

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
WILLARD CANAL 6.2L LATERAL
WEBER BASIN PROJECT

EASEMENT ENCROACHMENT AGREEMENT
BETWEEN THE
UNITED STATES OF AMERICA
AND
WEBER VISTA SUBDIVISION, LLC

This Easement Encroachment Agreement made this 9th day of November 2022, pursuant to the Act of Congress of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as Reclamation Laws, among the UNITED STATES OF AMERICA and its assigns, hereinafter referred to as the United States and WEBER VISTA SUBDIVISION, LLC, hereinafter referred to as the Permittee.

WITNESSETH THAT:

WHEREAS, the United States is the Grantee of certain easements recorded in the official records of Weber County, State of Utah, hereinafter referred to as the Easement of the United States; and

WHEREAS, the Permittee has requested permission of the Landowner to cross the Landowner's property in such a manner as to encroach upon the Easement of the United States in a manner more particularly specified hereinafter; and

WHEREAS, the United States is willing to agree to said encroachment, upon conditions more particularly specified hereinafter;

NOW, THEREFORE, the United States hereby agrees to encroachment upon the Easement of the United States by the Permittee only to the extent and for the purposes set forth below:

The Permittee will install, operate, and maintain five (5) residential sewer laterals across the Willard Canal Lateral 6.2L (Lateral). This work will provide sewer service to five residential lots in the Weber Vista Subdivision.

- **Residential Sewer Laterals:** The encroachments will be five (5) 4-inch diameter PVC residential sewer laterals (sewer laterals) and will cross the Lateral between approximate Stations 38+15 and 42+64, near 2850 West 3150 North in (unincorporated Weber County, Utah. Conventional open trenching methods will be used while a minimum vertical separation of 12-inches between the sewer lines and the Lateral. Shown in Exhibit D Page 3 of 4. The sewer laterals must be encased within a steel casing (casings) through the entire width of the United States easement, casings must be one solid piece, welded segments are permissible. The Lateral pipeline is protected by Willard Canal Lateral Easement Tract 12 (Dickerson), the location of which is in the NE ¼ of Section 27, Township 7 North, Range 2 West, Salt lake Base and Meridian. See Exhibit B and C

Lot Number in Permit	Weber County Parcel Number	Physical Address	Encroaching Interest
Lot No. 10			4-inch Sewer Lateral
Lot No. 11			4-inch Sewer Lateral
Lot No. 12			4-inch Sewer Lateral
Lot No. 13			4-inch Sewer Lateral
Lot No. 14			4-inch Sewer Lateral

NOTE: These five residential lots are located as shown on the plans on “Street B” of the **Weber Vistas Subdivision**, also known as the **Williams/Fox Properties**. While lot number and street names (address) could change, location as shown on the attached drawing shall not change. These encroachments at the time of the execution of this agreement were not in an incorporated city but in unincorporated Weber County.

1. The federal agency is the Department of Interior, Bureau of Reclamation, represented by the officer executing this Agreement, his duly appointed successor, or his duly authorized representative.

2. The United States guidelines for agreeing to such encroachment upon the Easement of the United States are:

- a. While installing any utility or roadway within the easement of the United States, the Permittee and/or their contractor shall protect any and all Bureau of Reclamation (BOR) facilities and promptly repair any damage under the direction of the Weber Basin Water Conservancy District (District).
- b. If at any time any infrastructure installation within the United States easements causes the canal lateral or the land drain(s) to fail (or fall into the excavation below), the Permittee or their contractor must make repairs to the satisfaction of the District. Further, if any failures are caused as a result of this work and result in the District being unable to make water deliveries, the Permittee must reimburse the District for any damages incurred from their inability to deliver water.
- c. It shall be understood that these licensed encroachments shall not increase the District’s cost to operate and maintain the encroached Bureau of Reclamation (BOR) facilities.
- d. It is the District’s intent to extend professional courtesy and protect in place any buried utility line. However, if the District, within reason, needs to remove any of the improvements herein licensed in order to effectively operate or maintain (including repairing or replacing) any of the encroached BOR facilities, the District will only be responsible for replacement and repair of the subgrade materials. The Permittee will be responsible for replacing their licensed encroachment at no cost to the District.
- e. The issuance of the Permit within the United States Easement in no way permits the encroachment of land to which the United States does not own.
- f. The allowable period of construction to be at the sole discretion of the District. In no case shall the duration of construction be permitted to exceed 12-months.

- g. The Permittee or their contractor will be responsible to repair any damage done to the lateral pipe to the satisfaction of the District.
 - h. The Permittee or their Contractor shall notify the District no less than 48-hours in advance of the above-mentioned work so a District Inspector may be present to monitor activities.
 - i. Any future operation and maintenance work performed by Permittee or its assignees, or future homeowners, pertaining to this crossing inside the easement, be approved by the District in advance to coordinate necessary protection measures of the Willard Canal 6.2L Lateral.
 - j. If Permittee's encroachments are negatively impacted by the District or Reclamation during operation and maintenance of the encroached Reclamation facility, it will be the applicant's responsibility to restore their utility at no expense to the District.
 - k. The Permittee is required to pothole all encroached pipelines, the District must be notified no less than 48-hours in advance so a District Representative may be present to witness the potholing.
 - l. Permittee, or its Assignees shall follow the guidelines and standards outlined in Bureau of Reclamation's "Engineering and O&M Guidelines for Crossings", a copy of which will be provided upon request or maybe acquired from Reclamation's Website at: <https://www.usbr.gov/pn/snakeriver/landuse/authorized/crossings.pdf>Shoring
 - m. Additional guidelines are shown on Exhibit "A," attached hereto and by this reference made a part hereof.
3. The Permittee or its Contractor shall perform all work within the encroachment area in accordance with the plans, drawings, guidelines, and maps attached hereto, and in a manner satisfactory to the United States, Weber Basin Water Conservancy District, hereinafter called the District.
4. SEVERABILITY: Each provision of this use authorization shall be interpreted in such a manner as to be valid under applicable law, but if any provision of this use authorization shall be deemed or determined by competent authority to be invalid or prohibited hereunder, such provision shall be ineffective and void only to the extent of such invalidity or prohibition, but shall not be deemed ineffective or invalid as to the remainder of such provision or any other remaining provisions, or of the use authorization as a whole.
5. ILLEGAL USE: Any activity deemed to be illegal on Federal lands will be cause for immediate termination of the use authorization.
6. TERM OF AGREEMENT – REVOCATION/TERMINATION: This Agreement may be revoked by the United States upon thirty (30) days written notice to the Permittee: 1. For nonuse of the project lands by Permittee for a period of two (2) continuous years; or, 2. The United States determines that the Permittee's use of the land is no longer compatible with project purpose; or, 3. After failure of the Permittee to observe any of the conditions of this Agreement and on the tenth day following service of written notification on the Permittee of the termination because of failure to observe such conditions; or, 4. At the sole discretion of the United States.

7. HOLD HARMLESS: The Permittee hereby agrees to indemnify and hold harmless the United States, its employees, agents, and assigns from any loss or damage and from any liability on account of personal injury, property damage, or claims for personal injury or death arising out of the Permittee activities under this agreement.

(a) In consideration of the United States agreeing to encroachment upon the Easement of the United States by the Permittee, the Permittee hereby agrees to indemnify and hold the United States and the District, their agents, employees, and assigns, harmless from any and all claims whatsoever for personal injuries or damages to property when such injuries or damages directly or indirectly arise out of the existence, construction, maintenance, repair, condition, use or presence of the encroachment upon the Easement of the United States, regardless of the cause of said injuries or damages; provided, however, that nothing in this agreement shall be construed as releasing the United States or the District from responsibility for their own negligence. Nothing herein shall be deemed to increase the liability of the United States beyond the provisions of the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 989 (28 U.S.C. §1346(b), 2671 et seq.) or other applicable law.

(b) In consideration of the United States agreeing to the Permittee encroaching upon the Easement of the United States, the Permittee agrees that the United States shall not be responsible for any damage caused to facilities, equipment, structures, or other property if damaged by reason of encroachment upon the Easement of the United States by the Permittee. The Permittee hereby releases the United States and the District, their officers, employees, agents, or assigns, from liability for any and all loss or damage of every description or kind whatsoever which may result to the Landowner from the construction, operation, and maintenance of Project works upon said lands; provided that nothing in this Agreement shall be construed as releasing the United States or the District from liability for their own negligence. Nothing herein shall be deemed to increase the liability of the United States beyond the provisions of the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 989 (28 U.S.C. §1346(b), 2671 et seq.) or other applicable law.

(c) If the maintenance or repair of any or all structures and facilities of the United States located on the easement area should be made more expensive by reason of the existence of the encroachment improvements or works of the Permittee or its Contractor, the Permittee or its Contractor will promptly pay to the United States or the District, their agents or assigns, responsible for operation and maintenance of said structures or facilities, the full amount of such additional expense upon receipt of an itemized bill.

8. PROTECTION OF UNITED STATES INTERESTS: The Permittee shall comply with all applicable laws, ordinances, rules, and regulations enacted or promulgated by any Federal, state, or local governmental body having jurisdiction over the encroachment.

9. UNRESTRICTED ACCESS: The United States reserves the right of its officers, agents, and employees at all times to have unrestricted access and ingress to, passage over, and egress from all of said lands, to make investigations of all kinds, dig test pits and drill test holes, to survey for and construct reclamation and irrigation works and other structures incident to Federal Reclamation Projects, or for any purpose whatsoever.

10. OFFICIALS NOT TO BENEFIT: No member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon.

11. SUCCESSORS IN INTEREST OBLIGATED: The provisions of this Agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, personal representatives, successors, and assigns of the parties hereto; provided, however, that no such heir, executor, administrator, personal representative, successor or assign of the Permittee shall have the right to use, alter, or modify the encroachment in a manner which will increase the burden of the encroachment of the Easement of the United States.

12. This agreement makes no finding as to the right, title, or validity of the Permittee or the encroaching interest, but merely defines the conditions under which the encroachment will not be deemed unreasonable by the United States.

13. In accordance with 43 CFR 429.16 Subpart D, any applicant requesting a right-of-use over Reclamation land has remitted a nonrefundable application fee of One Hundred Dollars (\$100). The receipt of this application fee is hereby acknowledged, which amount represents the initial review of your application.

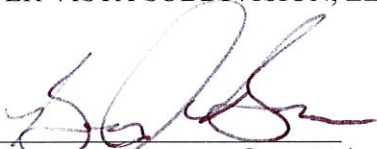
IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

UNITED STATES OF AMERICA


Acting for:

By: 
Name: Kent Kofford
Title: Area Manager, Provo Area Office

PERMITTEE:
WEBER VISTA SUBDIVISION, LLC

By: 
Name: BRAD J. BROWN
Title: MANAGING PARTNER

CONCUR:
WEBER BASIN WATER CONSERVANCY DISTRICT

By: 
Name: Scott Paxman
Title: General Manager

ACKNOWLEDGMENT OF THE UNITED STATES

State of UT)
) ss.
County of UT)

On this 9th day of November, 2022, personally appeared before me Rick Baxter, known to me to be the Assistant Area Manager of the Provo Area Office, Bureau of Reclamation, Upper Colorado Region, United States Department of Interior, the signer of the above instrument, who duly acknowledged to me that he executed the same on behalf of the United States of America pursuant to authority delegated to him.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Deborah Hilton
Notary Public

ACKNOWLEDGMENT OF WEBER BASIN WATER CONSERVANCY DISTRICT

State of UT)
) ss.
County of Weber)

On this 07 day of September, 2022, personally appeared before me Scott Paxman known to me to be the General Manager of WEBER BASIN WATER CONSERVANCY DISTRICT the signer of the above instrument, who duly acknowledged to me that he executed the same on behalf of WEBER BASIN WATER CONSERVANCY DISTRICT pursuant to authority delegated to him.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(NOTARY SEAL)

Marissol Martinez
Notary Public



ACKNOWLEDGMENT OF WEBER VISTA SUBDIVISION, LLC

State of UT)
) ss.
County of Weber)

On this 31 day of August, 2022, personally appeared before me Brad J. Brown known to me to be the Managing Partner of WEBER VISTA SUBDIVISION, LLC, the signer of the above instrument, who duly acknowledged to me that he executed the same on behalf of WEBER VISTA SUBDIVISION, LLC pursuant to authority delegated to him/her.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(NOTARY SEAL)


Notary Public



EXHIBIT "A"

SPECIAL PROVISIONS

A. Surface structures that generally will be allowed to be constructed within United States rights-of-way include asphalt roadways, with no utilities within roadway, non-reinforced parking lots, curbs, gutters and sidewalks, walkways, driveways, fences with gated openings (no footings, foundation, and masonry block walls). However, where United States system pipe has specific maximum and minimum cover designation the special requirements for roadways, parking lots and driveways crossing over the pipe shall be obtained from the United States for the maximum allowable external loading or minimum cover. **HOWEVER, IT IS UNDERSTOOD THAT ALL SURFACE STRUCTURES SHALL BE ANALYZED AND CONSIDERED ON AN INDIVIDUAL BASIS.**

B. Structures that may not be constructed in, on, or along United States rights-of-way include but are not limited to, permanent structures such as buildings, garages, carports, trailers, and swimming pools as designated by the United States.

C. No trees or vines will be allowed within the rights-of-way of the United States.

D. All temporary or permanent changes in ground surfaces within United States rights-of-way are to be considered encroaching structures and must be handled as such. Earthfills and cuts on adjacent property shall not encroach onto United States rights-of-way without prior approval by the United States.

E. Existing gravity drainage of the United States rights-of-way must be maintained. No new concentration of surface or subsurface drainage may be directed onto or under the United States rights-of-way without adequate provision for removal of drainage water or adequate protection of the United States rights-of-way.

F. Prior to construction of any structure that encroaches within United States rights-of-way, an excavation must be made to determine the location of existing United States facilities. The excavation must be made by or in the presence of the District or the United States.

G. Any contractor or individual constructing improvements in, on, or along United States rights-of-way must limit his construction to the encroaching structure previously approved and construct the improvements strictly in accordance with plans or specifications.

H. The ground surfaces within United States rights-of-way must be restored to a condition equal to that which existed before the encroachment work began or as shown on the approved plans or specifications.

I. The owner of newly constructed facilities that encroach on United States rights-of-way shall notify the United States upon completion of construction and shall provide the United States with two copies of as-built drawings showing actual improvements in, on, or along the rights-of-way.

J. Except in case of ordinary maintenance and emergency repairs, an owner of encroaching facilities shall give the District at least 10 days notice in writing before entering upon United States rights-of-way for the purpose of reconstructing, repairing, or removing the encroaching structure or performing any work on or in connection with the operation of the encroaching structure.

K. If unusual conditions are proposed for the encroaching structure or unusual field conditions within United States rights-of-way are encountered, the United States reserves the right to impose more stringent criteria than those prescribed herein.

L. All backfill material within United States rights-of-way shall be compacted to 90 percent of maximum density unless otherwise shown. Mechanical compaction shall not be allowed within 6 inches of the projects works whenever possible. In no case will mechanical compaction using heavy equipment be allowed over the project works or within 18 inches horizontally of the projects works.

M. The backfilling of any excavation or around any structure within the United States rights-of-way shall be compacted in layers not exceeding 6 inches thick to the following requirements: (1) cohesive soils to 90 percent maximum density specified by ASTM Part 19, D-698, method A; (2) noncohesive soils to 70 percent relative density specified by ANSI/ASTM Part 19, d-2049, par. 7.1.2, wet method.

N. Any nonmetallic encroaching structure below ground level shall be accompanied with a metallic strip within the United States rights-of-way.

O. Owners of encroaching facilities shall notify the United States at least forty-eight (48) hours in advance of commencing construction to permit inspection by the United States.

P. No use of United States lands or rights-of-way shall be permitted that involve the storage of hazardous material.