



ENT 70359:2020 PG 1 of 11
JEFFERY SMITH
UTAH COUNTY RECORDER
2020 May 26 11:23 am FEE 78.00 BY MA
RECORDED FOR WILDFLOWER

WHEN RECORDED RETURN TO:

Wildflower Developer, LLC
Exchange Place Building B
14034 South 145 East, Suite 204
Draper, Utah 84020

SEWER SYSTEM DEVELOPMENT AND COST SHARING AGREEMENT

THIS SEWER SYSTEM DEVELOPMENT AND COST SHARING AGREEMENT (“*Agreement*”) is made and entered into as of the 10 day of February, 2020, by and between WILDFLOWER DEVELOPER, LLC, a Utah limited liability company (“*WD*”), and Rimrock LLC, a Utah limited liability company (“*Benefitted Owner*”).

RECITALS

A. WD is the designated agent for certain entities owning all or portions of a master development project located in Saratoga Springs City, Utah (the “*City*”), commonly known as “Wildflower” (the “*Wildflower Project*”).

B. Benefitted Owner is the owner of certain property (“*Benefitted Owner Property*”) neighboring the Wildflower Project, which property is more particularly described on Exhibit A attached hereto and depicted on the map attached hereto Exhibit B (the “*Map*”).

C. WD is in the process of designing and constructing a sewer line and related improvements (the “*Sewer System Improvements*”) to be constructed in the approximate location identified on the Map. The Sewer System Improvements are more particularly identified on the plans previously provided to and approved by Benefitted Owner (the “*Plans*”). A portion of the Sewer System Improvements, more particularly identified on the Map part of exhibit B as Node C to Node D (the “*Beneficial Sewer System Improvements*”) will have a direct and material benefit to, among potentially other properties, both the Wildflower Project and the Benefitted Owner Property.

D. In connection with this Agreement, WD and Benefitted Owner desire to agree upon the manner in which such Sewer System Improvements are to be constructed by WD, and the manner in which Benefitted Owner shall reimburse WD for a portion of the costs to design and construct the Beneficial Sewer System Improvements.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Incorporation of Recitals and Exhibits. The foregoing recitals and attached exhibits are hereby agreed to and approved by the parties and are incorporated herein by this reference.

2. Completion of Sewer System Improvements. WD shall use commercially reasonable efforts to cause to be constructed the Sewer System Improvements in accordance with the Plans, as such Plans may be modified in WD's discretion so long as such modifications will not negatively affect the Benefitted Owner Property (in which case written consent from Benefitted Owner to such modifications shall be required). Upon completion of the Sewer System Improvements, WD shall cause the Sewer System Improvements to be dedicated to the City, and Benefitted Owner shall cooperate in connection with such dedication by granting easements or other similar rights as may be reasonably requested by WD or the City.

3. Easement. Benefitted Owner hereby grants to WD, and its contractors, subcontractors, and agents, a temporary construction easement over, under and across the Benefitted Owner Property, to the extent reasonably necessary to construct any and all of the Sewer System Improvements upon the Benefitted Owner Property, as may be identified in the Plans. WD shall use reasonable efforts following completion of the construction of the Sewer System Improvements upon the Benefitted Owner Property to repair any damage caused to such Benefitted Owner Property as a result of the Sewer System Improvements.

4. Sewer System Improvement Costs.

(a) Subject to the reimbursement and cost sharing obligations of Benefitted Owner under this Agreement relating to the Beneficial Sewer System Improvements, and except as provided in the following sentence, WD shall be responsible to engage the contractor and incur the initial payment of all costs and expenses relating to the Sewer System Improvements. Notwithstanding the foregoing, in the event that the City approves the formation of a special assessment area ("*SAA*") covering the areas benefitted by the Sewer System Improvements, the City may issue bonds that will finance the cost of such Sewer System Improvements. The parties agree to cooperate with and consent to any formation of such SAA for said purpose.

(b) In the event that WD incurs the initial cost for such Sewer System Improvements, WD shall send Benefitted Owner one or more requests for payment (each, a "*Request for Payment*") identifying Benefitted Owner's "Allocated Share" of the "Beneficial Sewer System Improvements Costs" (defined below) incurred by WD. Within thirty (30) days after receiving a Request for Payment, Benefitted Owner shall pay WD in full the amount set forth in each Request for Payment. For purposes of this Agreement:

- (i) "Allocated Share" means 2.96% of the Beneficial Sewer System Improvement Costs; and
- (ii) "Beneficial Sewer System Improvement Costs" means all hard and soft costs incurred by WD in connection with the design, permitting, and construction of the Beneficial Sewer System Improvements. WD

shall use its commercially reasonable judgment to determine what portion of costs generally allocable to all Sewer System Improvements are fairly allocable to the Beneficial Sewer System Improvements.

(c) In the event that the City agrees to reimburse to WD any portion of the Sewer System Improvement Costs, whether through impact fee reimbursements or otherwise, the Benefitted Owner shall have the right to receive a portion of such reimbursements equal to the Benefitted Owner's Allocated Share, not to exceed Benefitted Owner's actual out of pocket costs associated with such Beneficial Sewer System Improvements.

(d) Any past due reimbursement obligation of the Benefitted Owner owing in accordance with the terms and provisions of this Agreement shall be secured by, and Benefitted Owner hereby grants and conveys to WD, a lien on the Benefitted Owner Property and all improvements thereto owned by said Benefitted Owner. Such lien shall secure payment of the amount of any unpaid obligation of that Benefitted Owner, together with all interest at the rate of 12% per annum and with all collection and enforcement charges thereon or related thereto, including reasonable attorneys' fees and costs. To evidence a lien for sums due pursuant to this Agreement, WD shall prepare a written notice of lien, setting forth: the original amount of the obligation; the due date thereof; the amount of the obligation remaining unpaid; the name of the Benefitted Owner; and the legal description of the Benefitted Owner Property. Such a notice shall be signed and acknowledged by WD and may be recorded in the office of the Utah County Recorder, State of Utah. No notice of lien shall be recorded until there is a default in payment of the obligation as set forth in this Section 4. Such lien may be enforced by foreclosure and sale conducted in accordance with the provisions of law applicable to judicial foreclosure of deeds of trust or mortgages. In any such foreclosure, the Benefitted Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys' fees) and such costs and expenses shall also be secured by the lien being foreclosed. The Benefitted Owner shall have the right to bid at any foreclosure sale.

5. Insurance. Prior to commencing any work within or otherwise exercising any rights with respect to the temporary construction easement granted herein in connection with the Sewer System Improvements, WD or its contractor shall first provide public liability insurance in an amount of not less than \$1,000,000 per incident and \$2,000,000 in the aggregate, which policy shall also name Benefitted Owner as an additional insured.

6. Entire Agreement; Amendments. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes any prior understandings or agreements by or among the parties, whether written or oral, which may have related to the subject matter hereof in any way. This Agreement may be amended, or any provision of this Agreement may be waived, so long as such amendment or waiver is set forth in a writing executed by each of the parties. No course of dealing between or among the parties shall be deemed effective to modify, amend or discharge any part of this Agreement or any rights or obligations of any party under or by reason of this Agreement.

7. No Third Party Beneficiaries. Nothing herein expressed or implied is intended or shall be construed to confer upon or to give any person or entity, other than the parties and their

permitted successors or assigns any rights or remedies under or by reason of this Agreement.

8. Interpretation. The headings in this Agreement are inserted for convenience of reference only and shall not be a part of or control or affect the meaning hereof.

9. No Waiver. No failure or delay by a party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, and no single or partial exercise thereof shall preclude any right of further exercise or the exercise of any other right, power or privilege.

10. Severability. The parties agree that (a) the provisions of this Agreement shall be severable in the event that for any reason whatsoever the provisions hereof are invalid, void or otherwise unenforceable, (b) such invalid, void or otherwise unenforceable provisions shall be automatically replaced by other provisions which are as similar as possible in terms to such invalid, void or otherwise unenforceable provisions, but are valid and enforceable and (c) the remaining provisions shall remain enforceable to the fullest extent permitted by law.

11. No Strict Construction. The language used in this Agreement shall be deemed to be the language chosen by the parties to express their collective mutual intent, and no rule of strict construction shall be applied against any party. The term "including" as used herein shall be by way of example, and shall not be deemed to constitute a limitation of any term or provision contained herein. Each defined term used in this Agreement has a comparable meaning when used in its plural or singular form.

12. Governing Law and Enforcement. All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by, and construed in accordance with, the laws of the State of Utah without giving effect to any choice of law or conflict of law rules or provisions of any jurisdiction that would cause the application of the laws of any jurisdiction other than Utah. In the event it becomes necessary for either party to enforce this Agreement against the other party, the party found to be in default by a court of competent jurisdiction shall be liable and shall pay all expenses and fees, including attorneys' fees, incurred by the non-defaulting party in enforcing this Agreement.

13. Counterparts. This Agreement may be executed by the parties hereto individually or in any combination, in one or more counterparts (including by means of telecopied or electronically delivered signature pages), each of which shall be an original and all of which shall together constitute one and the same agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

WD:

WILDFLOWER DEVELOPER, LLC, a Utah limited liability company

By: _____
Name: Nathan Shipp
Its: Manager

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

The foregoing instrument was acknowledged before me this 5th day of May, 2020, by Nathan Shipp, as Manager of Wildflower Developer, LLC, a Utah limited liability company, on behalf of such limited liability company.

My commission expires: 11-16-2023

Witness my hand and official seal.

(SEAL)



[Signature]
Notary Public

[SIGNATURE PAGES CONTINUED.]

BENEFITTED OWNER:

By: [Signature]
Name: Mark Hampton
Its: Managing Member

STATE OF UTAH)
)ss.
COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 10 day of February, 2019, by Mark Hampton, as Managing Member of Rimrock Construction²⁰, on behalf of such _____.

My commission expires: 7-17-2022

Witness my hand and official seal.

(SEAL)

[Signature]
Notary Public

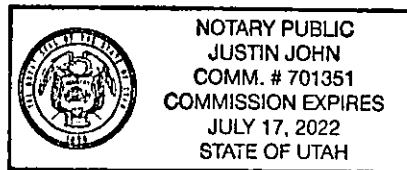


EXHIBIT A

Benefitted Owner Property

SR 73 Sewer Outfall Line Cost Contribution

\$1,207,047.36

Total Cost

Property Number	Tax I.D.	Owner	Accessed Value	Acres	Participation	Participation Amount	% Participation	Notes
Parcel 1	45:173:0012	Ronald J and Marsha Paskett	Not Avail.	2.39	Yes	\$3,175.50	0.26%	Rimrock
Parcel 2	45:173:0010	Jeffrey Le Roy & Julie Webster	Not Avail.	6.2	Yes	\$8,264.26	0.68%	Rimrock
Parcel 3	45:253:0003	Ronald J and Marsha Paskett	Not Avail.	3.9	Yes	\$5,181.77	0.43%	Rimrock
Parcel 4	58:033:0446	Ronald J and Marsha Paskett	Not Avail.	7.09	Yes	\$9,420.20	0.78%	Rimrock
Parcel 5	45:173:0008	Ronald J and Marsha Paskett	\$271,300	4.68	Yes	\$6,218.13	0.52%	Rimrock
Parcel 6	45:177:0001	C&C Legacy LLC	\$403,300	5.2	Yes	\$6,842.60	0.57%	X Development
Parcel 7	58:033:0331	Tamara Rignwood Gray	\$1,182,100	12.7	Yes	\$16,913.84	1.40%	X Development
Parcel 8	58:033:0333	Larry Grant Montensen	\$755,600	9.65	Yes	\$12,821.56	1.06%	X Development
Parcel 9	52:898:0002	Kenneth D. Evans	\$631,600	2.45		\$3,255.22	0.27%	
Parcel 10	52:898:0002	Kenneth D. Evans	\$188,000	2		\$2,657.32	0.22%	
Parcel 11	52:898:0009	Kenneth D. Evans	\$166,000	1.62		\$2,132.43	0.18%	
Parcel 12	52:898:0006	DONALD AND LAURA EVANS STARHAVEN PARTNERSHIP	\$180,800	1.88		\$2,497.88	0.21%	
Parcel 13	52:898:0010	DONALD AND LAURA EVANS STARHAVEN PARTNERSHIP	\$175,400	1.78		\$2,365.01	0.20%	
Parcel 14	52:898:0011	DONALD AND LAURA EVANS STARHAVEN PARTNERSHIP	\$568,600	8.56		\$11,373.33	0.94%	
Parcel 15	58:033:0408	UTAH VALLEY TURF FARM LIMITED PARTNERSHIP	\$4,817,900	19.96	Yes	\$26,520.05	2.20%	Richard Mendenhall
Parcel 16	58:032:0168	UTAH VALLEY TURF FARM LIMITED PARTNERSHIP	\$20,164,600	88.17	Yes	\$117,147.91	9.71%	Richard Mendenhall
Parcel 17	66:556:0001	Turf Farm Land LLC	\$1,267,100	1.38	Yes	\$1,833.55	0.15%	Richard Mendenhall
Parcel 18	66:556:0002	UTAH VALLEY TURF FARM LIMITED PARTNERSHIP	\$913,900	1.33	Yes	\$1,767.12	0.15%	Richard Mendenhall
Parcel 19	69:513:0003	BRP-Sparks Inc	\$3,859,000	4.49		\$5,965.68	0.49%	Tractor Supply
Parcel 20	42:089:0001	IHC Health Services Inc.	Not Avail.	42.51		\$56,481.32	4.68%	
Parcel 21	81:1671-0140	University of Utah	Not Avail.	13.37		\$17,764.18	1.47%	
Parcel 22	57:098:0002	University of Utah	Not Avail.	9.1		\$12,090.80	1.00%	
Parcel 23	58:033:0479	Collins Brothers Land Development LLC	Not Avail.	60.13	Yes	\$79,892.30	6.62%	
Parcel 26	58:033:0455	Collins One LLC	Not Avail.	64.71	Yes	\$85,977.56	7.12%	
Parcel 27	58:022:0154	Sunrise 3 LLC	Not Avail.	59	Yes	\$78,390.91	6.49%	Portion of this property is part of a different sewer outfall further North
Parcel 29	58:022:0136	WF 2 Utah LLC	Not Avail.	474.22	Yes	\$630,076.94	52.20%	
Total				908.47		\$1,207,047.36	100.00%	

Summery Totals

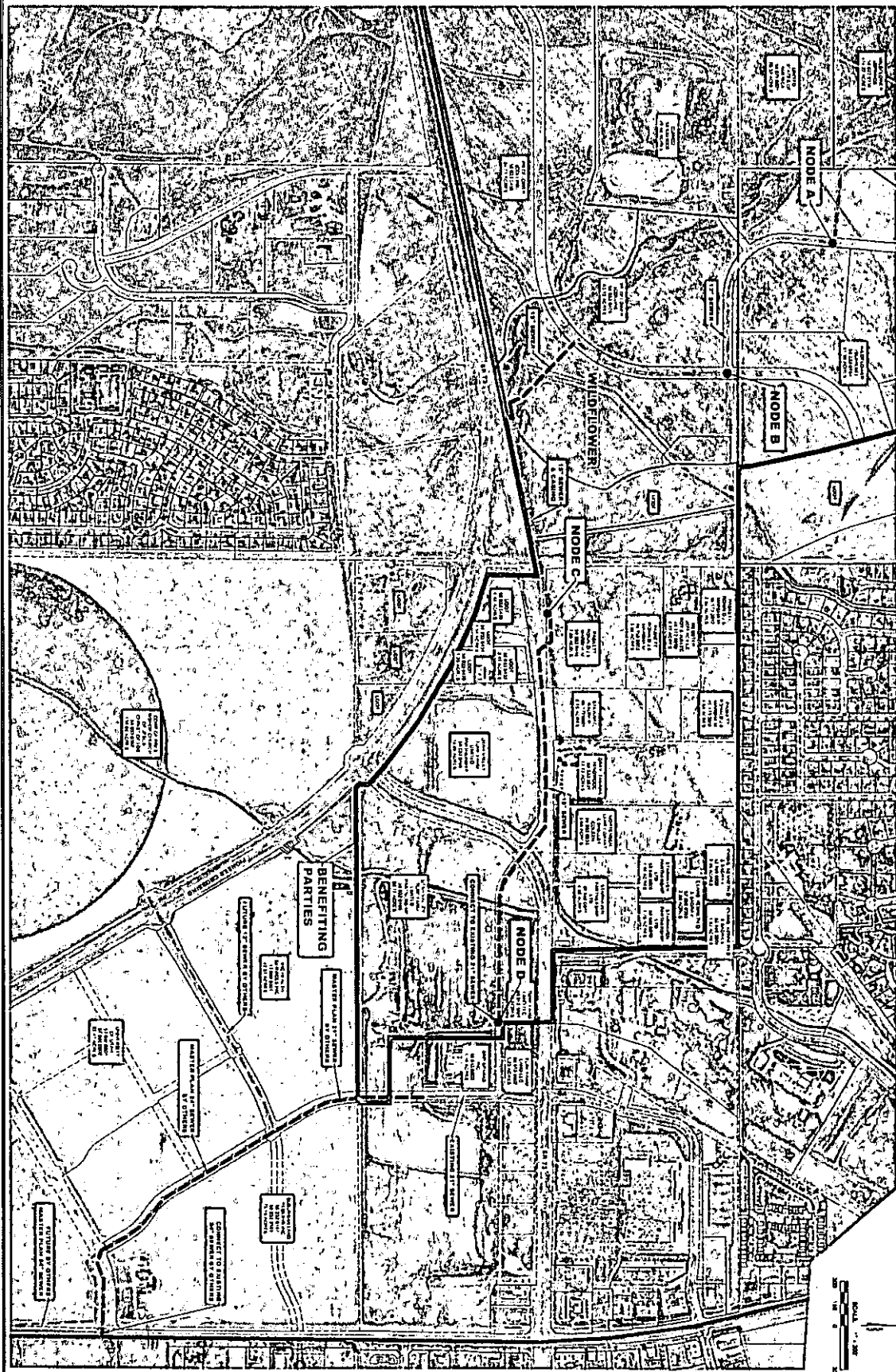
Contributor	Projected Contribution	Actual Contribution
Rimrock	24.28	\$32,259.85
X Development	27.53	\$36,578.00
Kenneth D. Evans	6.07	\$8,064.96
DONALD AND LAURA EVANS STARHAVEN PARTNERSHIP	12.22	\$16,236.22
UTAH VALLEY TURF FARM LIMITED PARTNERSHIP	110.84	\$147,268.63
BRP-Sparks Inc	4.49	\$5,965.68
IHC Health Services Inc.	42.51	\$56,481.32
University of Utah	22.47	\$29,854.98
Wildflower (Associated Groups)	658.06	\$874,337.72
Total Contributing Acres	820.71	\$1,207,047.36

Saratoga Springs SR73 Sewer Expansion Cost Contribution

Total Cost	\$1,207,047.36			
Landowners	Wildflower	X Development	Rimrock	Mendenhall
% Responsible	80.18%	3.35%	2.96%	13.51%
Responsible Portion of Zone 1	\$967,832.23	\$40,489.35	\$35,709.46	\$163,016.33

EXHIBIT B


Map of Property and Sewer System Improvements



NO.	DESCRIPTION
1	AS SHOWN
2	AS SHOWN
3	AS SHOWN
4	AS SHOWN
5	AS SHOWN
6	AS SHOWN
7	AS SHOWN
8	AS SHOWN
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10	AS SHOWN
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49	AS SHOWN
50	AS SHOWN

WILDFLOWER
 SARATOGA SPRINGS CITY, UTAH
**(SOUTH) OFFSITE SEWER BENEFITING
 PARTIES EXHIBIT**

DATE: 10/15/2019
 DRAWN BY: JLR
 CHECKED BY: JLR
 PROJECT NO.: 1427/1911



RPT
 ENGINEERS
 SURVEYORS
 PLANNERS

1100 W. 1000 N.
 SALT LAKE CITY, UT 84119
 (801) 466-1100