

When recorded please return to:

**Jeffrey H. Bernson**  
**The Bluffs at Herriman Springs, LLC**  
**7324 S. Union Park Ave., Suite 200**  
**Midvale, UT 84047**

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## EASEMENT AND UTILITY AGREEMENT

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This **EASEMENT AND UTILITY AGREEMENT** is made and entered into as of the 4th day of April, 2006, by and between **The Bluffs at Herriman Springs, LLC**, a Utah limited liability company ("**BHS**"), and **Arlin Geophysical Co.**, a Utah corporation ("**AGC**"). **BHS** and **AGC** are referred to collectively herein as the "**Parties**."

### RECITALS

A. **BHS** is the owner of that certain real property located in Salt Lake County, Utah, and more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "**BHS Property**").

B. **AGC** is the owner of that certain real property located in Salt Lake County, more particularly described on Exhibit "B" attached hereto and incorporated herein by this reference (the "**AGC Property**").

C. **AGC** wishes to obtain access to the **AGC Property** over and across the **BHS Property**, and **BHS** is willing to grant to **AGC** an access easement across the **BHS Property**. **BHS** wishes to obtain access to the **Bluffs' Property** over and across the **AGC Property**, and **AGC** is willing to grant to **BHS** an access easement across the **AGC Property**, all as set forth herein.

D. **BHS** desires to obtain the right to tie into utilities that **AGC** will install on its property and **AGC** is willing to grant such right to **BHS**.

### TERMS OF AGREEMENT

Now therefore, in consideration of the foregoing and for ten dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

#### I. THE **AGC** EASEMENT

1.1 Grant of Easement. **BHS** hereby grants to **AGC** an appurtenant non-exclusive

easement over and across the BHS Property as a means of access to the AGC Property, which easement is more particularly described on Exhibit "C" attached hereto and incorporated herein by this reference (the "AGC Easement").

1.2 Purpose and Scope of AGC Easement. The purpose of the AGC Easement is to allow AGC and AGC's representatives, employees, tenants, subtenants, successors, assigns, lenders, independent contractors, agents, and invitees to have and to exercise rights of ingress and egress to and from the AGC Property for residential purposes. The AGC Easement shall run with the land for the benefit of the AGC Property. The AGC Easement shall be developed and paved as a main access road with asphalt at least 32 feet wide or as otherwise required by the governmental authorities with jurisdiction over the AGC Property.

1.3 Relocation. BHS retains the right at any time to relocate the AGC Easement to another location on the BHS Property as may be selected by BHS in its sole discretion, provided that the replacement location allows reasonable access to the AGC Property. Upon making any such relocation, BHS, acting alone, shall be entitled to record an amendment to this agreement substituting a legal description for the replacement location for the description currently attached to this agreement.

1.4 Term. The AGC Easement shall run with the land for the benefit of the AGC Property. In the event the owners of the AGC Property obtain alternate access to the AGC Property through a public road or right of way which satisfies the access requirements of the governmental authorities with jurisdiction over the AGC Property, then the AGC Easement shall be automatically terminated. In such event, BHS shall be entitled to record a notice of termination of the AGC Easement.

1.5 Indemnity. AGC shall indemnify, protect, defend, and hold BHS, its agents, employees, and lenders, if any, and the BHS Property harmless from and against any and all loss, damages, liabilities, judgments, costs, claims, liens, expenses, penalties, permits, and reasonable attorney's and consultant's fees arising out of or involving the use by AGC, its contractors, agents and employees of the access easement granted hereunder.

## II. THE BHS EASEMENT

2.1 Grant of Easement. AGC hereby grants to BHS an appurtenant non-exclusive easement over and across the AGC Property as a means of access to the BHS Property, which easement is more particularly described on Exhibit "D" attached hereto and incorporated herein by this reference (the "BHS Easement").

2.2 Purpose and Scope of BHS Easement. The purpose of the BHS Easement is to allow BHS and BHS's representatives, employees, tenants, subtenants, successors, assigns, lenders, independent contractors, agents, and invitees to have and to exercise rights of ingress and egress to and from the BHS Property for residential purposes. The BHS Easement shall run with the land for the benefit of the BHS Property. The BHS Easement shall be developed and paved as a main access road with asphalt at least 32 feet wide or as otherwise required by the governmental authorities with jurisdiction over the BHS Property.

2.3 Relocation. AGC retains the right at any time to relocate the BHS Easement to another location on the AGC Property as may be selected by AGC in its sole discretion, provided that the replacement location allows reasonable access to the BHS Property. Upon making any such relocation, AGC, acting alone, shall be entitled to record an amendment to this agreement substituting a legal description for the replacement location for the description currently attached to this agreement.

2.4 Term. The BHS Easement shall run with the land for the benefit of the BHS Property. In the event the owners of the BHS Property obtain alternate access to the BHS Property through a public road or right of way which satisfies the access requirements of the governmental authorities with jurisdiction over the BHS Property, then the BHS Easement shall be automatically terminated. In such event, AGC shall be entitled to record a notice of termination of the BHS.

2.5 Indemnity. BHS shall indemnify, protect, defend, and hold AGC, its agents, employees, and lenders, if any, and the AGC Property harmless from and against any and all loss, damages, liabilities, judgments, costs, claims, liens, expenses, penalties, permits, and reasonable attorney's and consultant's fees arising out of or involving the use by BHS, its contractors, agents and employees of the access easement granted hereunder.

### III. UTILITY EASEMENT AND COVENANTS

3.1 AGC Covenants. AGC, for itself and its successors and assigns, if any, covenants and agrees to provide utility lines for sewer, water, gas and electricity ("Utility Lines") stubbed to the boundary between the BHS Property and the AGC Property at a location suitable for use by the BHS Property and with sufficient capacity to serve up to 600 single-family residential units on the BHS Property, as determined by the governmental authorities with jurisdiction over the development of the BHS Property. The Utility Lines shall be extended to the boundary of the BHS Property and BHS shall have the right to hook up to and utilize the Utility Lines at such time as AGC, its successors and/or assigns, installs any such utility lines on the AGC Property. Upon recording the final plat for development of the BHS Property, BHS will reimburse AGC for the incremental cost, if any, of increasing the size and capacity of the Utility Lines in order to serve the BHS Property above the size and capacity of the utilities lines that would otherwise be required to serve AGC Property alone, as determined by a civil engineer acceptable to BHS and AGC. AGC agrees to grant any and all easements including permanent and construction easements necessary to BHS and its successors and assigns party in order to provide the utility access and connection contemplated herein. The covenants set forth in this section shall run with the land for the benefit of the BHS Property and shall be binding upon the successors and assigns of AGC.

### IV. MISCELLANEOUS

4.1 Miscellaneous. This Agreement is to be governed by and interpreted under the laws of the State of Utah. If any of the provisions of this Agreement are deemed to be not enforceable, in whole or in part, the remaining provisions shall be enforceable notwithstanding the invalidity of any other provision. Any provision not enforceable in part shall be enforceable to the

extent valid and enforceable. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. No presumption or construction of this Agreement shall be based on the identity of the drafter thereof. In the event any action is instituted by a party to enforce any of the provisions contained herein, the prevailing party in such action shall be entitled to reasonable attorneys' fees, costs and expenses.

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement on the dates set forth below, to be effective as of the date first set forth above.

BHS:

The Bluffs at Herriman Springs, LLC, a Utah Limited Liability Company

By: ~~Mountain West Capital, LLC, Manager~~

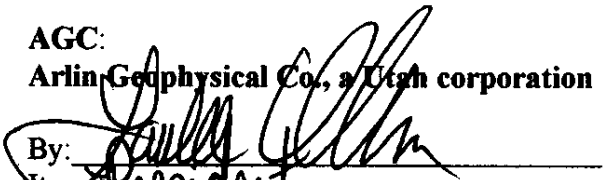
By: 

Name: Jeffrey H. Bernson

Title: Manager


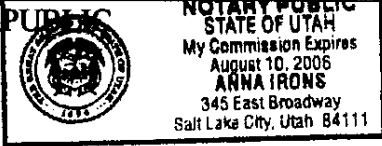
AGC:

Arlin Geophysical Co., a Utah corporation

By:   
Its: President


STATE OF UTAH )  
 : SS.  
COUNTY OF Salt Lake )

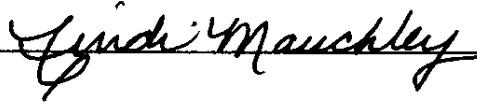
The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of April, 2006, by Jeffrey H Bernson, as the manager of The Bluffs at Herriman Springs, LLC, a Utah limited liability company.

  
NOTARY PUBLIC   
NOTARY PUBLIC  
STATE OF UTAH  
My Commission Expires  
August 10, 2006  
ANNA IRONS  
345 East Broadway  
Salt Lake City, Utah 84111

STATE OF UTAH )  
 : SS.  
COUNTY OF Salt Lake )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of April, 2006, by Laura Olson, as the President of Arlin Geophysical Co., a Utah corporation.

  
NOTARY PUBLIC  
CINDI MAUCHLEY  
4711 South Highland Drive  
Holaday, UT 84117  
My Commission Expires Sept. 25, 2006  
State of Utah



**NOTARY PUBLIC**

EXHIBIT A

Order Number: 04040601

PARCEL 1:

The East half of the Northeast quarter of the Northwest quarter and the North half of the Northeast quarter of Section 22, Township 4 South, Range 2 West, Salt Lake Base and Meridian.

PARCEL 2:

Lot 6 of Section 22, Township 4 South, Range 2 West, Salt Lake Base and Meridian.

LESS AND EXCEPTING THE FOLLOWING:

Beginning at a point South 00 deg. 45'04" West 2702.78 feet from the Northwest corner of Section 22, Township 4 South, Range 2 West, Salt Lake Base and Meridian; and running thence East 660.02 feet; thence South 00 deg. 19'06" West 660 feet; thence West 660.02 feet; thence North 00 deg. 19'06" East 660 feet to the point of beginning.

PARCEL 3:

Beginning at the Northwest corner of the Southwest quarter of the Northwest quarter of Section 22, Township 4 South, Range 2 West, Salt Lake Base and Meridian; and running thence East 1320.00 feet, more or less, along the quarter/quarter section line to the Northeast corner of said Southwest quarter of the Northwest quarter; thence East 231.00 feet, more or less, along the North line of the Southeast quarter of the Northwest quarter; thence South 1320.00 feet, more or less, to the South line of the Northwest quarter; thence West 891.00 feet, more or less, along the South line of the Northwest quarter; thence North 330.00 feet; thence West 660.00 feet, more or less, to the West line of said Section 22; thence North along said Section line 990.00 feet, more or less, to the point of beginning.

PARCEL 4:

Beginning at the Northwest corner of Section 22, Township 4 South, Range 2 West, Salt Lake Base and Meridian; and running thence South 1320 feet; thence East 1551 feet to the point of beginning; thence South 1320 feet to the North border of GL#7; thence East 165 feet; thence North 1320 feet; thence West 165 feet to the point of beginning.

Continued on next page

Continuation of Exhibit A  
Order Number: 04040601

PARCEL 5:

Beginning at a point which is South 1320 feet and East 2145 feet from the Northwest corner of Section 22, Township 4 South, Range 2 West, Salt Lake Base and Meridian; and running thence South 1320 feet; thence East 1815 feet; thence North 1320 feet; thence West 1815 feet, more or less, to the point of beginning.

ALSO:

Lots 7 through 9 of said Section.

ALSO:

Beginning at a point which is East 1716 feet from the West quarter corner of Section 22, Township 4 South, Range 2 West, Salt Lake Base and Meridian; and running thence North 1320 feet; thence East 429 feet; thence South 1320 feet; thence West 429 feet, more or less, to the point of beginning.

PARCEL 6:

THE ABOVE FIVE PARCELS ARE TOGETHER WITH:

Rights of way as set forth in that certain Reciprocal Easement recorded January 9, 1975, as Entry No. 2676747, in Book 3760, at Page 236 of Official Records and any rights to use existing road rights of way to complete access to the above described property.

OVERALL AS-SURVEYED DESCRIPTION being further described as follows:

Beginning at a point which is South 89 deg. 51'37" East along section line 2016.47 feet from the Northwest corner of Section 22, Township 4 South Range 2 West, Salt Lake Base and Meridian; and running thence South 89 deg. 51'37" East along the North line of said Section 3360.79 feet to the Northeast quarter corner of said section; thence South 02 deg. 34'09" West along the East line of said section 1541.59 feet to a Southeasterly corner of Government Lot 9, said section, said point also being on the Northeasterly boundary of the Fort Crittenden Military Reservation as described from the original BLM NOTES, and a survey called "MAP" of boundary line between Salt Lake County and Utah County" prepared by J. Kenneth Thayn (Salt Lake County Surveyor) dated April 1, 1943; thence Southwesterly along said North line and section line the following seven (7) calls: South  
Continued on next page

Continuation of Exhibit A  
Order Number: 04040601

40 deg. 08'42" West 1624.73 feet; South 77 deg. 44'04" West 216.00 feet; South 77 deg. 35'03" West 1293.00 feet; South 68 deg. 10'17" West 182.59 feet; South 68 deg. 10'17" West 1195.98 feet; South 66 deg. 13'10" West 626.80 feet; South 15 deg. 33'45" West 405.14 feet; South 48 deg. 43'27" West 1097.47 feet to the Southwest corner of said section; thence North along the West line of said Section 22, Township 4 South, Range 2 West, Salt Lake Base and Meridian 1635.85 feet; thence South 89 deg. 51'37" East 660.02 feet; thence North 660.00 feet; thence North 89 deg. 51'37" West 660.02 feet to the West line of said Section; thence North 38.76 feet to the West quarter corner of said section; thence South 89 deg. 51'37" East along quarter section line 660.00 feet; thence North 330.00 feet; thence North 89 deg. 51'37" West 660.00 feet to the West line of said section; thence North along section line 1002.01 to the Northwest corner of the Southwest quarter of the Northwest quarter; thence South 89 deg. 51'37" East along the 1/16 section line 1994.07 feet; thence North 00 deg. 57'49" East 1332.14 feet to the point of beginning.

32-22-100-018  
32-22-200-002  
32-22-100-024  
32-22-100-027  
32-22-200-012  
32-22-200-003



**EXHIBIT D**

**Legal Description of BHS Easement**

**EXHIBIT B**

Order Number: 04038324F

The West half of the East half of the Southwest quarter of  
Section 11, Township 4 South, Range 2 West, Salt Lake Base and  
Meridian.

**EXHIBIT B**

Order Number: 05043568B

**PARCEL 1:**

The Southwest quarter of the Southwest quarter of Section 11, Township 4 South, Range 2 West, Salt Lake Base and Meridian.

**ALSO:**

The West half of the Northwest quarter of the Southwest quarter of Section 11, Township 4 South, Range 2 West, Salt Lake Base and Meridian.

EXCEPTING AND RESERVING all oil, gas, and other minerals of every kind and description underlying the surface of the subject property.

**PARCEL 2:**

The Southwest quarter of the Northeast quarter of the Southeast quarter of Section 10, Township 4 South, Range 2 West, Salt Lake Base and Meridian.

EXCEPTING AND RESERVING all oil, gas, and other minerals of every kind and description underlying the surface of the subject property.

**PARCEL 3:**

The East half of the Northeast quarter of the Southeast quarter of Section 10, Township 4 South, Range 2 West, Salt Lake Base and Meridian.

EXCEPTING AND RESERVING all oil, gas, and other minerals of every kind and description underlying the surface of the subject property.

**EXHIBIT B**

Order Number: 05043567B

Beginning at the Southeast corner of Section 10, Township 4 South, Range 2 West, Salt Lake Base and Meridian; and running thence North 00 deg. 00'45" West along the section line 1326.41 feet to a point on the North line of the South half of the Southeast quarter of said Section 10; thence North 89 deg. 43'26" West 810.00 feet along said Northerly line; thence South 08 deg. 27'21" East 803.610 feet; thence South 00 deg. 00'45" East 532.810 feet, more or less, to the section line; thence South 89 deg. 46'57" East 692.00 feet along the section line to the point of beginning.

**EXHIBIT B**

Order Number: 05043569B

The East half of the Northwest quarter of the Southwest quarter of Section 11, Township 4 South, Range 2 West, Salt Lake Base and Meridian.

EXCEPTING THEREFROM all oil, gas and minerals and any rights appurtenant thereto.

**EXHIBIT B**

Order Number: 05043557B

The West half of Section 14, Township 4 South, Range 2 West,  
Salt Lake Base and Meridian.

EXCLUDING THEREFROM that portion of the Military Reservation  
and any property lying in Utah County.

**EXHIBIT C**

**Legal Description of AGC Easement**

Icks Villy Springs Quadaglone

**EXHIBIT D**

**Legal Description of BHS Easement**

Jeep Trail as shown on Survey