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DOC # 20140036639

Page 1 of 10
Agreement
Russell Shirts Washington County Recorder
12/02/2014 04:54:17 PM Fee \$ 0.00
By WASHINGTON CITY



When Recorded Return To:
Washington County School District
121 West Tabernacle
St. George, Utah 84770
Attn: Brent Bills

Tax ID: W-5-3-2-1211

STORM DRAIN PARTICIPATION AGREEMENT

This Storm Drain Participation Agreement ("Agreement"), dated as of November, 25 2014, is entered into by and between the Washington County School District, a political subdivision of the State of Utah (the "District"), and Washington City, a political subdivision of the State of Utah (the "City").

RECITALS

A. The District owns certain real property (the "District Property") described on Exhibit A attached hereto and incorporated herein by this reference, which it intends to develop as a school site in the future.

B. The City desires to construct certain storm drain facilities (the "Storm Drain") in the location depicted on Exhibit B attached hereto and incorporated herein by this reference (the "Site Plan"), which Storm Drain is intended to benefit, among other properties, the District Property.

C. Notwithstanding the District does not have a current need for the Storm Drain, the parties desire to move forward with the construction of the Storm Drain, with the District participating in the cost thereof in exchange for a credit against impact fees that would otherwise be assessed against the District upon development of the District Property and connection to the Storm Drain and capacity in the Treasure Valley regional detention basin.

AGREEMENT

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

1. Recitals. The Recitals are incorporated herein as if fully set forth.
2. Storm Drain Construction, Maintenance and Repair. Subject to the terms and conditions of this Agreement, the City shall construct the Storm Drain in the location set forth on the Site Plan, or such other location as may be agreed upon in writing by the parties hereto. Prior to commencing construction of the Storm Drain, the City shall provide the District copies of any proposed plans/drawings prepared in connection therewith, together with any and all cost estimates/bids related thereto, for the District's review and approval. The District agrees not to

unreasonably withhold approval of such plans/cost estimates. The City shall be solely responsible for the construction, maintenance and repair of the Storm Drain. In the performance of such obligations, the City shall employ commercially reasonable efforts to minimize the damage or disruption to the District Property and any improvements located thereon. The City shall restore, replace, and/or reimburse the District for any damages caused to, the District Property and any improvements located thereon resulting from the City's construction, maintenance and/or repair of the Storm Drain.

3. District Participation; Prepayment of Impact Fees. Upon completion of the Storm Drain, the District shall pay to the City the aggregate amount of \$[145,859] or such other amount as may be mutually agreed by the parties in writing (the "Participation Amount") in reimbursement to the City for the District's share of the costs to construct the Storm Drain and in consideration for the right to use one (1) acre-foot of storm water detention capacity in the Treasure Valley regional detention basin. Such Participation Amount shall be credited against any drainage impact fees that become payable by the District to the City as a result of the development of the District Property and connection of the same to the Storm Drain.

4. Insurance. The City shall at all times maintain in full force and effect with respect to the construction, operation and maintenance of the Storm Drain comprehensive public liability insurance with a financially responsible insurance company or companies in such amounts as are commensurate with standard practices for similarly situated properties.

5. Indemnification. The City shall indemnify, defend, protect and hold the District harmless from and against all losses, damages, injuries, claims, demands and expenses, including legal expenses, of whatever nature related to the construction, operation and/or maintenance of the Storm Drain. The indemnities and assumptions of liabilities and obligations herein provided for shall continue in full force and effect notwithstanding the termination of this Agreement, whether by expiration of time, by operation of law, or otherwise.

6. Default. If any default occurs under this Agreement, and the defaulting party fails to cure the default within 30 days after receipt of written notice, then the non-defaulting party shall have the right to pursue all available equitable and legal remedies, including but not limited to injunctive relief and specific performance. In addition, the non-defaulting party shall have the right, but shall not be obligated, to cure such default. In the event any party brings or commences legal proceedings to enforce any of the terms of this Agreement, the prevailing party in such action shall have the right to recover reasonable attorney's fees and costs from the non-prevailing party, which fees and costs shall be fixed by the court in such action.

7. Further Assurances. Each party hereto shall from time to time and at all times hereafter make, do, execute, or cause or procure to be made, done and executed such further acts, deeds, conveyances, easements, consents and assurances without further consideration which may reasonably be required to effect the purposes of this Agreement.

8. Modification. This Agreement may be terminated or modified only by written agreement of the District and the City.

9. Binding Effect. The covenants and conditions in this Agreement shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

10. Entire Agreement. This Agreement contains the entire understanding and agreement between the parties hereto and supersedes any prior written or oral agreements between them respecting the subject matter contained herein. There are no representations, agreements, arrangements or understandings, oral or written, between and among the parties hereto relating to the subject matter of this Agreement that are not fully expressed herein.

11. Severability. If any provision of this Agreement shall be or become invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby.

12. Governing Law. This Agreement and the rights and obligations hereunder of the parties hereto shall be governed by the laws of the State of Utah.

13. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed effective when actually received or refused by the recipient if sent by overnight delivery service which maintains a record of delivery made or certified or registered mail, postage prepaid, return receipt requested, and sent to the parties at their address as set forth below or to such other address as the parties may designate by written notice in the above manner.

If to the District: Washington County School District
121 West Tabernacle
St. George, Utah 84770
Attn: Brent Bills

If to the City: Washington City

Attn: _____

14. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which, collectively, shall be deemed one and the same instrument.

15. Headings. The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above.

Washington City

Washington County School District

By: *Kenneth F. Neilson*
Name: Kenneth F. Neilson
Title: Mayor

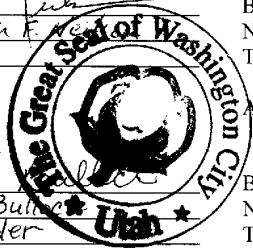
By: *Calvin R. Duffey*
Name: CALVIN R. DUFFEY
Title: BOARD PRESIDENT

Attest:

Attest:

By: *Danice B. Bullock*
Name: Danice B. Bullock
Title: City Recorder

By: *Brent Bills*
Name: BRENT BILLS
Title: BUSINESS ADMINISTRATOR



STATE OF UTAH)
) ss.
COUNTY OF WASHINGTON)

The foregoing instrument was acknowledged before me this 25th day of November, 2014, by Kenneth F. Neilson, Danice B. Bullock.

Jana Penz
NOTARY PUBLIC
Address: Washington, UT
My Commission Expires: 2/24/17



STATE OF UTAH)
) ss.
COUNTY OF WASHINGTON)

The foregoing instrument was acknowledged before me this 28 day of October, 2014, by Calvin Duffey, Brent Bills.

Jeanne M. Madsen
NOTARY PUBLIC
Address: 121 W. Tabernacle St. George Utah 84770
My Commission Expires: 7/25/2015

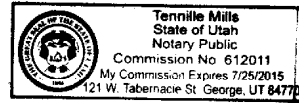


EXHIBIT A

(Legal Description – District Property)



43 South 100 East, Suite 100 T 435.628.6500
St George, Utah 84770 F 435.628.6553

alphaengineering.com

EXHIBIT "A"

WASHINGTON COUNTY SCHOOL DISTRICT PARCEL W-5-3-2-1211 (October 21, 2014)

Parcel #1

The South 50 Acres of the following described parcel:

Beginning at the East ¼ Corner of Section 2, Township 43 South, Range 15 West, Salt Lake Base and Meridian; Thence South 89°34'37" West, along the Center Section line, 2658 feet to the Center ¼ Corner of said Section 2; Thence North 00°06'52" West 1404.55 feet; Thence North 32°23'40" East, 562.37 feet; Thence North 89°32'56" East, 2354.38 feet; Thence South 00°09'25" East, 1878.31 feet to the Point of Beginning.

Parcel #2

Beginning at the Center ¼ Corner of Section 2, Township 43 South, Range 15 West, Salt Lake Base and Meridian; Thence South 89°13'23" East, 2126.36 feet along the Center Section line; Thence South 00°42'55" West, 445.84 feet to the point of a 730.00 foot radius non-tangent curve to the right, of which the radius point lies North 04°51'37" West; thence westerly, 71.33 feet along the arc of said curve through a central angle of 05°35'55"; Thence North 89°15'42" West, 1353.24 feet to the beginning of a 730.00 foot radius curve to the left, thence southwesterly, 966.34 feet along the arc of said curve through a central angle of 75°50'44"; Thence North 01°04'03" East, 1002.26 feet to the Point of Beginning.

Less the following described parcel:

Beginning at the East ¼ Corner of Section 2, Township 43 South, Range 15 West, Salt Lake Base and Meridian; Thence North 89°13'23" West, 531.25 feet along the Center Section line; Thence North 00°42'12" East, 586.08 feet; Thence North 41°11'54" West, 273.84 feet; Thence North 00°46'38" East 30.00 feet; Thence South 89°13'22" East, 718.53 feet to a point on the East line of said Section 2; Thence South 01°00'46" West, 819.67 feet to the Point of Beginning.

Less the following described parcel:

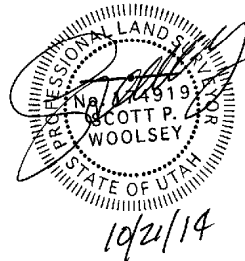
Beginning at the Southwest corner of Parcel 1 of Kensington Subdivision, according to the Official Plat thereof, Records of Washington County, said point being located South 01°03'05" West, along the Center Section line, 1837.31 feet from the North ¼ Corner of Section 2, Township 43 South, Range 15 West, Salt Lake Base and Meridian and running thence South 89°15'52" East, along the south line of said parcel 1, a distance of 278.70 feet to a point on a 250.00 foot, non tangent curve to the left, said point being on the centerline of the proposed extension of Treasure Valley Drive, the radius point of which bears South 10°08'51" East; thence along the arc of said curve and said centerline, 135.28 feet and through a central angle of 31°00'18", to the point of a 225.00 foot reverse curve to the right, the radius point of which bears North 41°09'08" West; thence along the arc of said curve and said centerline 164.48 feet and through a central angle of 41°53'07"; Thence North 89°16'01" West, along said centerline 9.42 feet to a point on the Center Section line; Thence North 01°03'05" East, along said line, 116.89 feet to the Point of Beginning.

WCSD PARCEL W-5-3-2-1211
OCTOBER 21, 2014

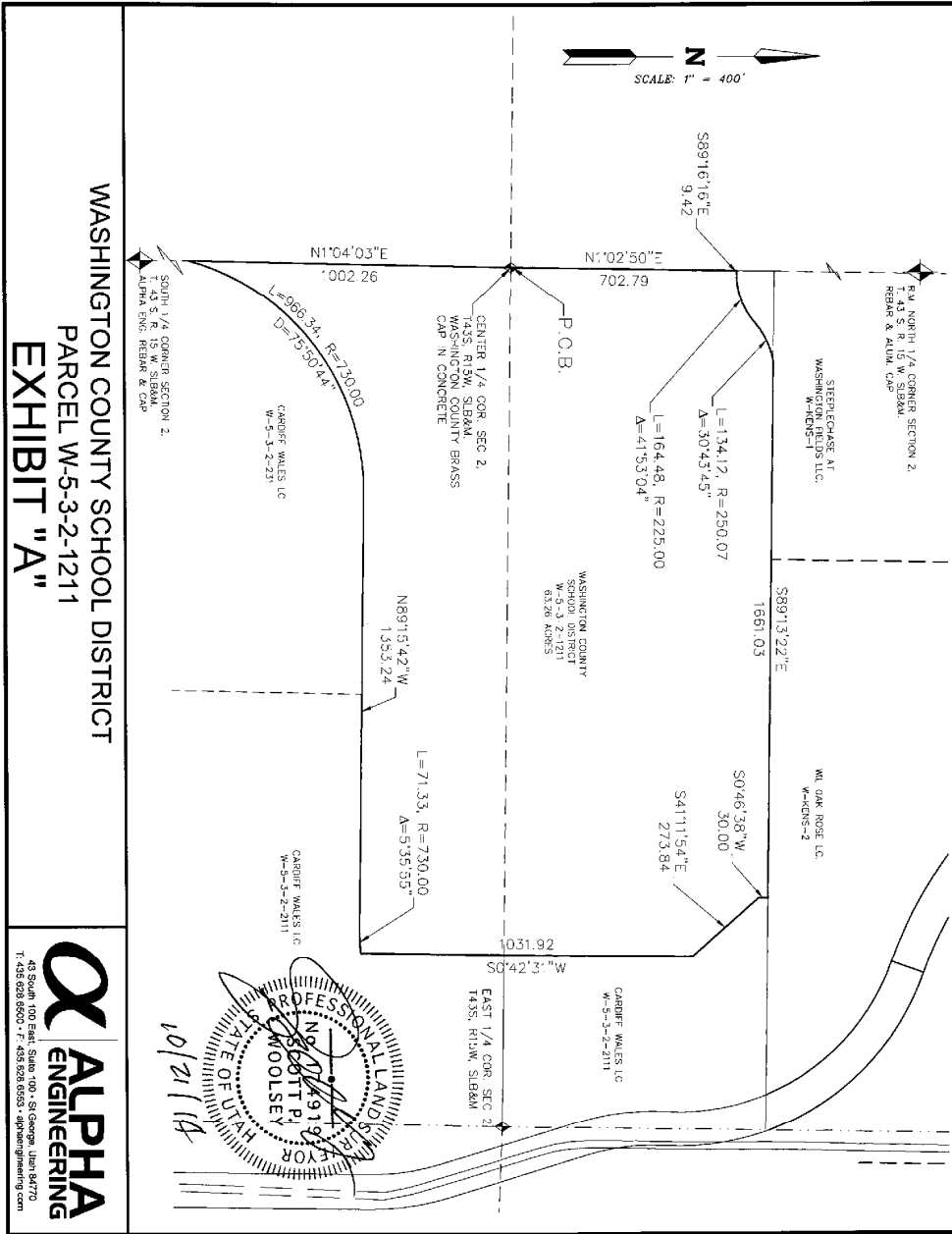
As Surveyed Description

Beginning at the Center ¼ Corner of Section 2, Township 43 South, Range 15 West, Salt Lake Base and Meridian; Thence North 01°02'50" East, along the Center Section line, a distance of 702.79 feet; Thence South 89°16'16" East, a distance of 9.42 feet to the beginning of a curve to the left having a radius of 225.00 feet and a central angle of 41°53'04", thence easterly along the arc of said curve, a distance of 164.48 feet to the beginning of a non tangent curve to the right, of which the radius point lies South 41°09'12" East, a radial distance of 250.07 feet, thence northeasterly along the arc of said curve, through a central angle of 30°43'45", a distance of 134.12 feet; Thence South 89°13'22" East, a distance of 1,661.03 feet; Thence South 00°46'38" West, a distance of 30.00 feet; Thence South 41°11'54" East, a distance of 273.84 feet; Thence South 00°42'31" West, a distance of 1,031.92 feet to the beginning of a non tangent curve to the right, of which the radius point lies North 04°51'37" West, a radial distance of 730.00 feet, thence westerly along the arc of said curve, through a central angle of 05°35'55", a distance of 71.33 feet; Thence North 89°15'42" West, a distance of 1,353.24 feet to the beginning of a curve to the left having a radius of 730.00 feet and a central angle of 75°50'44", thence southwesterly along the arc of said curve, a distance of 966.34 feet to a point on the Center Section line; Thence North 01°04'03" East, along said line, a distance of 1,002.26 feet to the Point of Beginning.

Containing: 63.26 acres, more or less.



P:\032-133-2013-02\Drawings\Survey Drawings\032-133SVY.dwg, WCSO W-5-3-2-1211, 10/21/2014 9:22:02 AM, swoolsey



WASHINGTON COUNTY SCHOOL DISTRICT
 PARCEL W-5-3-2-1211
 EXHIBIT "A"

ALPHA ENGINEERING
 46 Spauld. 100 East, Suite 100 - St. George, Utah 84770
 T: 435 628 6500 F: 435 628 6553 alphaengineering.com

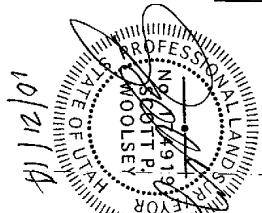
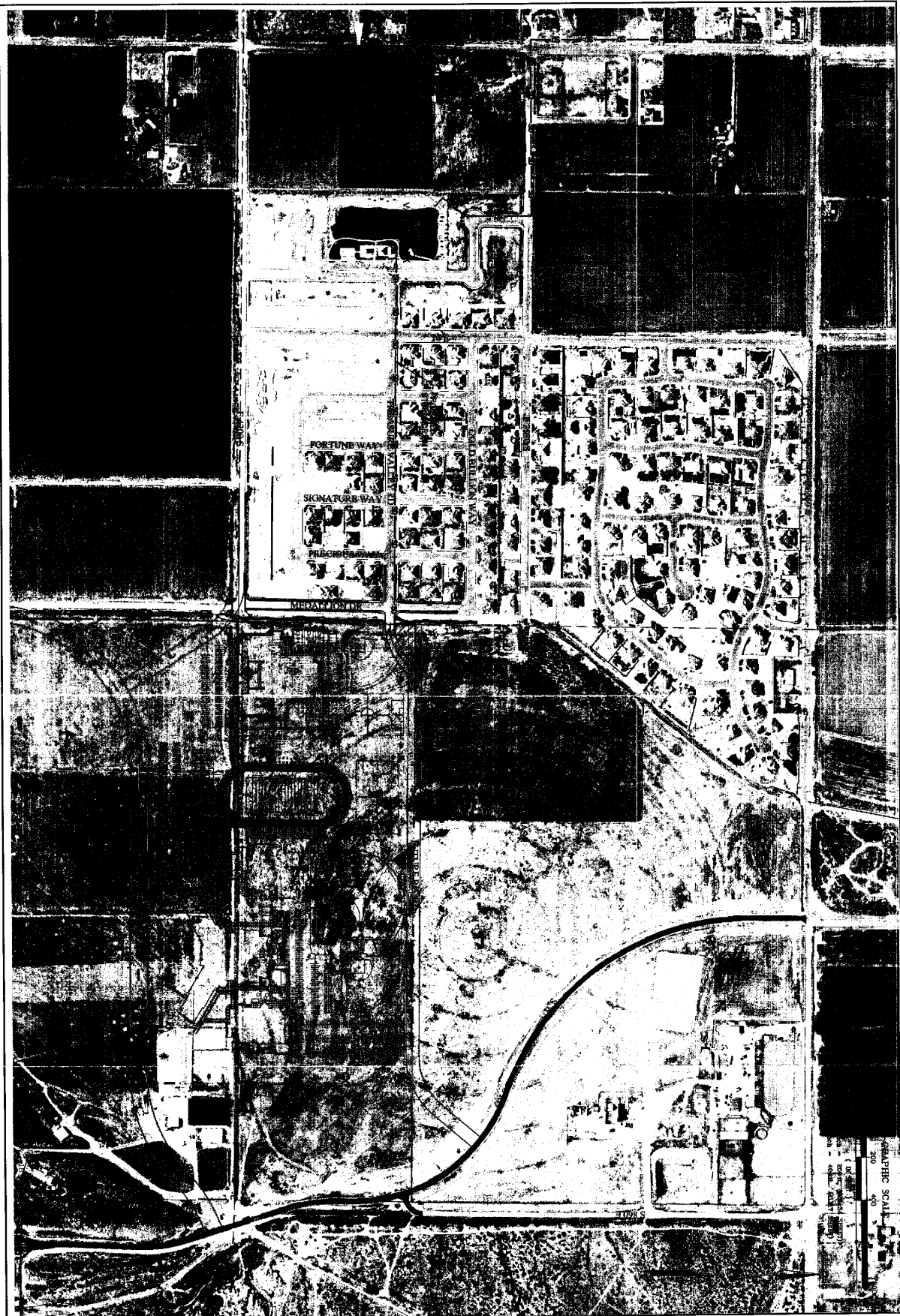


EXHIBIT B

(Site Plan)

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NO. DATE BY DESCRIPTION
1
DATE: 12/02/14
BY: JML
APP: EVOE, TIBBY
DESIGNED BY: AS MASON

PRELIMINARY SCHOOL SITE
 WASHINGTON FIELDS
 WASHINGTON COUNTY SCHOOL DISTRICT

ALPHA ENGINEERING
 43 South 100 East, Suite 100 • St George, Utah 84770
 T: 435.626.6500 • F: 435.626.6593 • alphaengineering.com

NO.	DATE	BY	DESCRIPTION