

**Document Instructions for Users**

**Easement Agreement – State as Grantor**

This template has been reviewed and approved by the Attorney General and State Controller's offices. Any variations must be kept to a minimum as much of the language is required by the State of Colorado Constitution, State Statutes or policies. This template is suitable for most situations where the State is granting an easement on State owned property.

All additions to this form must be in **bold type**. All deletions must be shown by ~~strike-through~~. This will allow reviewers of the lease to immediately determine if and where the lease differs from the standard form. When the wording is expected to be significantly changed to accommodate the agreement reached between the parties, the proposed language should be sent to Real Estate Programs for review and pre-approval.

All fields that require user input are marked with **[bold, bracketed text]**. Remove the brackets when filling in the information. Terms and conditions unique to the particular lease should be succinctly stated under Additional Provisions in bold type. If a State Broker is utilized in negotiations, the broker should prepare this Lease Agreement.

If this document contains a rent table, Rent Term Dates should be broken out by fiscal year, so that the total fiscal–year appropriation can be easily seen.

Users should consult [The Real Estate Program Policies and Procedures Manual](https://osa.colorado.gov/real-estate/policies-and-procedures) for program guidance. General principles of law, and specific related laws, also apply (i.e., contract law, real estate law, agency and partnership law).

Delete this page and remove watermark prior to contract finalization.

**State of Colorado**

**Department of Personnel and Administration**

**Office of the State Architect**

**Real Estate Programs**



# **Easement Agreement – State as Grantor**

Grantor: **[Insert Grantor’s Name]**

Grantee: **[Insert Grantee’s Name]**

Property: **[Insert Property Address]**

**Easement Agreement**

THIS EASEMENT AGREEMENT (“Agreement”) is made and entered into by and between THE STATE OF COLORADO (the “State”), acting by and through the Department of **[Insert Grantor]**, whose address is **[Insert Grantor Address],** hereinafter referred to as “Grantor” or the “State”, and **[Insert Grantee Name]**, whose address is **[Insert Grantee Address],** hereinafter referred to as the “Grantee”. Both Grantor and Grantee may be referred to individually as a “Party” and shall collectively hereinafter be referred to as “Parties” to this Agreement.

WITNESSETH:

That, for and in consideration of **[an annual payment of [Insert Annual Payment] [a one-time payment of [Insert One-Time Payment Amount],** and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, and the keeping and the performance of the covenants and agreements hereinafter expressed, Grantor grants to Grantee **[a nonexclusive] [an exclusive]** easement upon the following property (hereinafter, the “Property”) located in the County of **[Insert Property County]**, State of Colorado, to wit:

**[Insert Legal Description Of The Easement Area Here From Survey]**

TO HAVE AND TO HOLD, subject to the covenants and agreements hereinafter expressed, for the purpose of using the Property for **[Insert Use]** for the term beginning **[Insert Term Beginning Date]**, and ending **[Insert Term Ending Date]**.

## Grantor And Grantee Mutually Expressly Covenant and Agree:

* 1. If at any time during the term of this Easement Agreement Grantee does not for a period of 366 consecutive days make use of this easement for the purpose aforesaid, Grantor may in his sole discretion immediately declare such easement abandoned and shall so notify Grantee by certified mail with return receipt requested. In the event of such abandonment the consideration shall be forfeited.
	2. This grant of easement is subject to any and all previously granted easements, rights-of-way, licenses and conveyances, recorded or unrecorded. It is Grantee’s sole responsibility to determine the existence of any rights, uses or installations conflicting with Grantee’s use of the Property hereunder. Grantee agrees to not interfere with any use in the easement area by any other party under a previous grant. Grantee understands and agrees that Grantor makes no representations concerning ownership of nor warrants title to any of the Property. To the extent that this grant of easement may encroach on lands not owned or controlled by Grantor, Grantee assumes all responsibility for any such encroachment.
	3. The signatories aver that to their knowledge, no State employee has any personal or beneficial interest whatsoever in the Property.
	4. If this easement is granted pursuant to § 24-82-201 *et. seq*, C.R.S. this Easement Agreement shall not be deemed valid unless and until approved by the officials and officers of the State of Colorado as required by § 24-82-202 *et. seq*, C.R.S. or such assistants as they may designate. Signature by the Grantor shall be deemed to be verification of approval of the commission or board, if any, of the institution, department or agency across the premises of which this easement is hereby granted.
	5. The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto and all covenants shall apply to and run with the land unless otherwise specifically noted.
	6. The signatories aver that they are familiar with § 18-8-301 *et. seq*. C.R.S. (Bribery and Corrupt Influences) and § 18-8-401 *et. seq*. C.R.S. (Abuse of Public Office), and that no violation of such provisions is present.
	7. Grantor and Grantee agree that this Easement Agreement including all exhibits, supersedes any and all prior written or oral agreements, and there are no covenants or agreements between the parties except as set forth herein with respect to the use of the Property by Grantee. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever unless embodied herein in writing. No subsequent amendment hereto shall have any force or effect unless embodied in a written agreement executed and approved by the officials and officers of the State of Colorado as required by the Colorado Revised Statutes, as amended, or such assistants as they may designate.
	8. Grantee shall be responsible for recording this Easement Agreement with the Clerk and Recorder’s Office in the county or counties in which the Property is located. Grantee shall provide Grantor with a confirmed copy of the recorded easement.
	9. Any notice required or permitted by this Easement Agreement may be delivered in person or sent by registered or certified mail, return receipt requested, to the party at the address as hereinafter provided, and if sent by mail it shall be effective when posted in the U.S. Mail Depository with sufficient postage attached thereto:

 **[Insert Grantor Mailing Address]**

 **[Insert Grantee Mailing Address]**

With a copy to:

 Office of the State Architect

 Real Estate Programs

 Attn: Real Estate Specialist

 1525 Sherman Street, Suite 500

Denver, CO 80203

Notice of change of address shall be treated as any other notice.

* 1. Grantor reserves all rights to any and all metallic and non-metallic minerals, ores and metals of any kind and character, including but not limited to coal, asphaltum, oil and gas in or under said easement.
	2. If any part of this Easement Agreement is found, decreed or held to be void or unenforceable, the remainder of the provisions of this Easement Agreement shall not be affected thereby and shall remain in full force and effect.
	3. This Easement Agreement shall be governed by the laws of the State of Colorado.
	4. [Use this section when Grantee is an individual, corporation or partnership] Notwithstanding any other provision of this Easement Agreement to the contrary, no term or condition of this Easement Agreement shall be construed or interpreted as a waiver of any provision of the Colorado Governmental Immunity Act § 24-10-101 et seq. C.R.S. The parties hereto understand and agree that liability for claims for injuries to persons or property arising out of the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of § 24-10-101 et seq. C.R.S, and § 24-30-1501 et seq, C.R.S. Any provision of this Easement Agreement, whether or not incorporated herein by reference, shall be controlled, limited and otherwise modified so as to limit any liability of the Grantor to the above cited laws.
	5. [Use this section when Grantee is a city, county or political subdivision] The parties hereto understand and agree that liability for claims for injuries to persons or property arising out of the negligence of either party, its departments, institutions, agencies, enterprises, boards, officials, and employees is controlled and limited by the provisions of the Colorado Governmental Immunity Act, § 24-10-101 et seq, C.R.S. and § 24-30-1501 et seq, C.R.S. Any provision of this Easement Agreement, whether or not incorporated herein by reference, shall be controlled, limited and otherwise modified so as to limit any liability of the Grantor and the Grantee to the above cited laws.

## Grantor Expressly Covenants:

* 1. Grantee and Grantee’s agents, assigns and successors shall have access at all times, subject to Grantor’s security policies and procedures, to the Property for the purposes set forth herein.

## Grantee Expressly Covenants:

* 1. Grantor shall have, during the continuance of this easement, the right to dispose of the Property and to use the Property for other purposes provided such use does not materially interfere with the easement granted herein. In the event Grantor shall, in the future, wish to grant additional easements or rights-of-way which encroach upon the easement granted herein, Grantee expressly agrees and covenants it will consent to share the Property, provided the proposed additional easements or rights-of-way do not materially interfere with the purposes for which this easement is granted.
	2. In the event of termination, Grantee, at its expense, shall, upon written request by Grantor, remove all improvements constructed by Grantee from the Property within ninety (90) days of termination and restore the Property as nearly as is practicable to the condition of the land existing immediately prior to Grantee's first use. In the event that Grantee does not remove the improvements within such 90-day period, Grantor shall have the option to either 1) remove the improvements and restore the Property to its prior condition and bill the Grantee for the cost of removal and restoration, or 2) consider such improvements shall be considered abandoned and the improvements shall become the property of Grantor. Except as otherwise provided herein, termination of this Easement Agreement shall be by operation of law. If this Easement Agreement is so terminated, consideration paid shall be forfeited.
	3. Grantee may not use this grant of easement for any purpose other than that which is specifically described herein. If the Property is used by Grantee for any purpose other than stated herein, the easement is automatically terminated, and all of the right, title and interest of Grantee (and Grantee’s successors or assigns) in and to the Property become null and void, and the Property shall absolutely revert to and revest in Grantor as fully and completely as if this instrument had not been executed, without the necessity for suit or re-entry and Grantee shall remove improvements as provided above. No act or omission on the part of any beneficiary of this paragraph shall be a waiver of the operation or enforcement of the paragraph.
	4. Grantee agrees to comply with all rules, regulations and policies authoritatively promulgated pertaining to the use of the Property.
	5. Grantee agrees to indemnify, defend and hold harmless the Grantor against all liability, loss and expense and against all claims and actions based upon or arising out of injury or death to persons or damage to property, caused by any acts or omissions of Grantee, its successors, assigns, agents or contractors or arising out of Grantee’s use of the Property. In the event that Grantee contracts for any work to be performed on the Property, Grantee shall require its contractors and subcontractors to indemnify, defend and hold harmless Grantor, its employees and agents from any and all claims, damages and liabilities whatsoever for injury or death to persons or damage to property arising from the contractors’ and/or subcontractors’ actions or inactions. All contractors and subcontractors shall be required to abide by and follow the provisions of this easement.
	6. Grantee agrees that all excavations or other temporary removal of soil as required for Grantee’s use of the Property for the purposes set forth herein shall be properly replaced, and Grantee shall seed, restore and revegetate the surface to substantially its condition existing prior to the disturbance as reasonably possible. Grantee shall be responsible at all times for the immediate repair or replacement of, or reimbursement for any damage to the Property due to Grantee’s use of the Property for the purposes set forth herein. Routes of ingress and egress for construction or for maintenance are to be limited to the minimum necessary locations, and all work areas created must be obliterated, protected against erosion, and restored to the former condition of the land, as nearly as possible by Grantee. Grantor shall determine, in its sole discretion, whether Grantee’s restoration complies with this paragraph. In the event Grantee fails to perform the restorative or revegetation work required by this paragraph to the sole satisfaction of Grantor, and after thirty (30) days prior written notice specifying with particularity the failure and indicating the remedial steps needed to cure same, Grantor shall be allowed to perform said work, and Grantee shall pay within thirty (30) days all direct and indirect costs incurred by Grantor for restorative or revegetation work including, but not limited to, regrading, filling, revegetation, erosion control, and replacing of soil.
	7. The easement granted herein is subject to the condition that the Grantee shall properly obtain and maintain all necessary permits or approvals required by Federal, State and local laws, regulations and ordinances. Grantee shall comply with all applicable laws and ordinances (and all rules, regulations and requirements of any governmental authority promulgated thereunder) controlling environmental standards and conditions of Grantee’s use of the Property. If any such law, ordinance, rule, regulation or requirement is violated as a result of Grantee’s use of the Property and/or its operations on the Property, Grantee shall protect, defend, indemnify and hold harmless Grantor from and against any penalties, fines, costs and expenses including legal fees and court costs incurred by Grantor.
	8. Grantee shall provide Grantor with as-built drawings showing the location of any improvements constructed on the Property (including location and depth of any improvements located underground) within thirty (30) days after completion of construction of such improvements.

## Additional Provisions:

**[Insert any transaction specific Additional Provisions, if any, here. Suggest having Real Estate Programs review/approve additional language prior to submitting for signatures.]**

**Signature Page**

IN WITNESS WHEREOF, the Parties hereto have executed this **Lease.**

**Grantee:**

**[Insert Name of Grantee]**

By:

Authorized Signatory

Name:

Title:

Date:

Corporations:

(A corporate attestation is required)

ATTEST (Seal)

By:

Authorized Signatory

(Corporate Secretary or Equivalent)

**Office of the State Architect (OSA)**

Real Estate Manager (or authorized Delegate)

By:

Date:

**State Office of Risk Management** (if needed, as determined by OSA or OSC)

State Risk Manager (or authorized Delegate)

By:

Date:

**Legal Review** (if needed, as determined by OSA or OSC)

Philip J. Weiser, Attorney General

Attorney General (or authorized Delegate)

By:

Date:

**Grantor:**

**STATE OF COLORADO**

Jared S. Polis, Governor

The Department of **[Insert Department Name]**

By:

Name:

Title:

Date:

**All contracts must be approved by the State Controller:**

C.R.S. § 24-30-202 requires that the State Controller approve all State contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The Landlord is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the good and/or services provided.

**Office of the State Controller (OSC)**

Robert Jaros, State Controller

State Controller (or authorized Delegate)

By:

Effective Date:

Grantor Notary Block:

STATE OF COLORADO )

 ) ss.

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_, by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, on behalf of the State of Colorado, Grantor. Witness my hand and official seal.

My commission expires \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Notary Public

Grantee Notary Block:

STATE OF COLORADO )

 ) ss.

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_, by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on behalf of the Grantee. Witness my hand and official seal.

My commission expires \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Notary Public