

WHEN RECORDED, MAIL TO:
Davis County
PO Box 618
Farmington, UT 84025

E 3184906 B 7340 P 1747-1764
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
09/05/2019 03:55 PM
FEE \$0.00 Pgs: 18
DEP RT REC'D FOR DAVIS COUNTY

**PERMANENT DRAINAGE CHANNEL ACCESS
AND MAINTENANCE EASEMENT and AGREEMENT**

WESTWARD DEVELOPMENT, LLC, a Utah Limited Liability Company, with an address of 1789 South 3475 West, Syracuse, Utah 84075, or successors and assigns ("**Grantor**"), hereby grant and convey, for the sum of TEN and 00/100 Dollars (\$10.00) and other good and valuable consideration, to **DAVIS COUNTY**, a political subdivision of the State of Utah, and its successors and assigns ("**Grantee**"), a permanent easement, as set forth herein, over, under, in, along, across, and upon the following described real property located in West Point City, Davis County, State of Utah:

A STORM DRAIN EASEMENT THAT IS LOCATED IN THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 4 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT IS NORTH 00°14'47" EAST ALONG THE QUARTER SECTION LINE 952.83 FEET AND WEST 1325.31 FEET FROM THE CENTER OF SECTION 7, TOWNSHIP 4 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE WEST 9.40 FEET; THENCE NORTH 00°09'54" EAST 298.49 FEET; THENCE NORTH 79°27'01" EAST 9.57 FEET; THENCE SOUTH 00°09'54" WEST 300.24 FEET TO THE POINT OF BEGINNING.

CONTAINS 2,814 SQ/FT OR 0.06 ACRES

Part of Tax ID 12-046-0142

The permanent easement granted and conveyed by this instrument shall include the right, privilege, and authority to Grantee, its contractors, and agents to excavate for the existing drainage channel for the purpose of carrying or conveying natural run-off and storm water or catching, carrying, and conveying surface waste and surplus waters, and for similar uses over, under, in, along, across, and upon the existing channel, together with the right of Grantee to excavate and inspect, the drainage channel and necessary appurtenances, and make excavations therefor from time to time over, under, in, across, and upon the existing channel, and to cut and remove from said easement any trees and other obstructions which may endanger the safety or interfere with the use of said access, drainage channel, or appurtenances attached to or connected therewith; and the right of ingress and egress to and over said above-described premises at any

and all times for the purpose of patrolling the drainage channel or repairing, renewing, excavating, inspecting, or maintaining, the drainage channel and appurtenances, and for doing anything necessary, useful, or convenient for the enjoyment of the easement hereby granted.

The permanent easement granted and conveyed by this instrument shall further include the right, privilege, and authority to Grantee, its contractors, and agents to ingress and egress, of any kind or nature, over said above-described premises at any and all times for the purpose of constructing, inspecting, maintaining, or reconstructing facilities or otherwise located within the existing channel.

Grantor shall at all times, upon reasonable notice from Grantee, remove any surface obstructions or open gates which would otherwise prevent the ingress or egress of Grantee and/or Grantee's use and/or enjoyment of this permanent easement.

In addition to the permanent easement granted and conveyed by this instrument, Grantor agrees that there are certain rights associated with the Grantee's operation and maintenance of the channel including enforcing the conditions, restrictions, and documents in a Davis County Flood Control Permit (known as the permit, attached as "Exhibit A"), issued to the Grantor as the property owners for the premises and/or Grantor's agent, dated Aug. 27, 2019; the Permit and its appurtenant attachments and documents are included in this instrument by reference as part of this document, a full copy of all which has been given to the Grantor/property owners.

IN WITNESS WHEREOF, WESTWARD DEVELOPMENT, LLC, a Utah Limited Liability Company has caused this instrument to be executed by Joshua E. Hughes duly authorized agent or managing member, this 15th day of August, 2019.

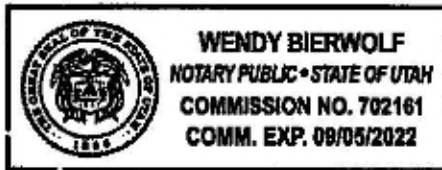
Grantor: WESTWARD DEVELOPMENT, LLC,
a Utah Limited Liability Company




By: Joshua E. Hughes
Its: Managing Member

STATE OF UTAH)
) ss
COUNTY OF DAVIS)


On the 15 day of August, 2019 personally appeared before me, Joshua E. Hughes, the signer of the within and foregoing instrument, who duly acknowledged to me that he is the Managing Member of WESTWARD DEVELOPMENT, LLC, a Utah Limited Liability Company and was executed by him on behalf of said WESTWARD DEVELOPMENT, LLC, in his capacity as Managing Member.



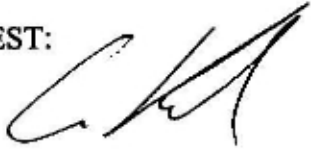

Notary Public

Accepted for Davis County by:


Randy B. Elliott, Chair,
Board of Davis County Commissioners


Curtis Koch,
Davis County Clerk/Auditor

ATTEST:


Curtis Koch,
Davis County Clerk/Auditor



Reviewed and Approved as to Form and Legality:


Michael Kendall,
Davis County Deputy Attorney

STATE OF UTAH)
) ss
COUNTY OF DAVIS)

The foregoing instrument was acknowledged before me this 3rd day of September, 2019 by Randy B. Elliott and Curtis Koch who duly represented to me that they are the Chair of the Board of County Commissioners of Davis County and the Davis County Clerk/Auditor, respectively, and that they each signed the above and foregoing instrument in their official capacity and on behalf of Davis County pursuant to action taken by the Board of Commissioners.




Notary Public

EXHIBIT A

DAVIS COUNTY FLOOD CONTROL - PERMIT APPLICATION - Development/Construction Permits

Drainage Basin: 700 SOUTH DRAIN Basin Section: WEST OF 4500 WEST
Name of Applicant: SUNSET VISTAS / KELLY HUGHES CONSTRUCTION
Address: 1789 S. 3475 W., SYRACUSE, UT 84075
Home Phone: 801-940-6057 Work Phone: 801-940-6057
Location of Permit Work: APPROXIMATELY 950 S. 4800 W., WEST POINT (Discharge/outfall point)

Description of Work (Attach sketch or drawings): TYING STORM DRAIN INTO COUNTY SLOUGH. SEE ATTACHED PLANS. SUNSET VISTAS PUD; SEE PLANS BY CITY CONSULTANTS, GREG DAY, P.E., DATED 8-12-19, 30 LOTS + PARCELS + OPEN SPACE + Private Park

Approval of Other Agencies:
City (FEMA) Floodplain ✓ - West Point City to approve all work per Effective NFIP Mapping - Parcel
State Engineer --- Map # 490110205E (attached)
Army Corp of Engineers ---
Irrigation Companies DAVIS WEDGE CANTON (List) as shown.

Issuance of this permit by Davis County does not supersede the right of other entities which may include but not be limited to city FEMA ordinances and permits, state engineer, Army Corps of Engineers, irrigation companies, other water rights, and rights of local property owners.

The applicant is responsible to obtain all necessary approvals of all other entities.

Applicant does hereby accept any risk of damage, loss, or injury he or any third party may suffer as a result of the issuance of this permit. As a condition of this application, the applicant agrees to protect the County and all other entities from harm or damage caused by work done under this permit and to hold the County harmless for any liability arising from any and all action of this permit.

★ This permit is issued for the limited purpose of certifying that plans and specifications filed by applicant meet the Davis County Flood Control Master Plan requirements. Issuance of the permit does not create any agency relationship between Davis County and the applicant.

The applicant must advise the Flood Control Office one full working day in advance of the start of each phase of work for inspection purposes.

[Signature]
SIGNATURE OF APPLICANT Josh Hughes, Developer

DO NOT WRITE BELOW THIS LINE

(For Office Use Only) Variance for outfall access width @ 700 So. Drain from 20' to 9.4'

Approved By: [Signature] Date: Aug. 27, 2019

Restriction or Comments: ① See Settlement Agreement dated July 29, 2019 on property issues. (attached). ② See all attachments, including storm drain maintenance access easement document to be accepted by Davis County and recorded against the property. ③ See Policy Statements (attached). ④ Fence/gates required to separate 700 So. Channel from development @ all access points, with clear opening of 16' on gates.

Disapproved By: _____ Date: _____
Reasons for Disapproval and Comments: _____

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (this "Agreement") is entered into effective as of this 29th day of July, 2019, by and between the following:

1. Plaintiff DIAMOND RANCH, LLC, a Utah limited liability company; JOHN W. DIAMOND, an individual; and MARILYN S. DIAMOND, an individual, and any other related entities, and each of their (a) past, present and future, direct and indirect parents, affiliates, and subsidiaries, (b) past, present and future officers, directors, employees, agents, principals, attorneys, or shareholders of any of the foregoing but only in their capacity as such; and (c) predecessors, successors or assigns (all of the foregoing are hereinafter individually and collectively referred to as "DIAMOND RANCH").
2. Defendants RICHMOND AMERICAN HOMES OF UTAH, INC., a Colorado corporation, and any other related entities, and each of their (a) past, present and future, direct and indirect parents, affiliates, and subsidiaries, (b) past, present and future officers, managers, directors, employees, agents, principals, attorneys, or shareholders of any of the foregoing but only in their capacity as such, and (c) predecessors, successors or assigns of any of the foregoing (all of the foregoing are hereinafter individually and collectively referred to herein as "RICHMOND").
3. Defendants WESTWARD DEVELOPMENT, LLC, a Utah limited liability company, and any other related entities, and each of their (a) past, present and future, direct and indirect parents, affiliates, and subsidiaries, (b) past, present and future officers, managers, directors, employees, members, agents, principals, attorneys, or shareholders of any of the foregoing but only in their capacity as such, and (c) predecessors, successors or assigns of any of the foregoing (all of the foregoing are hereinafter individually and collectively referred to herein as "WESTWARD").
4. Defendants JOANNE STRACK and RUSSELL A. SIMPSON, co-trustees of the JOSEPH and LOUISE SIMPSON FAMILY TRUST, w/a/d 11/26/1991; JOANNE STRACK and RUSSELL A. SIMPSON, co-trustees of THE JOSEPH G. SIMPSON TRUST, w/a/d 04/05/2011; JOANNE STRACK and RUSSELL A. SIMPSON, co-trustees of THE LOUISE C. SIMPSON TRUST, w/a/d 11/26/1991, and any other related entities, and each of their (a) past, present and future, direct and indirect parents, affiliates, and subsidiaries, (b) past, present and future officers, directors, employees, members, agents, principals, attorneys, trustees, beneficiaries, or shareholders of any of the foregoing but only in their capacity as such, and (c) predecessors, successors or assigns of any of the foregoing (all of the foregoing are hereinafter individually and collectively referred to herein as "SIMPSON").
5. RICHMOND, WESTWARD AND SIMPSON shall hereinafter be collectively referred to herein as "DEFENDANTS." DIAMOND RANCH, RICHMOND, WESTWARD

WESTWARD or RICHMOND, including but not limited to any contractual, tort, statutory, or equitable claim of any kind, directly or indirectly arising out of, involving, or relating to the Litigation and/or the Easement Agreement and/or the Termination Agreement, including but not limited to any claims for attorney's fees, costs, and expert fees.

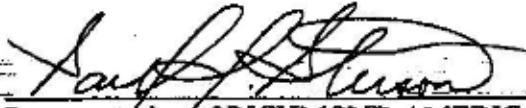
DIAMOND RANCH has on the survey exhibit of the Planning District of Westward and Westar Investments corner, that was done by Davis County (attached hereto as Exhibit X) and accepts the survey as accurate and acceptable. DIAMOND RANCH acknowledges that, if RICHMOND, WESTWARD, or a related company purchase the West Star Property, a storm drain discharge pipe will be ran through WESTWARD's or RICHMOND's property and discharged into the Davis County Slough/McDonald Slough/700 South Drain, which will be done pursuant to Davis County's and West Point City's specifications. DIAMOND RANCH acknowledges that WESTWARD or RICHMOND will give an easement to West Point City and Davis County to access, maintain, repair and replace the storm drain pipe within WESTWARD's or RICHMOND's property, including over property which will eventually be transferred to DIAMOND RANCH in accordance with the terms of Paragraph 7(e). Any fences, ditches, etc. that may be affected during the installation of the storm drain pipe will be restored to their original condition.

The PARTIES agree that any work performed by WESTWARD or RICHMOND under Paragraph 7(d) shall not be performed from April 15 to October 15.

- e. In the event that WESTWARD or RICHMOND, or their assigns or designees, purchase the West Star Property and begin to develop the same, as part of the development process WESTWARD or RICHMOND, or their assigns or designees, will pipe the irrigation ditch located on the north side of the West Star Property, which ditch is identified in Exception 13 of the attached Alta Survey marked as Exhibit XI. WESTWARD or RICHMOND, in its absolute sole discretion, with no rights of review, input or control by DIAMOND RANCH, will prepare the engineered drawings and will submit them to the proper governmental entity for approval. Any piping used in the construction will utilize reinforced concrete pipe (RCP), or a product with similar structural properties that are equal to or better than RCP. The construction will be consistent with the engineering standards and specifications required by the governmental entity. DIAMOND RANCH may observe the construction, but will have no rights to inspect, manage or control the construction of the piping, since the governmental entity will perform an inspection to assure that the reinforcement and tie-in meets with their engineering standards and specifications. DIAMOND RANCH will agree to allow WESTWARD or RICHMOND, and its employees and subcontractors, to have access to the location to perform their work. After the governmental inspections, WESTWARD or RICHMOND is forever disclaiming any responsibility or liability related to the this work including, without limitation, claims asserted or which could have been asserted in, based upon, relating to or arising from facts, claims or circumstances alleged in the current litigation and will completely extinguish and discharge any and all claims against WESTWARD or RICHMOND by DIAMOND RANCH, including but not limited to any contractual, tort, statutory, or equitable claim of

IN WITNESS WHEREOF, the undersigned have signed this Agreement as of and effective the date first appearing above.

Dated this 29 day of JULY, 2019.



Representative of RICHMOND AMERICAN
HOMES OF UTAH, INC.

Printed Name: PAUL J. PETERSON

Title: DIVISION PRESIDENT

STATE OF UTAH

COUNTY OF DAVIS)
SMITH) ss.

Subscribed and sworn to before me on this 29th day of JULY, 2019, by
PAUL J. PETERSON

WITNESS MY HAND and official seal.

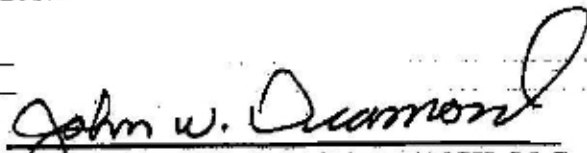


Notary Public
Address:



[seal]

Dated this 29 day of JULY, 2019.



Representative of DIAMOND RANCH, LLC

Printed Name: JOHN W. DIAMOND

Title: OWNER

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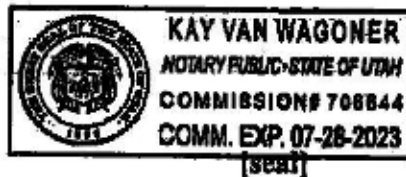
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STATE OF UTAH)
)ss.
COUNTY OF DAVIS)

Subscribed and sworn to before me on this 29th day of JULY, 2019, by
JOHN W. DIAMOND

WITNESS MY HAND and official seal.

[Signature]
Notary Public
Address:



Dated this 29 day of JULY, 2019.

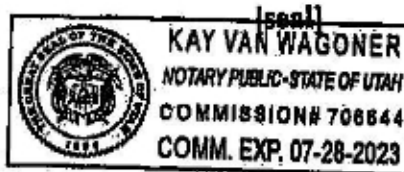
[Signature]
JOHN W. DIAMOND

STATE OF UTAH)
)ss.
COUNTY OF DAVIS)

Subscribed and sworn to before me on this 29th day of JULY, 2019, by
JOHN W. DIAMOND

WITNESS MY HAND and official seal.

[Signature]
Notary Public
Address:



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STATE OF UTAH)
)ss.
COUNTY OF DAVIS)

Subscribed and sworn to before me on this 29th day of JULY, 2019, by
WESTWARD DEVELOPEMENT, LLC

WITNESS MY HAND and official seal.

[Handwritten Signature]

Notary Public
Address:



[seal]

Dated this 29 day of JULY, 2019.

[Handwritten Signature]

Joanne Strack
Co-Trustee of the JOSEPH and LOUISE
SIMPSON FAMILY TRUST, u/a/d
11/26/1991; THE JOSEPH G. SIMPSON
TRUST, u/a/d 04/05/2011; and THE LOUISE
C. SIMPSON TRUST, u/a/d 11/26/1991

STATE OF UTAH)
)ss.
COUNTY OF DAVIS)

Subscribed and sworn to before me on this 29th day of JULY, 2019, by
JOANNE STRACK

WITNESS MY HAND and official seal.

[Handwritten Signature]

Notary Public
Address:



Dated this 29 day of July, 2019.

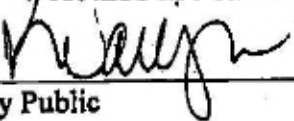


Russell A. Simpson
Co-Trustee of the JOSEPH and LOUISE
SIMPSON FAMILY TRUST, u/a/d
11/26/1991; THE JOSEPH G. SIMPSON
TRUST, u/a/d 04/05/2011; and THE LOUISE
C. SIMPSON TRUST, u/a/d 11/26/1991

STATE OF UTAH)
)ss.
COUNTY OF DAVIS)

Subscribed and sworn to before me on this 29th day of JULY, 2019, by
Russell A. Simpson

WITNESS MY HAND and official seal.



Notary Public
Address:





MAY R. ELCHITT

Davis County Surveyor's Office

201 S. 1st Street

West Point, UT 84384

**SIMPSON'S
9.4 FOOT STRIP LOCATION**

12-046-0056

A PART OF THE NORTHWEST QUARTER OF SECTION 07, T4N, R2W, S18&M, U.S. SURVEY
WEST POINT CITY, DAVIS COUNTY, UTAH



SCALE AS NOTED

1/1



NORTH
GRAPHIC SCALE
1 IN = 100 FT
1/8" = 10' & 1/4" = 25'

SUNSET VISTAS PUD SUBDIVISION

WEST POINT CITY, DAVIS COUNTY UTAH
LOCATED IN THE NORTHWEST QUARTER OF
SECTION 7, TOWNSHIP 4 NORTH, RANGE 2
WEST, SALT LAKE BASE AND MERIDIAN

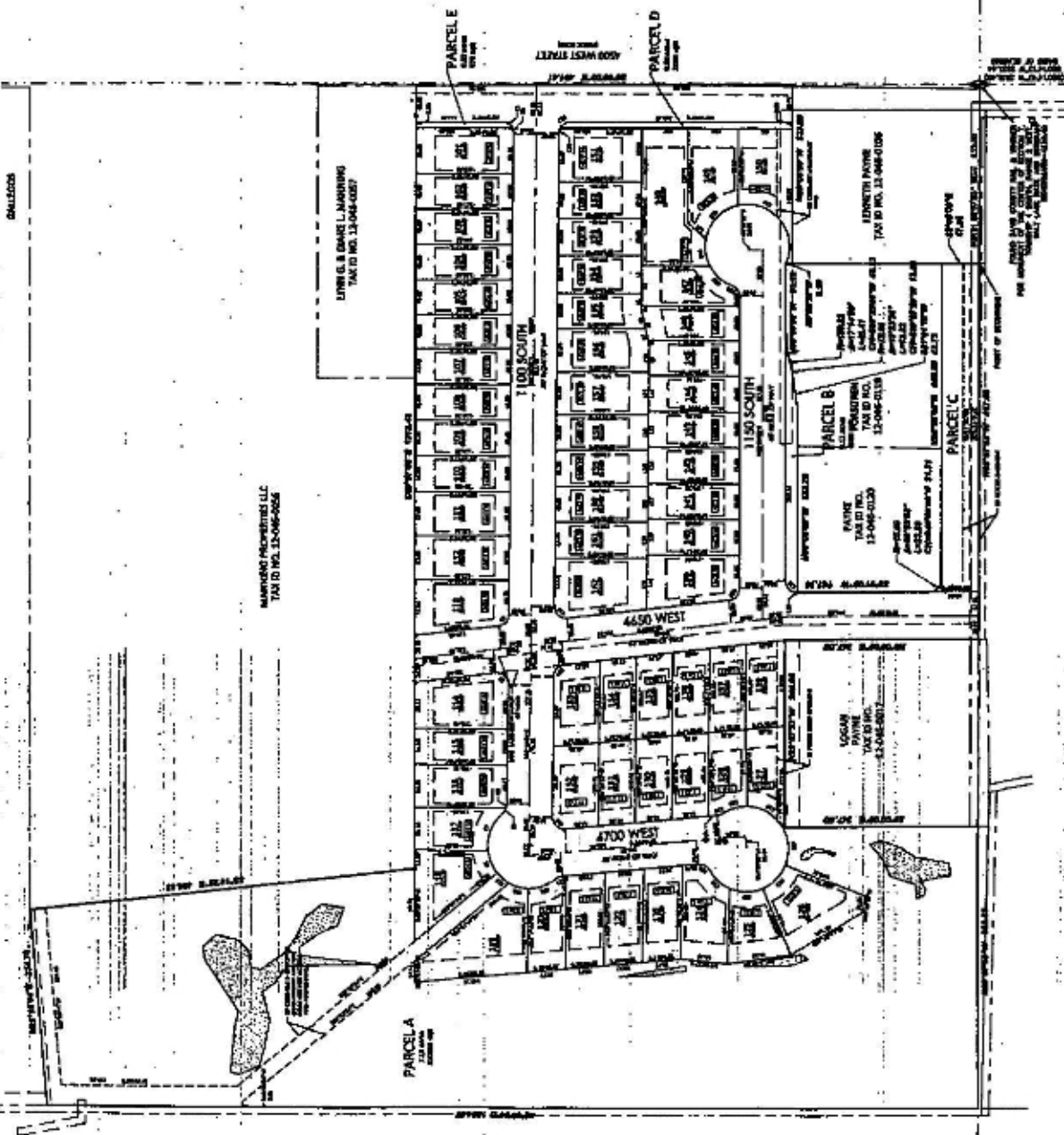
UTAH LAND SURVEYING, LLC
A PROFESSIONAL LICENSED LAND SURVEYING COMPANY

1329 FAIRWAY CIR
FARMINGTON, UT 84105
PHONE 801.725.8395
FAX 801.820.7775
www.utahlandsurveying.com



DEVELOPER
GILLY AND ASSOCIATES
1700 SOUTH MOUNTAIN VIEW
STREETER, UTAH 84057

LEMOND RANCHES LLC
TAX ID NO. 13-046-0282



NOT TO SCALE
FOR INFORMATION ONLY
SEE PLANS FOR DETAILS
AND LEGEND FOR NOTES



LEGEND

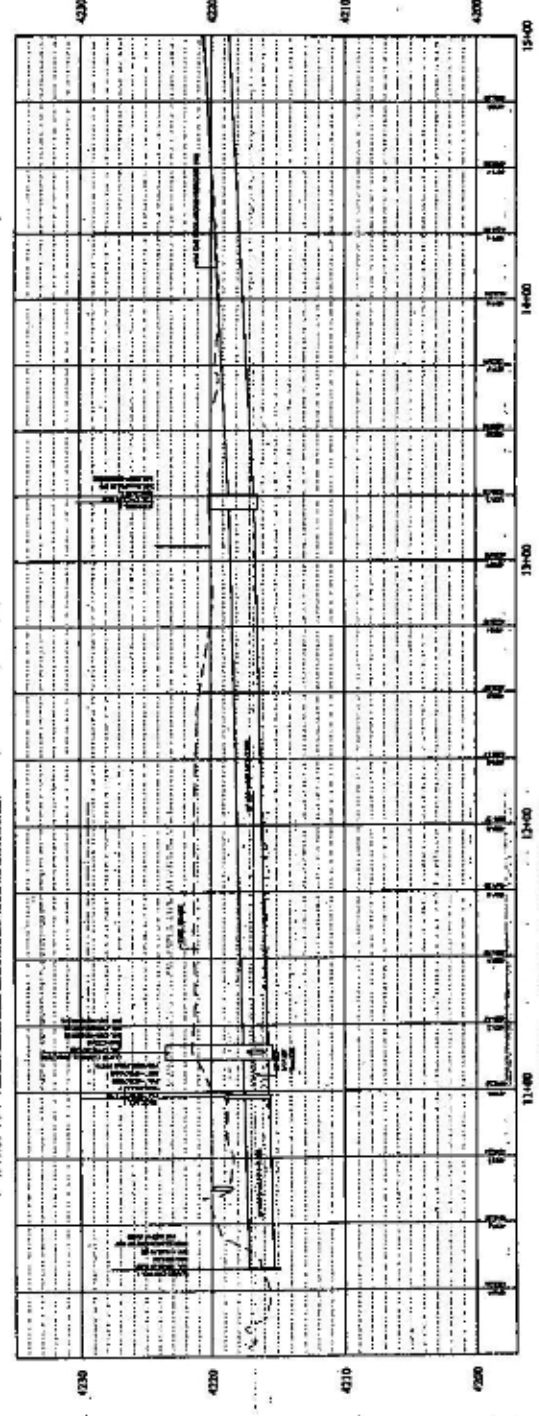
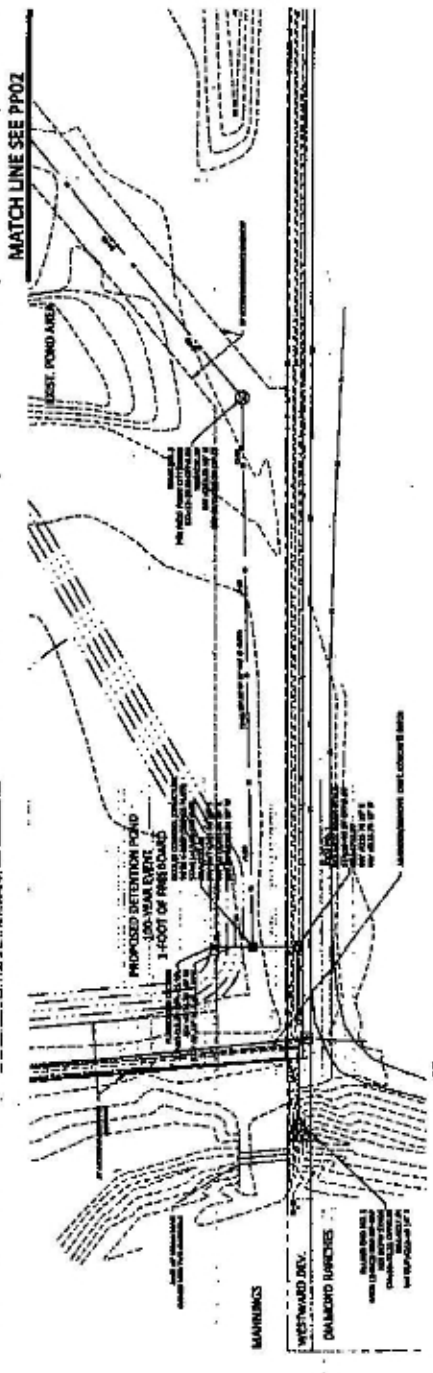
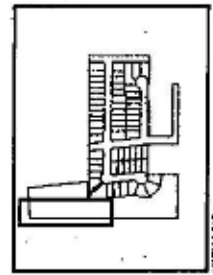
(Symbol)	Proposed Storm Drain
(Symbol)	Proposed Storm Drain Outfall
(Symbol)	Proposed Storm Drain Structure
(Symbol)	Proposed Storm Drain Inlet
(Symbol)	Proposed Storm Drain Outlet
(Symbol)	Proposed Storm Drain Manhole
(Symbol)	Proposed Storm Drain Catch Basin
(Symbol)	Proposed Storm Drain Valve
(Symbol)	Proposed Storm Drain Access Point
(Symbol)	Proposed Storm Drain Structure
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(Symbol)	Proposed Storm Drain Outlet
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(Symbol)	Proposed Storm Drain Valve
(Symbol)	Proposed Storm Drain Access Point

**SUNSET VISTAS PUD
WEST POINT, DAVIS COUNTY, UTAH
STORM DRAIN OUTFALL**

PROJECT NO.	3184906
DATE	11/11/11
SCALE	AS SHOWN
DRAWN BY	J. HARRIS
CHECKED BY	J. HARRIS
APPROVED BY	J. HARRIS
DATE	11/11/11

STORM DRAIN OUTFALL

PROJECT NO.	3184906
DATE	11/11/11
SCALE	AS SHOWN
DRAWN BY	J. HARRIS
CHECKED BY	J. HARRIS
APPROVED BY	J. HARRIS
DATE	11/11/11



REGARDING FENCES, PERMANENT IMPROVEMENTS, ENCROACHMENTS, OBSTRUCTIONS, AND/OR STORAGE ITEMS PLACED IN CHANNELS, ACCESS AREAS, EASEMENTS, OR RIGHTS-OF-WAY FOR THE DAVIS COUNTY STORM DRAINAGE SYSTEM:

Fences, encroachments, and other permanent improvements, structures, or obstructions, including expensive landscaping, large trees, plantings, substantial grading/excavation, fill, rock work, concrete work, fireplaces, flower boxes, storage items, pools, and anchored equipment/utility boxes, may be installed within the recorded drainage easement, right-of-way, public-utility/local drainage easements only upon application, review and issuance of an individual Davis County Flood Control Permit issued prior to any construction, placement, or alteration within these critical (special flood hazard) areas, with the express understanding that Davis County may remove or alter such as needed for access and channel maintenance and/or repair by heavy equipment and trucks, or during any emergency response operation with the same, without their repair, replacement, reimbursement, or reconstruction by the County or its agents. Fencing and gates may be of removable construction upon prior review, approval, and permitting. All gates should be lockable; Davis County Public Works must be provided with a readily available key or combination for any lock(s) placed on the gates upon request to avoid compulsory removal, as necessary, during an emergency. Improperly installed locks can be removed, as necessary, upon notice to the owner and may not be returned or replaced.

OPERATION AND MAINTENANCE OF DESIGNATED CHANNEL SYSTEM/ACCESS AREAS / EASEMENTS.

By virtue of Davis County Ordinance #01-87, along with the Amended Davis County Flood Control Policies and Standards, together also known as the codified Davis County Utah Code of Ordinances, Chapter 12.04-Storm Drainage System, Davis County reserves to itself the right of entry by agents, employees, contractors, and others to survey, plan, construct, operate, and maintain any improvements, structures, piping, access way, or earthen channels as may be deemed necessary to promote adequate flood control and drainage system operational conditions, particularly within critical flood areas such as public drainage/utility easements, public rights-of-way, and designated/prescriptive natural drainage channel in Unincorporated and Incorporated areas of Davis County. These critical flood areas are defined as the area designated on the official Flood Control Base Map of Davis County, and/or the area within 100 feet of each side of the centerline of any of the natural or man-made, designated storm drainage channels, systems, conduits, or piped facilities identified by Ordinance, and as interpreted by the Davis County Flood Control Director. Any changes that could adversely affect access, flow capacity, or operational conditions within these critical flood areas, or increase discharge points or storm drainage volumes into these channel systems, are strictly regulated and/or prohibited except by written permit. Absolutely no dumping, motorized vehicles, large equipment access and operation, obstructions, or storage is allowed unless permitted in writing. Furthermore, no trespassing is allowed on private property or through/over any fences or locked gates provided for these critical flood areas without the current consent of the owner of record and/or Davis County Flood Control.

This Policy Statement Adopted March 1, 2018, by Davis County Public Works/Flood Control.

Plan Review Disclaimer: By signing the Davis County Flood Control Permit application form, the applicant agrees that the permit is for the limited purposes noted thereon and that any ensuing review, 'Restrictions and Comments', and other notations/attached documents are explanatory extensions of those limitations, that any further verbal or written explanations of standards are offered as relative public information for the applicant's use under their discretion in compliance with the Davis County Flood Control Ordinance #01-87, the Davis County Utah Code of Ordinances, Chapter 12.04—Storm Drainage System, and the applicable Flood Damage Prevention Ordinances of the local jurisdictions, with the recommendation to the permit applicant to acquire competent consultation from duly-licensed professionals in the ultimate design and re-design of the permitted work, and the execution of that design/permitted work to its successful construction completion, operation, maintenance, and in full compliance with all related agency requirements.

[Updated November 1, 2017]

City Floodplain Manager to approve all permanent construction/structures/equipment/grading on all site plans, including exterior wall openings and surrounding final grade elevations, for floodplain development, storm water management, and flood protection purposes, listing the determined Base-flood Elevations (BFE), Lowest-Living Floor Elevations (LLFE), and showing the 100-yr floodplain boundary where appropriate, and in compliance with the Effective FEMA NFIP Maps/FIS Reports, including any map/study revisions, boundary/zone changes, and best available data, and in accordance with FEMA Bulletins #1-98 and #10-01, as amended.