**Document Instructions for Users**

**Easement Agreement – State as Grantee**

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 receiving an easement from a private party.

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 Grantee**

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 **[Insert Grantor]** whose address or principal place of business is **[Insert Grantor Address]**, hereinafter referred to as “Grantor”, and THE STATE OF COLORADO (the “State”), acting by and through the Department of **[Insert Grantee]** whose address is **[Insert Grantee Address]**, hereinafter referred to as “Grantee” or the “State”. 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 of 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. The signatories aver that to their knowledge, no State employee has any personal or beneficial interest whatsoever in the Property.
	2. 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 Colorado Revised Statutes, as amended, or such assistants as they may designate.
	3. 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.
	4. 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.
	5. 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 Colorado Revised Statutes as amended, or such assistants as they may designate.
	6. 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.
	7. 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. In the event of condemnation of all or a portion of the Property, Grantee shall be entitled to a share of the proceeds of the condemnation award based on the value at the time of the taking of the Property.
	5. As prescribed by State of Colorado Fiscal Rules, it is understood and agreed that any annual payments due pursuant to this Easement Agreement are dependent upon the continuing availability of funds beyond the term of the State's current fiscal period ending upon the next succeeding June 30, as financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. Further, the parties recognize that the act of appropriation is a legislative act, and the Grantee hereby covenants to take such action as is necessary under the laws applicable to the Grantee to timely and properly budget for, request of and seek and pursue appropriation of funds of the Legislature of the State of Colorado which will permit Grantee to make all payments required under this Easement Agreement during the period to which such appropriation shall apply. In the event there shall be no funds made available, this Easement Agreement shall terminate at the end of the then current fiscal year, with no penalty or additional cost as a result thereof to the Grantee.
	6. To make certain the understanding of the parties because this Easement Agreement will extend beyond the current fiscal year, Grantee and Grantor understand and intend that the obligation of the Grantee to pay any annual payments due hereunder constitutes a current expense of the Grantee payable exclusively from Grantee's funds and shall not in any way be construed to be a general obligation indebtedness of the State of Colorado or any agency or department thereof within the meaning of any provision of Sections 1,2,3,4, or 5 of Article XI of the Colorado Constitution, or any other constitutional or statutory limitation or requirement applicable to the State concerning the creation of indebtedness. Neither the Grantee, nor the Grantor on its behalf, has pledged the full faith and credit of the State, or any agency or department thereof to the payment of the charges hereunder, and this Easement Agreement shall not directly or contingently obligate the State or any agency or department thereof to apply money from, or levy or pledge any form of taxation to, the payment of any annual charges.
	7. In accordance with the requirements of § 24-30-202 (1) C.R.S., as amended, this Easement Agreement shall not be deemed valid until it has been approved by the State Controller, or such assistant as he may designate.
	8. Pursuant to § 24-30-202.4 C.R.S., the State Controller may withhold debts owed to state agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 21, Title 39, C.R.S., (c) unpaid loans due to the student loan division of the department of higher education; (d) owed amounts required to be paid to the unemployment compensation fund; and (e) other unpaid debts owing to the state or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the State Controller.
	9. No State or other public funds payable under this Easement Agreement shall be used for the acquisition, operation or maintenance of computer software in violation of United States copyright laws or applicable licensing restrictions. The Grantor hereby certifies that, for the term of this Easement Agreement and any extensions, the Grantor has in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that the Grantor is in violation of this section, the State may exercise any remedy available at law or equity or under this Easement Agreement, including, without limitation, immediate termination of the Easement Agreement and any remedy consistent with United States copyright laws or applicable licensing restrictions.

## Grantor Expressly Covenants:

* 1. Grantee and Grantee’s agents, assigns and successors shall have access at all times, to the Property for the purposes set forth herein.
	2. Grantor is the sole owner of the Property and has the present full authority and power to execute this Easement Agreement.

## Grantee Expressly Covenants:

* 1. Grantor shall have, during the continuance of this Easement Agreement, 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.
	2. In the event of termination, Grantee, at its expense, shall, upon written request by Grantor, remove all appurtenances from the Property and restore the Property as nearly as is practicable to the condition of the land existing immediately prior to Grantee's first use.
	3. 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 Grantee to the above cited laws.
	4. 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 as nearly as possible, restored and maintained by Grantee in its original configuration and with similar vegetation. 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.

## 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.**

**Grantor:**

**[Insert Name of Grantor]**

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:

**Grantee:**

**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:

Grantee 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, Grantee. Witness my hand and official seal.

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

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

 Notary Public

Grantor Notary Block:

STATE OF COLORADO )

 ) ss.

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

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

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

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

 Notary Public