

4143838

AGREEMENT

16. 10/11
 \$ _____
 REG OF _____
 DEP _____
 SEP 30 1 18 PM '85
 KATHLEEN BEYON
 RECORDER
 SALT LAKE COUNTY,
 UTAH
 SCOTT DUCKWORTH
 320 So 3rd St
 Salt Lake City, UT 84111

AGREEMENT entered into this 16th day of September, 1985, by and between the BIG COTTONWOOD LOWER CANAL COMPANY, a Utah nonprofit corporation, hereinafter referred to as "Big Cottonwood," and PLAZA 4200, LTD., a Utah limited partnership, hereinafter referred to as "Plaza."

WITNESSETH:

WHEREAS, Plaza is the owner of a tract situate in Salt Lake County, Utah, across which a section of the canal of the Big Cottonwood Lower Canal Company traverses; and

WHEREAS, Plaza desires to construct and maintain a pipeline for the piping of the said canal; and

WHEREAS, Big Cottonwood is willing to consent to the piping of its canal as it traverses the property of Plaza upon the terms and conditions herein set forth;

NOW, THEREFORE, in consideration of the mutual undertakings of the parties, IT IS HEREBY AGREED AS FOLLOWS:

1. Plaza is granted permission to construct and maintain a pipeline for the piping of the canal of Big Cottonwood as it traverses the property of Plaza, which pipeline shall be made of corrugated metal pipe and shall be no less than 36 inches in diameter, and Plaza shall at all times maintain the same in good condition and hold Big Cottonwood harmless from any defect therein or from any damage resulting to any other person or entity

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resulting from a defective condition of said pipeline or failure to maintain the same. The said real property of Plaza referred to in this paragraph is located in Salt Lake County, Utah, and is described on Exhibit A annexed hereto.

2. Plaza agrees that it will construct and maintain a cleanout on said pipeline at the south boundary of Plaza's property and will maintain a cleanout on said pipeline 75 feet from the north boundary of Plaza's property, such cleanouts to be used to facilitate any cleaning of the canal that is necessary.

3. Plaza agrees to keep the pipeline clean and free of debris at all times and to maintain the same in good condition so as not to disrupt the flow of the water as it traverses the property of Plaza, and Plaza agrees to maintain grade throughout. Plaza agrees to comply with all building and zoning requirements of any and all governmental agencies having jurisdiction, and if any agency requires a larger pipe or other modification, Plaza agrees to comply therewith. Plaza warrants that it is the owner of the property and authorized to execute this agreement.

4. Plaza agrees that it will hold Big Cottonwood harmless from any damages, claims, liability or loss or leakage of water from, or other negligent or wrongful act arising from, or in connection with, the said pipeline or other related improvements. To guarantee the undertaking of Plaza as set forth herein, Plaza agrees to deposit with Big Cottonwood the sum of \$500, which will be held by Big Cottonwood without interest and as a nonrefundable

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deposit, to guarantee performance by Plaza of the provisions of this agreement.

6. If Plaza shall fail to perform its obligations hereunder, then Big Cottonwood shall have the right to perform the said work and to pay for the same from the aforesaid \$500 deposit, and if the said deposit is not sufficient, Plaza agrees to forthwith pay the excess amount, and Plaza also agrees to at all times maintain the said deposit with Big Cottonwood in the full sum of \$500.

7. This agreement shall be binding upon the parties, their successors and assigns.

8. It is understood and agreed that Big Cottonwood shall retain and have, with respect to the pipeline all rights which it has had with respect to the canal, and this agreement is not intended to restrict the same in any way, except as herein set forth.

9. Plaza will purchase from Big Cottonwood one (1) share of Big Cottonwood Stock for \$50 per share, and agrees to pay all lawful assessments relating thereto as they may be adopted in the future by Big Cottonwood, and agrees that in the event of default in any such payment in the future, Big Cottonwood may pay the assessment from the aforesaid \$500 deposit referred to in paragraph 5, and Plaza agrees to immediately reimburse Big Cottonwood in the amount of any such payment to maintain the aforesaid \$500 deposit intact.

10. If requested by Big Cottonwood, Plaza will execute an instrument for recording summarizing the rights and obligations of the parties as contained herein.

11. Plaza shall be permitted to allow runoff water from its parking and road areas to drain into the said canal, provided Plaza constructs and installs in a workmanlike manner and in accordance with the plans annexed hereto as Exhibit B (two pages) a catch basin on each drain line before the same enters the canal. This permission is granted subject to the restrictions set forth on Exhibit B and subject to compliance with all requirements of Salt Lake County and of any other entity having jurisdiction, with which Plaza agrees to comply. The permission granted herein is subject to approval of Salt Lake County and such other entity (if any) if required.

12. Plaza agrees to reimburse Big Cottonwood its attorney's fees and costs in connection with this matter in the total sum of \$220.00.

DATED the 16th day of September, 1985.

BIG COTTONWOOD LOWER
CANAL COMPANY
a Utah Nonprofit Corporation:

By


President

Attest:


Secretary

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PLAZA 4200, LTD.,
a Utah Limited Partnership
By Its General Partner:
GOLDER DEVELOPMENT CORPORATION
a Utah Corporation

By *William E. Fallon*
William E. Fallon,
President

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

On the 16th day of September, 1985, personally appeared before me HOWARD E. HARDY, president, and EDWIN E. LUCK, secretary, who, being by me duly sworn, did say, each for himself, that he, the said HOWARD E. HARDY is the president, and he, the said EDWIN E. LUCK, is the secretary of BIG COTTONWOOD LOWER CANAL COMPANY, a Utah nonprofit corporation, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its board of directors, and said HOWARD E. HARDY and EDWIN E. LUCK each duly acknowledged to me that said corporation executed the same.

Cori Lynn Shaw
Notary Public
Residing at *Salt Lake*

My Comm. Expires:
12/13/88



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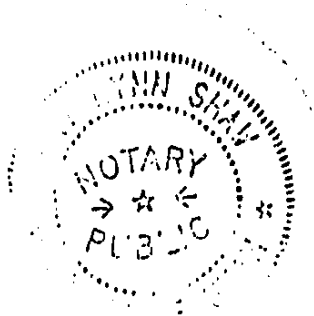
STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

On the 16th day of September, 1985, personally appeared before me WILLIAM E. FALLON, who, being by me duly sworn, did say that he is the president of Golder Development Corporation, a Utah corporation, which corporation is the General Partner of PLAZA 4200, Ltd., a Utah Limited Partnership, and that the within and foregoing instrument was signed in behalf of said corporation (acting as General Partner of Plaza 4200, Ltd., a Utah Limited Partnership), by authority of a resolution of its board of directors, and said William E. Fallon duly acknowledged to me that said corporation executed the same.

William E. Fallon
Notary Public
Residing at Salt Lake

My Comm. Expires:

12/13/88

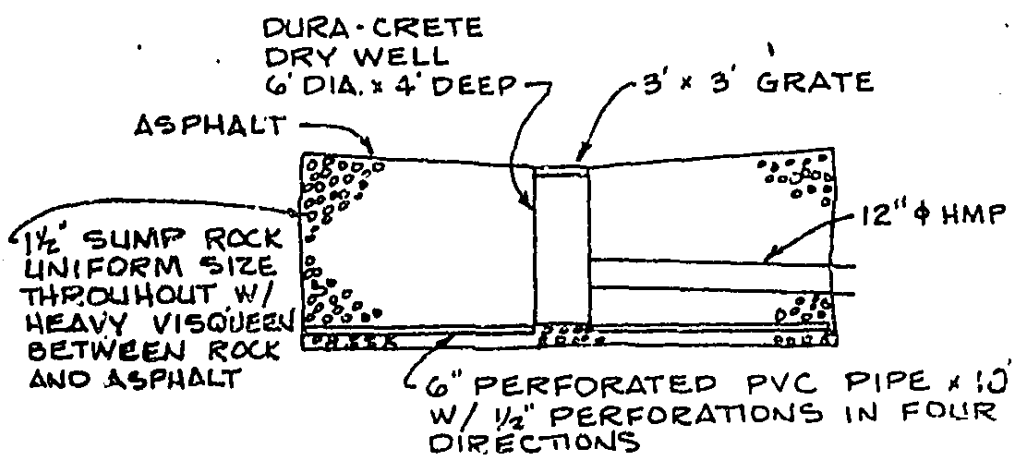
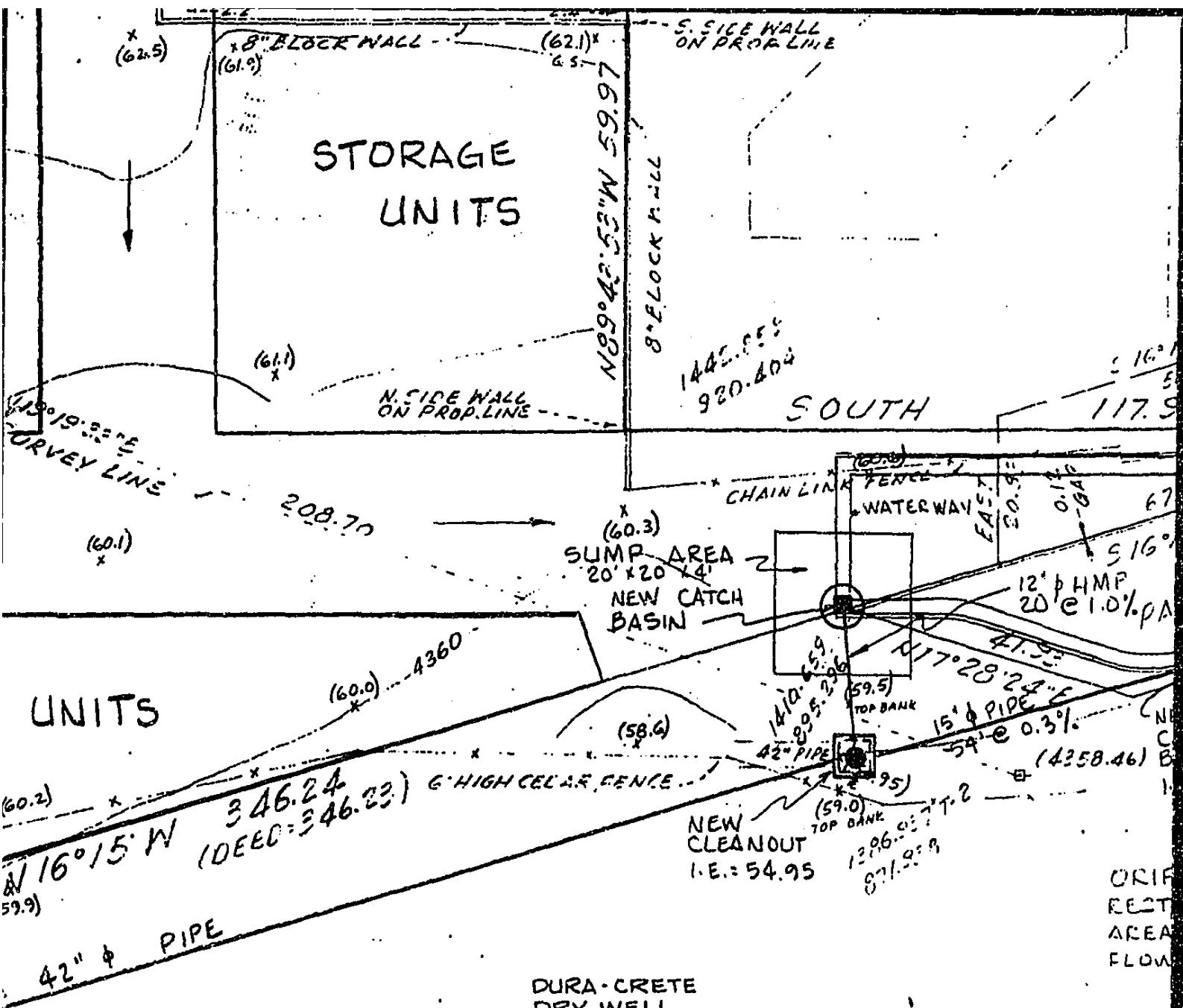


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EXHIBIT A

A 20.0 foot Drainage Easement 10.0 foot each side of the following described Centerline.

BEGINNING at a point on the South Property Line of Grantor's Property, said point being North 391.93 feet and North 89° 57' 11" East 538.41 feet from the Southeast Corner of Lot 5, Block 1, Ten Acre Plat "A" Big Field Survey and running thence North 13° 33' West 242.58 feet to the North Line of Grantor's Property.

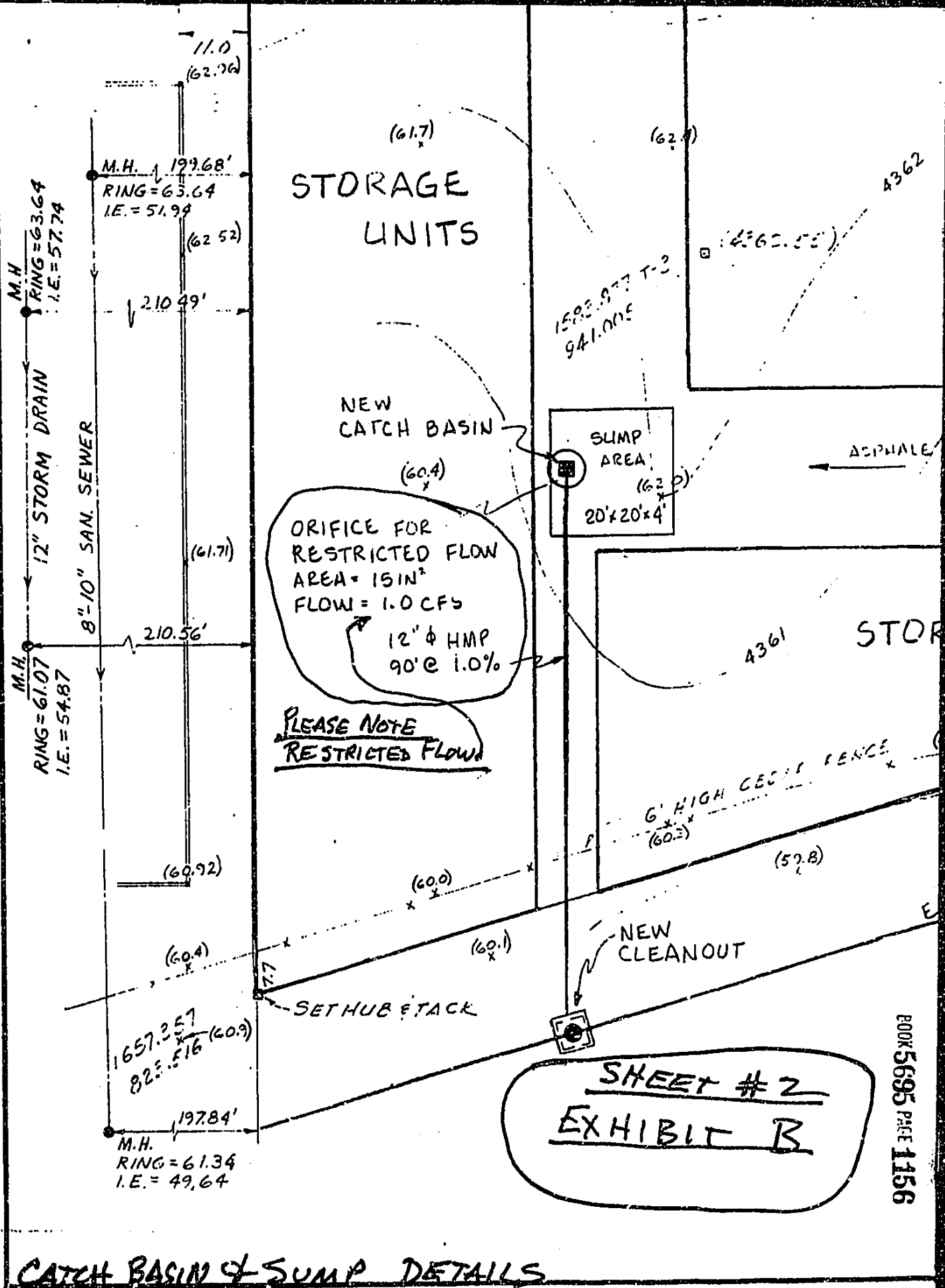


SUMP DETAILS
20' x 20' x 4'

CATCH BASIN DETAILS

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ORIF
RECT
AREA
FLOW



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CATCH BASIN & SUMP DETAILS

BIG COTTONWOOD LOWER CANAL COMPANY, INC.
3446 SOUTH 1360 EAST
SALT LAKE CITY, UTAH 84106

Howard E. Hardy
Jerry M. Nather
Claude L. Argyle
Dewane R. Curtis
Alan S. Peck

Edwin E. Luck
(Secretary 466-1839)

Vernon L. PresLust
(Watermaster 467-1845)

September 13, 1985

DEVELOPMENT REQUIREMENTS

Any subdivider, developer, or builder shall furnish Big Cottonwood Lower Canal Company, Inc. with a plat plan showing where the existing ditch (canal or lateral) is situated, and where he proposes to realign the new ditch.

Any subdivider, developer, or builder give a description of the right-of-way of sufficient width that the ditch can be properly serviced, minimum new right-of-way easment will be determined by the Big Cottonwood Lower Canal Company.

The subdivider, developer, or builder enters into an agreement with Big Cottonwood Lower Canal Company, in which he agrees:

In consideration of Big Cottonwood Lower Canal Company releasing its right-of-way, to grant them a new right-of-way and build a new ditch. Provide plans and specifications and have them approved by Big Cottonwood Lower Canal Company before construction begins.

To construct a new pipeline, the line and type of pipe shall be as per attached specification sheet. The new pipeline will be made waterproof with proper grades maintained to provide for the continued and unobstructed flow of irrigation water through the Developer's property so as not to impair the rights of any duly authorized user of such water, to comply with all building and zoning requirements of any and all governmental agencies having jurisdiction, and if any agency requires a larger pipe or other modification, agrees to comply therewith and that Big Cottonwood Lower Canal Company may require a bond or other security to guarantee the faithful performance of this duty.

To be responsible for the maintenance and repair of any irrigation ditch which is covered, culverted, piped or substantially modified as a result of the construction of said property. To keep the pipeline clean and free of debris at all times and to maintain the same in good condition so as not to disrupt the flow of the water as it traverses the property. Hold Big Cottonwood Lower Canal Company harmless from any damages, claims, liability or loss or leakage of water from, or other negligent or wrongful act arising from, or in connection with, the said pipeline or other related improvements.

To guarantee the undertaking as set forth herein, To deposit with Big Cottonwood Lower Canal Company the sum of \$1000.00, which will be held by Big Cottonwood Lower Canal Company without interest and as a nonrefundable deposit, to guarantee performance of the provisions of this agreement.

If they fail to perform their obligations hereunder, then Big Cottonwood Lower Canal Company shall have the right to perform the said work and to pay for the same from the aforesaid \$1,000 deposit, and if the said deposit is not sufficient, the subdivider, developer, or builder agrees to forthwith pay the excess amount and also agrees to at all times maintain the said deposit with Big Cottonwood Lower Canal Company in the full sum of \$1,000.

This agreement shall be binding upon the parties, their successors and assigns.

It is understood and agreed that Big Cottonwood Lower Canal Company shall retain and have, with respect to the pipeline, all rights which it has had with respect to the canal, and this agreement is not intended to restrict the same in any way, except as herein set forth.

To reimburse Big Cottonwood Lower Canal Company its attorney's fees and costs in connection with this matter.

September 13, 1985

SPECIFICATION SHEET FOR PIPING

Notice to all Subdividers, Developers, and Builders of property in Salt Lake County who have irrigation ditches running through said properties will not tamper with or alter course of any irrigation ditch without the written consent of the Irrigation Company.

All irrigation ditches (canals or laterals) through said properties will be encased in concrete bell and spigoted pipe with gaskets. Minimum size of the pipe will be 16" diameter. Actual size of pipe will be governed by maximum flow of water. Actual size of pipe will be determined by a certified engineer or the Irrigation Company. Some of the smaller laterals may only require 15" or 12" diameter pipe.

All piped irrigation ditches will have a cleanout box every 200 feet (minimum) and a maximum of of 250 feet. A cleanout box will be required at each change of direction. All drawoffs from piped ditches will have a box with approved headgates for opening and closing. All Boxes will have a solid grate across the top with no larger than 3" openings and have a bolted or padlock eye and weigh 300 lbs. The minimum size box shall be 24" square.

On top end of flow of irrigation ditch a cleanout will be provided similar to above specifications. If the ditch is open at the top end, sloped bars at 30 degrees (see sketch) spaced 4" (maximum) apart in the inclined position will be installed.

All work will be approved by the Irrigation Company and any Governmental Agency which may have jurisdiction (if required) and no one else.