

08-132-0001 to 0008
0018, 0020 to 0026
08-592-0901, 0902

IMPROVEMENT INSTALLATION AGREEMENT

City: Kaysville City Corporation
23 E Center Street
Kaysville, Utah 84037

E 3167404 B 7288 P 1062-1074
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
06/20/2019 03:14 PM
FEE \$0.00 Pgs: 13
DEP RT REC'D FOR KAYSVILLE CITY CO
RP

Owner: Wendell & Sunny Gay Peery
278 East Shepard Lane
Kaysville, UT, 84037

This Agreement between the City and Owner is entered into this 5 day of May, 2019.

WHEREAS, City has determined to install improvements on or along a public street and adjacent to Owner's property in accordance with and pursuant to the City's Public Street Improvement Policy (see Exhibit "A") and the Improvement Agreement and Grant of Lien between Owner and City (see Exhibit "B"); and

WHEREAS, City currently has the necessary right-of-way (ROW) for the improvements; and

WHEREAS, Owner will allow City to install the improvements on or along a public street adjacent to Owner's property in a manner consistent with the City's Public Street Improvement Policy and in accordance with the Improvement Agreement and Grant of Lien; and

WHEREAS, City will allow Owner a period not to exceed One Hundred and Twenty (120) months to pay for the improvements without interest and consistent with the terms contained herein; and

WHEREAS, this Agreement is a legally binding document and constitutes an accurate understanding and complete agreement of the parties and each party has had the opportunity to seek competent legal advice related hereto.

NOW, THEREFORE, CITY AND OWNER AGREE AS FOLLOWS:

1. Installation: The City agrees to install all necessary improvements ("Improvements" as defined in Section 1 of the Kaysville City Public Street Improvement Policy) on a public street on, along or adjacent to Owner's real property located at approximately 278 East Shepard Lane, Kaysville, Davis County, State of Utah. During this project in accordance with the Kaysville City Public Street Improvement Policy and the Improvement Agreement and Grant of Lien, the City will install the improvements and provide top soil and grading of the top soil to tie the improvements into Owner's existing yard or property and Owner will grant to City a temporary construction easement 10 feet in width adjacent to the ROW along the entire length of Owner's property. This temporary easement will expire one (1) year after the completion of all project improvements.

2. Cost of Improvements: The installation cost of the above described Improvements to owner's property shall be Three-Thousand Eight Hundred and Ten Dollars and Fifty-Two Cents (\$3,810.52). This amount is figured by multiplying the anticipated unit cost (\$31.00 per linear foot) by the length of the owner's property adjacent to City's public street (122.92 linear feet). As this agreement may be executed prior to bids being received or actual unit costs being determined, if the actual unit costs for Improvements exceeds the anticipated unit cost, the City shall absorb the additional cost. Conversely, if the actual unit cost for Improvements is less than the amount above, then the City shall provide owner an addendum to this Agreement reflecting the modification and each party shall sign it. The above amount is to be paid pursuant to the Payback Schedule contained herein.

3. Payback Schedule Upon completion of the improvements, Owner shall pay City the costs of improvements in one full payment or by equal monthly payments not to exceed One Hundred and Twenty Months (120) until paid in full. The monthly payment amount shall be calculated by dividing the cost of improvements by the number of months Owner elects. There shall be no penalty for early payments or early satisfaction of the debt. No interest shall be charged. Owner elects to make 120 monthly payment(s) at the rate of \$31.75 per month.

4. This Agreement shall be recorded by the City with the Davis County Recorder. The City shall record documents affirming that this Agreement has been satisfied when the Owner has (1) paid the entire balance; and (2) the Owner has delivered a written request to the City at the address above. This satisfaction shall be filed with the Davis County Recorder within 30 days of the completion of the above requirements. Further, any written request to file a satisfaction prior to complete payment of the debt shall be null, void, and of no triggering effect.

5. Improvement Lien: This Agreement is in addition to and separate from the obligations of Owner pursuant to the Improvement Agreement and Grant of Lien dated December 29th, 1989, recorded in the office of the Davis County Recorder on March 13th, 1990, as Entry No. 885127, Book 1340, Page(s): 867-870. Upon completion, payment, and satisfaction of the terms and conditions of this Agreement, the said Improvement Agreement and Grant of Lien may be discharged.

6. Attorney's Fees: If either party fails to comply with the terms of this Agreement, said party shall pay all expenses of enforcing the Agreement, or any right arising out of the breach thereof, including reasonable attorney's fees.

7. Breach of Contract: If either party breaches any provision of this Agreement, the Non-defaulting Party may notify the Defaulting Party in writing and request it to rectify and correct such breach of contract; if the Defaulting Party fails to take any action satisfactory to the Non-defaulting Party to rectify and correct such breach within fifteen (15) working days upon the issuance of the written notice by the Non-defaulting Party, the Non-defaulting Party may take the actions pursuant to this Agreement or pursue other legal remedies.

8. Entire Agreement: The terms of this Agreement constitute the entire agreement between the parties, and any modifications must be in writing and signed by both parties.

9. Successors and Assigns: This Agreement is binding upon all heirs, and any other

current and subsequent holders or owners of interest in the subject property, and Sellers shall provide the necessary disclosure of this Agreement to said parties.

IN WITNESS WHEREOF, the undersigned parties have executed this agreement.

Kaysville City

By: [Signature]
Josh Belnap
Director
Public Works

STATE OF UTAH)
COUNTY OF Davis) : ss.

On this 5th day of May, 2019, personally appeared before me Josh Belnap, who duly acknowledged to me that he is the Director of the Kaysville City Public Works Department, and that the document was signed by him on behalf of Kaysville City, and Josh Belnap acknowledged to me that said City executed the same.



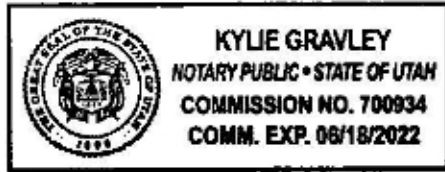
[Signature]
NOTARY PUBLIC

Owner(s)
[Signature]
WENDELL PEERY
[Signature]
SUNNY GAY PEERY
DATE: 5-9-19

STATE OF UTAH)
COUNTY OF DAVIS) : ss.

On this 9 day of May, 2019, personally appeared before me Wendell Peery and Sunny Gay Peery, who, being by me duly sworn, did say that he/she is/are

the signers of the above and foregoing and that the information contained therein is true and correct to the best of their knowledge.



Kylie Gravley
NOTARY PUBLIC

Exhibit "A"

NOTARY PUBLIC

Exhibit "A"

Kaysville City

Public Street Improvement Policy

In order to better ensure the safety of the residents of Kaysville City, by improving the overall flow of traffic and by providing facilities for pedestrian use, the following procedures will be followed for planning, coordinating and constructing public street improvements **where they do not currently exist**. Specifically of concern is the coordination, planning and cost for the installation of curb, gutter, sidewalk and the impact on properties within the designated right-of-way (ROW) and street dimensions for the public street in question. This policy is to be administered by the Public Works Superintendent, under the direct supervision of the City Manager.

Sec. 1 Definitions :

Public Street: Means any highway, street, alley or other public right-of-way for motor vehicle travel under the jurisdiction and control of or within the City which has been acquired, established, dedicated or devoted to highway purposes.

Necessary ROW: In regards to this policy, this is defined as the area between the current private property line and the future private property line after improvements are installed. This area may need to be first acquired by the City from a property owner. Upon installation of improvements, ROW is then typically defined as the area between the private property line and the back of curb.

Improvements: Defined as the curb, gutter, approach/apron and sidewalk. Cost for improvements does not include the cost of design or engineering work, cost of landscaping removal, cost of relocation of City/private utilities or basic contractor selection and mobilization costs.

Driveway: In this policy, the term driveway shall be limited to the portion of the driveway behind the sidewalk on private property. Transitioning current driveways to meet the elevation of new improvements should not exceed a slope of 10%.

Owner: The word "owner" applied to a building or land shall include any part-owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

Standard Mailboxes: Means a mailbox consisting of an approved USPS mailbox and a basic post (either wood or metal). Does not apply to decorative or luxury mailboxes or mailbox housings.

Landscaping: Means trees and other vegetation, grasses, rocks, decorative fixtures, irrigation equipment and fixtures, etc.

Betterments: Means requests for improvements or services from an owner which are deemed to exceed the pre-construction "as good" condition of a property.

Sec. 2 For properties/locations where the City has agreements in place for the future installation of said improvements:

1. **If the City currently has the necessary ROW for the improvements, the owner will bear 100% of the cost for installation of improvements.**
 - a. Properties may be impacted from a landscaping perspective and are eligible for the City to provide top soil and grading of the top soil to tie the new improvements into the existing yard or property, where grade separations or gaps may exist. The owner is to also bear the cost and responsibility of restoring landscaping. The City will pay for standard mailbox installation/relocation and transitioning the driveway.
 - b. Property owners will need to donate any necessary temporary easements for the work.
 - c. If the owner declines the work or their costs as stated above, or are unwilling to donate the temporary easements, the City will cause the work to be done and may lien the property for incurred costs if still necessary.
2. **If the City does not have the necessary ROW for the improvements, the owner will bear 65% of the cost for installation of improvements.**
 - a. The City will cover 35% of said costs. The City is to also bear the cost and responsibility of restoring landscaping and other reasonable property impacts to "as good" condition. The City will pay for standard mailbox installation/relocation and transitioning the driveway.
 - b. Property owners will need to donate the ROW and any necessary temporary easements for the work.
 - c. If the owner declines the work or their costs as stated above, or are unwilling to donate the ROW and/or temporary easements, the City will cause the work to be done and may lien the property for incurred costs, if still necessary.

Sec. 3 For properties/locations where the City does not have agreements in place for the future installation of said improvements:

1. **If the City currently has the necessary ROW for the improvements, the owner will bear 50% of the cost for installation of improvements.**
 - a. The City will cover 50% of said costs. Properties may be impacted from a landscaping perspective and are eligible for the City to provide top soil and grading of the top soil to tie the new improvements into the existing yard or property, where grade separations or gaps may exist. The owner is to also bear the cost and responsibility of restoring landscaping. The City will pay for standard mailbox installation/relocation and transitioning the driveway.
 - b. Property owners will need to donate any necessary temporary easements for the work.
 - c. If the owner declines the work or their costs as stated above, or are unwilling to donate the temporary easements, the City may cause the work (either partially or entirely) to be done or they may leave the property out of the project. If the same owner that has declined then wishes to have the work done after project completion, that same owner will then be required to bear 100% of the cost, rather than 50%.

2. **If the City does not have the necessary ROW for the improvements, the City will bear 100% of the cost for installation of improvements.**
- a. The City is to also bear the cost and responsibility of restoring landscaping and other reasonable property impacts to "as good" condition.
 - b. Property owners will need to donate the ROW and any necessary temporary easements for the work.
 - c. If the owner declines the work, or are unwilling to donate the ROW and/or temporary easements, the City may leave the property out of the project. If the same owner that has declined then wishes to have the work done after project completion, that same owner will then be required to bear 50% of the cost.

Sec. 4 For properties where the City expends funds on the installation of improvements and/or restoration of landscaping at a property, and the owner of that property decides to develop that specific property within 10 years of the project's completion, the owner will then be required to reimburse the City those same costs. This may be done by means of a lien, if necessary.

Sec. 5 On projects and work being done, the City may cause the work to be done, including payment of invoices, and owner costs will then be assessed with an itemized bill or invoice. Payment can either be a lump sum in full, as part of a multi-year re-payment agreement or by another means deemed acceptable by the City Manager.

Sec. 6 Situations may exist where a certain property may not fit perfectly within one of the categories listed above, or where extremely extenuating circumstances exist. In these instances, under the direction and approval of the City Manager, some properties may warrant being evaluated and addressed on a case by case basis.

Sec. 7 Betterments requested by owners must be submitted in writing to the Public Works Superintendent and approved by the City Manager. The cost for betterments will be borne by the owner. Requests for betterments are also subject to contractor agreement and ability. Betterments are to be restricted to only areas directly impacted by the project.

Sec. 8 Kaysville City will create, and maintain, a prioritized list of potential project locations. This list will help determine the order and sequence of projects moving forward, as budget permits. Projects may be started sooner, though, depending on various factors, including (but not limited to) safety issues, dimensions and the level of owner support.

Exhibit “B”

3167404
BK 7288 PG 1071

RETURNED

MAR 13 1990

IMPROVEMENT AGREEMENT

and

GRANT OF LIEN

885127 BK 1340 PG 967
CAROL DEAN PAGE, DAVIS CNTY RECORDER
1990 MAR 13 10:55 AM FEE 19.50 DEP BMM
REC'D FOR KAYSVILLE CITY CORP

Lots 1-17, Kingsview Est.

Rulon A. King, Iva Lu King, Brian R. King, Andrea L. King

of Kaysville City, Davis County, State of Utah, hereinafter referred to as Applicant and Kaysville City, a City of the State of Utah, hereinafter referred to as the City, hereby mutually agree as follows:

1. Preliminary. Applicant is an owner of real property abutting on a City Street located at approximately 200 E. Shepard Lane, which property is as particularly described in Paragraph 2 hereof. There is now in force in Kaysville City an Ordinance known as the Kaysville City Site Improvement/Building Ordinance, which requires the installation of curb, gutter, sidewalk and other off-site improvements (as set forth in said ordinance), adjacent to any property, where the same improvements have not previously been installed; and said improvements are to be installed at the time application is made for a building permit.

2. Legal Description. The above referred to real property is situated in Kaysville City, Davis County, Utah, and particularly described as follows to wit:

A part of the Northeast Quarter of Section 15, T3N, R1W, SLB&M, U.S. Survey; Beginning at a point which is South 0°09'58" East 9.90 ft., and South 89°46'52" East 1137.84 ft. from the North Quarter Corner of said Section 15 and running thence South 89°46'52" East 691.22 ft. to the west line of the Denver and Rio Grande Western Railroad right of way, thence South 34°41' East 885.21 ft. along said west line, thence North 89°46'52" West 1141.83 ft., thence North 0°09'58" West 312.85 ft., thence North 37°47'06" West 83.57 ft., thence North 0°09'58" West 347.31 ft. to the point of beginning.

08-132-0001 to 0017

Contains 15.30 acres

3. Agreement for Postponed Installation. The parties agree that the applicant may postpone compliance with the off-site improvement provisions of said Site Improvement/Building Ordinance until such time as the City Council shall determine in their considered discretion, that the said off-site improvements should be installed adjacent to Applicant's said property. The Council's decision shall be based on the number of buildings constructed along the road fronting on that property and also the general overall development of the area; but it is expressly understood and agreed that the Council may order the required off-site improvements to be made at any time.

4. Postponed Installation. Upon receipt of notice that the City Council has made the determination referred to in Paragraph 3 above, the Applicant or his successor in interest in the ownership of the above described property shall either proceed to install the said off-site improvements at his own expense, or at the option of the City, in the event a special improvement district is organized for the purpose of installing the said off-site improvements, to pay his share of the costs of such improvements, through the said special improvement district.

5. Compliance with City Ordinances and Specifications. It is agreed that the installation of said off-site improvements shall be done in accordance with all applicable City Ordinances, specifications, standards, and any administrative rules or regulations pertinent thereto, as of the time of installation. All work shall be subject to the inspection of the City Building Official or his agent; and any question as to conformity with City specifications or standards or as to the technical sufficiency of the work shall be decided by the said Building Official, and his decision shall be final and conclusive.

6. Grant of Lien. Applicant hereby gives and grants a lien to City on the above described real property to insure compliance with this agreement by applicant; and to give notice of such lien it is agreed that this Agreement shall

be recorded in the office of the Davis County Recorder, and shall continue to be a lien against the said real property until the installation of said off-site improvements are completed as hereinabove provided. Thereafter, the lien shall be discharged by the City. Applicant shall pay the expenses of recording and discharging the said lien.

7. Successors, Enforcement. This agreement shall run with the land and be binding on the parties hereto, their successors or assigns. Should the services of an attorney be required to enforce this Agreement, the defaulting party agrees to pay a reasonable attorney's fee.

IN WITNESS WHEREOF, the undersigned parties have executed this agreement this 29th day of December, 1989.

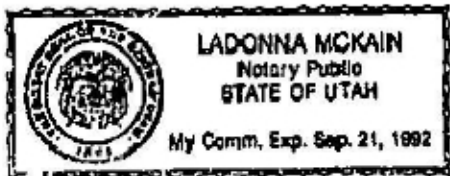
ATTEST:

City Recorder

Andreash King
Rulon A. King
Rulon King
Applicant
[Signature]
[Signature]
Mayor

STATE OF UTAH)
) ss.
COUNTY OF DAVIS)

On this 6th day of November A.D. 1989 personally appeared before me Rulon King, one of the signers of the foregoing Agreement who duly acknowledged to me that she/he executed the same.



My Commission expires:

Ladonna McKain
Notary Public
Residing at:

STATE OF UTAH)
(ss.
COUNTY OF DAVIS)

On the 29th day of December, 19 89,
personally appeared before me Rulon A. King, Tva Lu King,
Brian R. King and Andrea L. King, the signer(s)
of the foregoing instrument, who duly acknowledged to me
that they executed the same.



Marjorie Brande
NOTARY PUBLIC
Residing at: Kaysville, Utah
My Commission Expires: 4-11-93