

STORM DRAIN AGREEMENT

13-006 - 0025

RETURNED
DEC 19 2008

This Agreement is made and entered into this 4th day of Dec, 2008, by and between SOUTH WEBER CITY, a Utah municipal corporation ("City") and ROGER L. WYNN, South Weber City property owner ("Wynn"). City and Wynn may be referred to collectively within this Agreement as "Parties."

RECITALS

Wynn owns certain real property (the "Property") located at approximately 310 East 6650 South and as recorded at the office of the Davis County Recorder as parcel 13-006-0025 with the following legal description:

BEG ON THE N LN OF 6600 S STR AT A PT WH IS S 81^01'28" W 1648.39 FT FR THE NE COR OF SEC 29-T5N-R1W, SLM & RUN TH ALG SD N LN N 89^44'30" W 90.10 FT; TH N 0^42'21" E 1877.98 FT TO THE S'LY LN OF A STATE HWY; TH SE'LY ALG THE ARC OF A CURVE TO THE RIGHT (THE RADIUS PT OF WH IS S 21^04'45" W 11,349.16 FT) FOR 407.44 FT; TH S 2^04'40" E 138.74 FT; TH S 89^02'05" E 178.81 FT TO THE S'LY LN OF A STATE HWY; TH ALG SD S'LY LN S 50^59'45" E 549.61 FT; TH S 2^25'33" W 722.49 FT; TH S 3^ E 66.00 FT; TH S 54^01'29" W 242.86 FT; TH N 85^07'19" W 480.04 FT; TH S 1^48'18" W 169.85 FT; TH N 89^42'12" W 104.28 FT; TH S 0^15'30" W 19.00 FT; TH N 89^44'30" W 109.00 FT; TH S 0^15'30" W 160.00 FT TO THE POB & BEING IN THE NE 1/4 OF SD SEC 29 & IN THE SE 1/4 OF SEC 20 (BASIS OF BEARING IS DAVIS COUNTY COORDINATE SYSTEM) CONT. 29.89 ACRES. SUBJ TO ESMTS & R/W

E 2411222 B 4679 P 178-180
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
12/19/2008 10:42 AM
REC'D FOR SOUTH WEBER CIT

- A. City desires to construct certain storm drain improvements on Property in accordance with the conditions set forth herein.
- B. Wynn agrees to allow the City to construct certain storm drain improvements on Property in accordance with the conditions set forth herein.
- C. Parties have agreed to the terms of this Agreement as set forth below.

THEREFORE, in consideration of the mutual terms, covenants and conditions contained herein, the Parties agree as follows:

1. Recitals. The RECITALS as set forth above are incorporated herein by this reference.
2. Agreement. Wynn agrees to allow the City to construct certain storm drain improvements, as defined in Exhibit A (attached), on the Property. Wynn agrees to allow the City access to the Property as necessary for the construction and future maintenance of the storm drain improvements. City agrees to access the Property only for the purposes set forth herein. City understands Wynn has horses and other livestock on the Property and agrees to take all necessary precautions to insure the safety of these animals while constructing and maintaining the storm drain improvements. City agrees to notify Wynn prior to entering onto the Property for all non-emergency construction and maintenance of storm drain improvements. In the event the City deems emergency access to the Property is necessary, the City agrees to notify Wynn as soon as practical, depending on the situation, but no less than 24 hours after entering onto the Property. Wynn understands that the drainage ditch that is to be constructed as a part of this agreement is designed to carry the runoff from a one hundred year storm event. However, Wynn also understands that in the event there is a storm that exceeds the one hundred year storm, it is likely there will be runoff that may not be contained within the existing drainage ditch or the drainage ditch constructed as a part of this agreement and may temporarily overflow onto the adjacent field to the west until the said storm water can drain away or percolate into the ground.
3. Project. The project is scheduled to start immediately upon the signing of this agreement by the Parties. It is estimated the project shall be completed within thirty days from when it is commenced.

4. Indemnification. Should this Agreement or any portion thereof, be adjudicated as illegal or otherwise unenforceable, the remainder of the Agreement shall remain in full force and effect, unless either party is deprived of the material benefit of their bargain. Furthermore, Wynn shall indemnify, defend and hold harmless the City from any claims, demands, damages, suits, fines, fees and costs of whatever kind or nature demanded and/or incurred by Wynn or any third-party with respect to the performance of this Agreement, the subject matter thereof, and the Project, including any reliance or equitable damages, unless resulting solely from City's gross negligence or intentional misconduct.
5. Authorization. The Parties verify that they each are duly authorized by and through their undersigned representatives to execute and enter into this Agreement.
6. Jurisdiction. The laws of the state of Utah shall govern all disputes regarding this Agreement.
7. Default. Should either Party default in the performance of their obligations under this Agreement, or otherwise breach this Agreement, the non-breaching Party shall be entitled to recover from said breaching Party all attorneys fees and costs incurred in the defense or prosecution of this Agreement and/or the rights and obligations associated therewith.
8. Review. The Parties have sought and received legal advice and review with respect to this Agreement, or have otherwise decided not to seek such advice. As such, the Parties enter into this Agreement voluntarily and with a full understanding and knowledge of their respective rights and obligations.
9. Integrated Agreement. This Agreement is fully integrated and there are no other agreements, understandings, contracts, etc., between the Parties. Wynn agrees that he is not relying, nor has the right to rely, upon any representations, agreements, understandings, etc., if any, which are not expressly stated within this Agreement.

SOUTH WEBER CITY

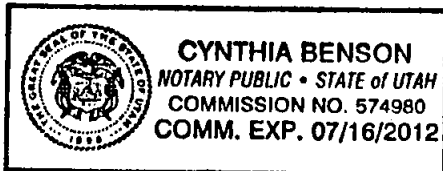
Matthew J. Dixon
 BY: *Matthew J. Dixon*
 ITS: *City Manager*

Roger L. Wynn
 ROGER L. WYNN

State of Utah)
)
 County of Davis)

Subscribed and sworn to before me this 4th day of December, 2008.

Cynthia Benson
 Notary Public



Residing at: 1600 South Weber Dr
 My Commission Expires: 7/16/2012.

