEMBER A.P.N. 05-029-0004.

**Exhibit B****Earl Property****EXHIBIT "A"**

**PARCEL 1**  
COMMENCING AT A POINT ON THE WEST LINE OF BLOCK 29, PLAT "B", PROVO CITY SURVEY OF BUILDING LOTS, 25 FEET NORTH OF THE SOUTHWEST CORNER OF SAID BLOCK; THENCE NORTH ALONG THE WEST LINE OF SAID BLOCK 25 FEET 6 INCHES, MORE OR LESS, TO THE CENTER OF THE SOUTH BRICK WALL OF THE STORE BUILDING FORMERLY OWNED BY THE CONSOLIDATED WAGON MACHINE COMPANY, A CORPORATION, THENCE EAST ALONG THE CENTER OF SAID WALL 165 FEET; THENCE SOUTH PARALLEL WITH THE WEST LINE OF SAID BLOCK 25 FEET 6 INCHES, MORE OR LESS, TO A POINT 25 FEET NORTH OF THE SOUTH LINE OF SAID BLOCK; THENCE WEST PARALLEL WITH SAID SOUTH LINE OF SAID BLOCK 165 FEET TO THE PLACE OF BEGINNING. BEING A PART OF LOT 2 OF SAID BLOCK 29, AND SITUATE IN THE SOUTHEAST QUARTER OF THE SECTION 1, TOWNSHIP 7 SOUTH, RANGE 2 EAST OF THE SALT LAKE MERIDIAN.

**PARCEL 2:**  
COMMENCING AT THE NORTHWEST CORNER OF LOT 2, BLOCK 29, PLAT "B", PROVO CITY SURVEY OF BUILDING LOTS; THENCE SOUTH 50 FEET; THENCE EAST 165 FEET; THENCE NORTH 50 FEET; THENCE WEST 165 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH AND SUBJECT TO A RIGHT OF WAY OVER THE FOLLOWING:  
COMMENCING AT THE NORTHEAST CORNER OF THE ABOVE-DESCRIBED PARCEL 2 OF LAND; RUNNING THENCE WEST  $16 \frac{1}{2}$  FEET, THENCE SOUTH 100 FEET, MORE OR LESS, TO THE NORTH LINE OF FIRST NORTH STREET; THENCE EAST  $16 \frac{1}{2}$  FEET; THENCE NORTH 100 FEET, MORE OR LESS TO THE BEGINNING.

**Exhibit C**

**Beesley Property**

COMMENCING AT THE SOUTHWEST CORNER OF LOT 2, BLOCK 29,  
PLAT "B", PROVO; THENCE NORTH 25 FEET; THENCE EAST 165 FEET;  
THENCE SOUTH 25 FEET; THENCE WEST 165 FEET TO THE POINT OF  
BEGINNING.



**Exhibit D****Easement****BOUNDARY DESCRIPTION****Storm Drain / Sanitary Sewer Easement – Parcel 1 (parcel #50290001)**

A parcel of land, to be set aside as a 16-foot Storm Drain and Sanitary Sewer Easement, situate in the Southeast Quarter of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, being a portion of Block 29, Plat "B", Provo City Survey, more particularly described as follows:

Beginning at a point on the north line of 100 North Street, which is located North 0°59'03" West 1216.24 feet along the Section line and West 173.26 feet to the Southeast Corner of said Block 29, and North 89°39'51" West 234.42 feet along the north line of said 100 North Street from the Southeast Corner of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, and running:

thence North 89°39'51" West 16.00 feet along said north line;  
 thence North 0°19'41" East 25.00 feet;  
 thence South 89°39'51" East 16.00 feet;  
 thence South 0°19'41" West 25.00 feet to the Point of Beginning.

Parcel contains: 400 square feet or 0.01 acres.

**BOUNDARY DESCRIPTION****Storm Drain / Sanitary Sewer Easement – Parcel 2 (parcel #50290002)**

A parcel of land, to be set aside as a 20-foot Storm Drain and Sanitary Sewer Easement, situate in the Southeast Quarter of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, being a portion of Block 29, Plat "B", Provo City Survey, more particularly described as follows:

Beginning at a point which is located North 0°59'03" West 1216.24 feet along the Section line and West 173.26 feet to the Southeast Corner of said Block 29, and North 89°39'51" West 234.42 feet along the north line of said 100 North Street and North 0°19'41" East 25.00 feet from the Southeast Corner of Section 1, Township 7 South, Range 2 East, Salt Lake Base and Meridian, and running:

thence North 89°39'51" West 20.00 feet along said north line;  
 thence North 0°19'41" East 25.50 feet;  
 thence South 89°39'51" East 20.00 feet;  
 thence South 0°19'41" West 25.50 feet to the Point of Beginning.

Parcel contains: 510 square feet or 0.01 acres.