

When Recorded, Mail To:

Springville City
110 South Main
Springville, Utah 84663



ENT 31040:2014 PG 1 of 12
JEFFERY SMITH
UTAH COUNTY RECORDER
2014 May 08 1:38 pm FEE 0.00 BY ED
RECORDED FOR SPRINGVILLE CITY CORPORATIO

With A Copy To:

East Bay R.V., LLC,
3651 N. 100 E., Ste. 125
Provo, Utah 84604
Attn: McKay Winkel

Affecting Tax Parcel Nos. 47-201-0005, 47-201-0007

(Space above for Recorder's use only)

SEWER LIFT STATION EASEMENT

THIS SEWER LIFT STATION EASEMENT (this "**Agreement**") is entered into this 06 day of May, 2014, by and between EAST BAY R.V., LLC, a Utah limited liability company ("**Grantor**"), and SPRINGVILLE CITY, a Utah municipal corporation ("**Grantee**").

RECITALS

A. Grantor owns certain real property (the "**Grantor's Parcel**") located in Utah County, State of Utah. The Grantor's Parcel is more particularly depicted on Exhibit A, a copy of which is attached hereto and incorporated herein by this reference.

B. Grantor previously conveyed to Grantee, by General Assignment and Bill of Sale of even date herewith, the Improvements (defined below) located within the Easement Area. Grantee hereby confirms its ownership of the Improvements.

C. Grantee desires to obtain a perpetual, non-exclusive easement on, over, and across a portion of the Grantor's Parcel (the "**Easement Area**") in order to access, maintain, replace and repair the Improvements. A portion of the Easement Area is limited to pedestrian and vehicular access only and is described on Exhibit B (the "**Access Area**"). Grantee shall have the right to park its vehicles/equipment in the parking portion (the "**Parking Area**" and the "**Limited Parking Area**") of the Access Area as described on Exhibit B. The Grantee shall utilize the Limited Parking Area only on those limited occasions when the City needs to utilize a Vactor/Jetter truck, line-truck, or other large vehicle to perform emergency or mandatory maintenance on the lift station. When occupying the Limited Parking Area, and except in the case of an emergency, the City will use reasonable efforts to limit its use of the Limited Parking Area between the hours of 8 a.m. to 11a.m., Monday through Friday. Furthermore, Grantee further agrees to provide Grantor with 24 hours prior notice before using the Limited Parking Area (except in the case of an emergency) and to keep its use of the Limited Parking Area to a minimum period of time. The remainder of the Easement Area (also described on Exhibit B) may be used for the rights described in Section 2 below (the "**Maintenance Area**"). The total Easement Area is also more particularly described on Exhibit B and depicted on the drawing on Exhibit C, both of which are attached hereto and incorporated herein by this reference. Should

there be any discrepancy between the legal description and the drawing, the legal description shall control.

TERMS AND CONDITIONS

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and based upon the mutual promises and subject to the conditions set forth below, the parties agree as follows:

1. **Recitals.** The foregoing recitals are incorporated by reference as part of this Agreement.

2. **Easement.** Grantor hereby grants, transfers and conveys to Grantee a perpetual, non-exclusive easement on, over, and across the Maintenance Area for the sole purpose of accessing, using, operating, servicing, maintaining, adding capacity to, reconstructing, inspecting, repairing, protecting, removing, and/or replacing the existing sewer lift station, sewer pipelines, manholes, and other sewer transmission and/or collection lines, manholes, structures and/or facilities related to the lift station and within the Maintenance Area (collectively, the “**Improvements**”). The Improvements also include the offsite sewer lines that service properties other than the Grantor’s Parcel. The Improvements do not include any sewer lines, including collection lines, manholes, structures and/or facilities that exclusively serve Grantor’s Parcel. Grantor also hereby grants transfers and conveys to Grantee a perpetual, non-exclusive easement on, over and across the Access Area for the sole purposes of accessing the Improvements and for parking its vehicles/equipment (only in the Parking Area and Limited Parking Area of the Access Area) while performing the aforementioned purposes.

3. **Access.** Grantee and its agents, servants, employees, consultants, contractors and subcontractors (collectively, “**Grantee’s Agents**”) shall have the right to enter upon the Easement Area for the purposes permitted by this Agreement. Grantee shall enter upon the Easement Area at its sole risk and hazard, and Grantee and its successors and assigns, hereby release Grantor from any claims relating to the condition of the Easement Area and the entry upon the Easement Area by Grantee and Grantee’s Agents.

4. **Reservations by Grantor.** Except as otherwise specifically provided in this Agreement, Grantor hereby reserves the right to use the Easement Area for any use not inconsistent with Grantee’s permitted use of the Easement Area. Without limiting the above, Grantor reserves the right: (a) for pedestrian and vehicular ingress to and egress on and over the Easement Area; (b) for the placement and maintenance of landscaping, traffic regulation signs, sidewalks, curbs and gutters, ditches and irrigation pipes fences, asphalt roadways and parking lots, utilities of any type or nature, and driveways and other similar improvements; and (c) to convey or transfer any or all of its interests in Grantor’s Parcel or the Easement Area to any party at any time. Notwithstanding the foregoing, without the consent of Grantee, no structure or obstruction will be installed by Grantor or permitted by Grantor to be installed within the Maintenance Area which interferes or might interfere with Grantee’s service or endanger the Improvements.

5. **Sewer Capacity Retention.** The parties recognize that the sewer lift station has limited capacity. Therefore, as a part of the consideration for this Agreement, Grantee agrees that Grantor's Parcel is hereby allotted the right to pump an average daily flow of 27,680 gallons per day and a peak hourly flow of 77 gallons per minute through the lift station without charge or other fees, except for Grantee's standard sewer user fees. Grantor, or subsequent owners of Grantor's Parcel, may exercise this average daily flow and/or peak hourly flow allotment right at any time, in whole or in part, in its/their sole and absolute discretion.

6. **Impact Fees.** Grantor's Parcel has been approved for service by a six (6) inch water line. Grantee hereby agrees that future water and/or sewer impact fees will only be assessed against Grantor, its successors and/or assigns, and/or Grantor's Parcel, if a larger water line is necessary to facilitate future development of Grantor's Parcel. In such an instance, the water and/or sewer impact fees shall equal the proportionate difference between the six (6) inch water line and the larger, required line. Furthermore, any other impact fees assessed against Grantor's Parcel shall give credit for conditions existing on Grantor's Parcel as of the date of this Agreement. The capacity of the lift station shall not be associated with any future sewer impact fees, nor shall any impact fees assessed against Grantor, its successors and/or assigns, or Grantor's Parcel, include fees associated with future lift stations developed in the nearby vicinity of Grantor's Parcel, unless Grantor's future development of Grantor's Parcel requires greater daily and/or peak hourly flows than what is described in Section 5 above.

7. **Condition of the Easement Area.** Grantee accepts the Easement Area and Improvements and all aspects thereof in "as is", "where is" condition, without warranties, either express or implied, "with all faults", including but not limited to both latent and patent defects, and the existence of hazardous materials, if any. Grantee hereby waives all warranties, express or implied, regarding the condition and use of the Easement Area and/or Improvements, including, but not limited to any warranty of merchantability or fitness for a particular purpose. Grantee shall obtain any and all consents, approvals, permissions, and agreements to cross, encumber or encroach upon any other easements or rights of others related to its use and improvement of the Easement Area and/or Improvements. Grantor has disclosed to Grantee all known defects and hazardous conditions related to the Improvements. Grantor shall be responsible to repair any defects and hazardous conditions related to the Improvements that are known by Grantor and not disclosed to Grantee prior to the effective date of this Agreement.

8. **Maintenance, Restoration.** Grantee, at its sole cost and expense, shall maintain, operate and repair the Improvements and any and all related improvements in good order and condition. Grantee shall promptly repair any damage to the Grantor's Parcel and Grantor's improvements located thereon (including, without limitation, any and all landscaping, fences, water and/or irrigation pipes, lines and ditches, curbs, gutters, asphalt surfaces, fences, signs, etc.) caused by Grantee and/or Grantee's Agents, and shall restore the Grantor's Parcel and the improvements thereon to substantially the same or better condition as they existed prior to any entry onto or work performed on the Grantor's Parcel by Grantee and Grantee's Agents.

Furthermore, Grantee agrees to allow Grantor to maintain its garbage dumpster in its current location until Grantee decides to expand the lift station. At such time, Grantee, at its sole cost and expense, agrees to pour a new concrete pad in the approximate area of the "**Future Dumpster Area**" depicted on Exhibit C attached hereto (the exact location to be determined by

Grantor in its sole, but reasonable, discretion) to accommodate the necessary relocation of Grantor's dumpster.

9. **Compliance with Laws.** Grantee will comply with all present or future laws, statutes, codes, acts, ordinances, rules, regulations, orders, judgments, decrees, injunctions, regulations, permits, licenses, authorizations, directions and requirements of and agreements with all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, foreseen or unforeseen, ordinary or extraordinary, including, without limitation, any building, zoning and land use laws.

10. **Relocation.** Grantor reserves the right to relocate, or require the relocation of, the Improvements and/or the Easement Area (or portions of the Easement Area) at any time at Grantor's cost and expense, provided that Grantee is provided an acceptable alternative easement agreement for the Improvements, and provided that Grantor agrees to pay all costs associated with the relocation of the Improvements (should such relocation be required), the Improvements are relocated to the reasonable satisfaction of Grantee, there is no interruption of service to Grantee's customers, and the new easement agreement is recorded in the office of the Utah County Recorder.

11. **Taxes.** Intentionally omitted.

12. **Liens.** Grantee shall keep the Grantor's Parcel free from any liens arising out of any work performed, materials furnished, or obligations incurred by, through, for or under Grantee, and shall indemnify, hold harmless and agree to defend Grantor from any liens that may be placed on the Grantor's Parcel and/or the Easement Area pertaining to any work performed, materials furnished or obligations incurred by, through, for, or under Grantee or any of Grantee's Agents. Any such liens shall be released of record within thirty (30) days of written notice to Grantee or, should Grantee in good faith dispute the said lien, Grantee may post a bond or other reasonable assurance and diligently prosecute the removal of the lien.

13. **Insurance.** Grantee shall ensure that, prior to entering onto the Easement Area, all of Grantee's Agents and other such parties who assist with the construction on, maintenance on or use of the Easement Area are covered under the terms of Grantee's insurance policies as set forth below, or that each obtain similar policies which, at a minimum, provide Grantor the same protections.

13.1 **Liability Insurance Coverage and Limits.** Prior to taking possession of the Easement Area, Grantee shall obtain and maintain a policy of general commercial liability insurance insuring Grantee's interests against claims for personal injury, bodily injury, death, property damage occurring on, in or about the Easement Area and the ways immediately adjoining the Easement Area, with a "Combined Single Limit" (covering personal injury liability, bodily injury liability and property damage liability) of not less than Two Million Dollars (\$2,000,000.00). Grantee shall require any of Grantee's Agents that are not covered by Grantee's Utah Local Government Trust insurance policy to name Grantor on their respective policy(ies) as an additional insured on such policy(ies) on ISO Form CG 20 10 (10/93) or its equivalent.

13.2 Workers' Compensation Insurance. Grantee agrees to maintain and keep in force, during the term hereof, all applicable Workers' Compensation and Employers' Liability Insurance required under applicable Workers' Compensation Acts and/or applicable law.

13.3 Automobile Insurance. Grantee agrees to maintain and keep in force, during the term hereof, Automobile Liability Insurance with a minimum limit of not less than One Million Dollars (\$1,000,000.00) Combined Single Limit per accident, and coverage applying to "Any Auto."

14. Indemnification. Grantee and its successors and assigns hereby agree to indemnify, defend (with counsel acceptable to Grantor) and hold harmless Grantor, and any entity controlling, controlled by or under control with Grantor ("**Affiliates**"), and its and their Affiliates' officers, directors, employees, managers, members, agents, servants, successors, and assigns from and against any and all liens, encumbrances, costs, demands, claims, judgments, and/or damage caused by or arising out of: (i) the negligent acts and omissions of Grantee and its agents, servants, employees, and/or contractors; and (ii) any work performed on Grantor's Parcel by Grantee or its successors or assigns, and their agents, servants, employees, consultants and/or contractors. The terms and conditions of this provision shall remain effective after the expiration or termination of this Agreement, so long as the event to which the indemnification applies occurred prior to such expiration or termination.

15. Notices. Any notice required or desired to be given under this Agreement shall be considered given either: (i) when delivered in person to the recipient named below, (ii) three (3) days after deposit in the United States mail in a sealed envelope or container, either registered or certified mail, return receipt requested, postage prepaid, addressed by name to the person and party intended. All notices shall be given at the following addresses:

If to Grantor:

East Bay R.V., LLC
Attn: McKay Winkel
3651 North 100 East, Suite 125
Provo, Utah 84604

If to Grantee:

Springville City
Attn: Community Development Department
110 South Main
Springville, Utah 84663

Either party may designate a different individual or address for notices, by giving written notice thereof in the manner described above.

16. **Default.** In the event Grantee fails to perform any of its obligations under this Agreement, or is otherwise in default of any term or condition hereunder, and Grantee does not cure such default within ten (10) business days after receipt of written notice from Grantor (or if such cure cannot be completed within such ten (10) business day period, Grantee has diligently commenced to cure such default), Grantor shall have the right to cure such default and seek reimbursement from Grantee. Grantee shall reimburse Grantor within thirty (30) days after receipt of an invoice from Grantor itemizing the costs incurred by Grantor to cure such default.

17. **Miscellaneous.**

17.1 **Interpretation.** Section titles and captions to this Agreement are for convenience only and shall not be deemed part of this Agreement and in no way define, limit, augment, extend, or describe the scope, content, or intent of any part of this Agreement. This Agreement has been arrived at through negotiation between Grantor and Grantee. As a result, the normal rule of contract construction that any ambiguities are to be resolved against the drafting party shall not apply in the construction or interpretation of this Agreement.

17.2 **Applicable Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Utah.

17.3 **Run with the Land/Successors.** Subject to the terms and conditions of this Agreement, the easements granted herein shall run with the land, and the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the parties, their successors and assigns.

17.4 **Integration.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings pertaining thereto. No covenant, representation, or condition not expressed in this Agreement shall affect or be deemed to interpret, change, or restrict the express provision hereof. Any amendment or modification to this Agreement shall be in writing and signed by authorized agents or officers of the parties.

17.5 **Waiver.** No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any rights or remedy for a breach of this Agreement shall constitute a waiver of any such breach or of such right or remedy or of any other covenant, agreement, term, or condition.

17.6 **Rights and Remedies.** The rights and remedies of any of the parties stated herein are not intended to be exclusive, and the exercise of one or more of the provisions of this Agreement shall not preclude the exercise of any other provisions. Each of the parties confirms that damages at law may be an inadequate remedy for a breach or threatened breach of any provision hereof. The respective rights and obligations hereunder shall be enforceable by specific performance, injunction, or other equitable remedy, but nothing herein contained is intended to or shall limit or affect any rights at law or by statute or otherwise of any party aggrieved as against the other party for a breach or threatened breach of any provision hereof, it being the intent of this Section to make clear the agreement of the parties that the respective

rights and obligations of the parties hereunder shall be enforceable in equity as well as at law or otherwise.

17.7 Enforceability and Litigation Expenses. If any action, suit, or proceeding is brought by a party hereto with respect to a matter or matters covered by this Agreement or if a party finds it necessary to retain an attorney to enforce its rights under this Agreement, all costs and expenses of the prevailing party incident to such proceeding or retention, including reasonable attorneys' fees, shall be paid by the non-prevailing party.

17.8 Authorization. Each individual executing this Agreement represents and warrants that he or she has been duly authorized by appropriate action of the governing body of the party for which he/she signs to execute and deliver this Agreement in the capacity and for the entity set forth where he/she signs and that as a result of his/her signature, this Agreement shall be binding upon the party for which he/she signs.

17.9 No Public Use/Dedication. Grantor's Parcel is and shall at all times remain the private property of Grantor. The use by Grantee of Grantor's Parcel is permissive and shall be limited to the express purposes contained herein. Neither Grantee, nor its successors or assigns, nor the public shall acquire nor be entitled to claim or assert any rights to Grantor's Parcel beyond the express terms and conditions of this Agreement.

17.10 Termination. This Agreement and all easement rights set forth herein will be automatically terminated once (a) Grantee decides that it will no longer use the easement granted herein, or (b) Grantee is provided an acceptable alternative or relocated easement for the Improvements, and provided that the new easement is recorded in the office of the Utah County Recorder. Upon the occurrence of an event set forth in the preceding sentence, Grantor may record an instrument terminating this Agreement, as well as any and all other easements, rights-of-way or licenses Grantee may have (or may claim to have) to use Grantor's Parcel.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

GRANTOR:

EAST BAY R.V., LLC,
a Utah limited liability company

By: [Signature]
Name (Print): EMMA WINKEL
Its: member manager

GRANTEE:

SPRINGVILLE CITY,
a Utah municipal corporation

By: [Signature]
Name (Print): Wilford W. Clyde
Its: Mayor



Attest: [Signature]
City Recorder

[Acknowledgments on following page]

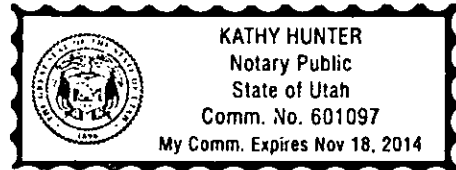
STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

[Handwritten signature]

On this 5 day of May, 2014 personally appeared before me F McKay Winkel, personally known to me to be the owner of EAST BAY R.V., LLC, a Utah limited liability company, who acknowledged before me that he signed the foregoing instrument on behalf of said company and that said company executed the same. *Manager Member*

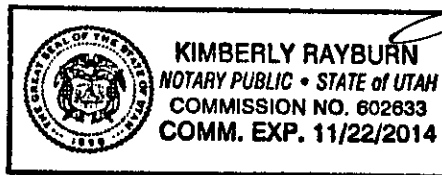
WITNESS my hand and official seal.

Kathy Hunt
Notary Public



STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

On this 06 day of May, 2014, personally appeared before me Wilford W Clyde known or satisfactorily proved to me to be the Mayor of SPRINGVILLE CITY, a Utah municipal corporation, who acknowledged to me that he/she signed the foregoing instrument as Mayor for said municipal corporation.



[Handwritten signature]
Notary Public

EASEMENT--EXHIBIT A

(Legal Description of Grantor's Parcel)

Lot 5, Plat "A", NJN Subdivision, Springville, Utah, according to the official plat thereof on file and of record in the office of the Utah County Recorder.

Parcel Nos.: 47-201-0005, 47-201-0007

EASEMENT--EXHIBIT B

(Legal Description of Easement Area)

The real property situated in the County of Utah, State of Utah, specifically described as:

Access Area (including the Parking Area and Limited Parking Area):

The real property situated in the County of Utah, State of Utah, specifically described as:

BEGINNING AT A POINT THAT IS SOUTH 89°48'25" WEST 1436.36 FEET AND NORTH 292.94 FEET FROM THE SOUTHEAST CORNER OF SECTION 19, TOWNSHIP 7 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN;

THENCE NORTH 42°50'27" WEST 25.00 FEET; THENCE NORTH 47°09'33" EAST 24.00 FEET; THENCE NORTH 42°50'27" WEST 40.78 FEET; THENCE SOUTH 89°48'00" WEST 32.63 FEET; THENCE NORTH 42°50'27" WEST 30.17 FEET; THENCE NORTH 47°09'33" EAST 24.00 FEET; THENCE NORTH 42°50'27" WEST 75.04 FEET; THENCE NORTH 85°56'06" WEST 109.65 FEET; THENCE NORTH 00°11'35" WEST 20.05 FEET; THENCE SOUTH 85°56'06" EAST 119.03 FEET; THENCE SOUTH 42°50'27" EAST 175.98 FEET; THENCE SOUTH 04°12'28" EAST 32.02 FEET; THENCE SOUTH 47°09'22" WEST 24.00 FEET TO THE POINT OF BEGINNING.

Parking Area:

The real property situated in the County of Utah, State of Utah, specifically described as:

BEGINNING AT A POINT THAT IS SOUTH 89°48'25" WEST 1436.36 FEET AND NORTH 292.94 FEET FROM THE SOUTHEAST CORNER OF SECTION 19, TOWNSHIP 7 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN;

THENCE NORTH 42°50'27" WEST 25.00 FEET; THENCE NORTH 47°09'33" EAST 24.00 FEET; THENCE SOUTH 42°50'27" EAST 25.00 FEET; THENCE SOUTH 47°09'22" WEST 24.00 FEET TO THE POINT OF BEGINNING.

Limited Parking Area:

The real property situated in the County of Utah, State of Utah, specifically described as:

BEGINNING AT A POINT THAT IS SOUTH 89°48'25" WEST 1496.11 FEET AND NORTH 357.57 FEET FROM THE SOUTHEAST CORNER OF SECTION 19, TOWNSHIP 7 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN;

THENCE NORTH 42°50'27" WEST 30.17 FEET; THENCE NORTH 47°09'33" EAST 24.00 FEET; THENCE SOUTH 42°50'27" EAST 52.27 FEET; THENCE SOUTH 89°48'00" WEST 32.63 FEET TO THE POINT OF BEGINNING.

Maintenance Area:

The real property situated in the County of Utah, State of Utah, specifically described as:

BEGINNING AT A POINT THAT IS SOUTH 89°48'25" WEST 1453.36 FEET AND NORTH 311.33 FEET FROM THE SOUTHEAST CORNER OF SECTION 19, TOWNSHIP 7 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN;

THENCE NORTH 42°50'27" WEST 62.88 FEET; THENCE NORTH 89°48'00" EAST 32.63 FEET; THENCE SOUTH 42°50'27" EAST 40.78 FEET; THENCE SOUTH 47°09'33" WEST 24.00 FEET TO THE POINT OF BEGINNING.

EASEMENT--EXHIBIT C

ENT 31040:2014 PG 12 of 12

(Depiction of Easement Area)



SCALE: 1" = 40' DRAWING 1 OF 1		T-1 1/10/14	REVISION	DATE	BY	SEWER LIFT STATION PUBLIC UTILITY EASEMENT	SPRINGVILLE CITY 110 SOUTH MAIN STREET SPRINGVILLE, UT 84603 (801) 488-2700
		T-2 					
		T-3 					
		T-4 					