

BOOK 1041

RECORDED AT REQUEST OF
Fruit Heights City

0705849

1985 JUN 28 AM 10:33

PAGE 89

CAROL DEAN PAGE
DAVIS COUNTY RECORDER

AGREEMENT AB

DEPUTY 97 FEE 12.00

Page 3 of 8

THIS AGREEMENT, made between FRUIT HEIGHTS CITY, a municipal corporation, hereinafter "City", and the undersigned property owners, hereinafter "Owners", on the dates opposite the signatures of the owners;

W I T N E S S E T H:

WHEREAS, Owners are the owners of individual parcels of real property situated on the South or Southwesterly side of Green Road in Fruit Heights City, Utah; and

WHEREAS, the several properties occupying this status are outlined on the plat attached hereto as Schedule "A"; and

WHEREAS, the parties agree that Green Road needs to be widened and to do so will require Owners to deed and dedicate certain portions of their property frontage to the City which has been agreed to previously; and

WHEREAS, certain improvements for the parcels owned by Owners have not been included within any subdivision development and the parties have reached an agreement with Fruit Heights City concerning the expenses for the installation of improvements as well as the impact that development may have on existing and contemplated utilities and owners responsibility therefor.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein set forth, it is agreed as follows:

1. Owners hereby agree to simultaneously transfer and convey to the City, by Special Warranty Deed (attached as Schedule "B"), the necessary property for the widening of Green Road.

2. City agrees to bear the expense of the asphalt paving for the widening of the roadway along the frontage of Owners' property, and those changes to present culinary water lines, secondary water, sewer, underground power, fire hydrants, as is needed for widening of said road;

3. Owners shall be responsible for the cost of all improvements except those agreed by City in (2), including, but not limited to:

(a) Curb, gutter and sidewalk; said sidewalk to be installed at such time as the need for a sidewalk is determined by the City, in any case, the sidewalk shall not be installed concurrently with the curb and gutter.

(b) Owners acknowledge that there may presently exist, or may in the future exist, ground water in or upon their property, and agree that the expense incurred by Owner in dealing with the water shall be the Owner's expense. Owner further agrees to hold City harmless from any expense occasioned by such ground water.

4. The value/cost of the curb and gutter and later for the sidewalk for which the owner will be responsible will be established by the lowest of at least three (3) bids at a public bid opening.

5. The improvements contemplated herein, excepting the sidewalk, will be installed by the City when the City makes major improvements on that portion of Green Road. The sidewalk shall be installed, at Owner's expense, at such time as the need for a sidewalk is established by the City Council of Fruit Heights.

6. Owners shall compensate City for the installation of the improvements (whether before or after the actual installation) pursuant to a schedule to be determined by the City and individual parcel owners. Owners agree that the installation of improvements shall confer a value upon each individual parcel, and to the extent of that value shall constitute a good and valid encumbrance against the parcel, which, unless agreed otherwise by the City, shall draw interest at the legal rate until paid in full.

7. Parties agree that the covenants and agreements entered into herein, including the encumbering of property until payment to the City is made in full, shall be construed as covenants running with the land, acknowledging that this instrument will be recorded in the office of the Davis County Recorder and in all respects be treated as a covenant to run with the land. The effects and consequences of this agreement shall be fully binding upon the heirs, devisees, assignees and transferees of the parties hereto.

8. The City shall have no obligation to issue building permits to Owners unless and until Owners have complied with the terms of this agreement.

9. In the event it becomes necessary to enforce the terms and conditions of this agreement by recourse to an attorney, the prevailing party shall be entitled to a reasonable attorney's fee and all costs incurred in the enforcement of this agreement.

IN WITNESS WHEREOF, the parties hereto have caused their names or the names of the duly authorized officers or agents to be signed hereunder,

DATED THIS 18th day of June, 1985.

FRUIT HEIGHTS CITY,

Dean O. Brand
Dean O. Brand, Mayor

ATTEST:

Debra M. Provost
City Recorder

STATE OF UTAH)
) : ss.
County of Davis)

On the 18th day of June, 1985, personally appeared before me DEAN O. BRAND, who being by me duly sworn did say that he is the Mayor of FRUIT HEIGHTS CITY, a municipal corporation, and that he executed the within instrument on behalf of said corporation by authority of a resolution of its board of directors, and he duly acknowledged to me that said corporation executed the same.

Debra M. Provost
Notary Public
Residing at Fruit Heights, Utah

My Commission Expires:

Nov. 16, 1986

OWNERS:

Glen S. Porter

Bonnie J. Porter

STATE OF UTAH)
County of David) SS,

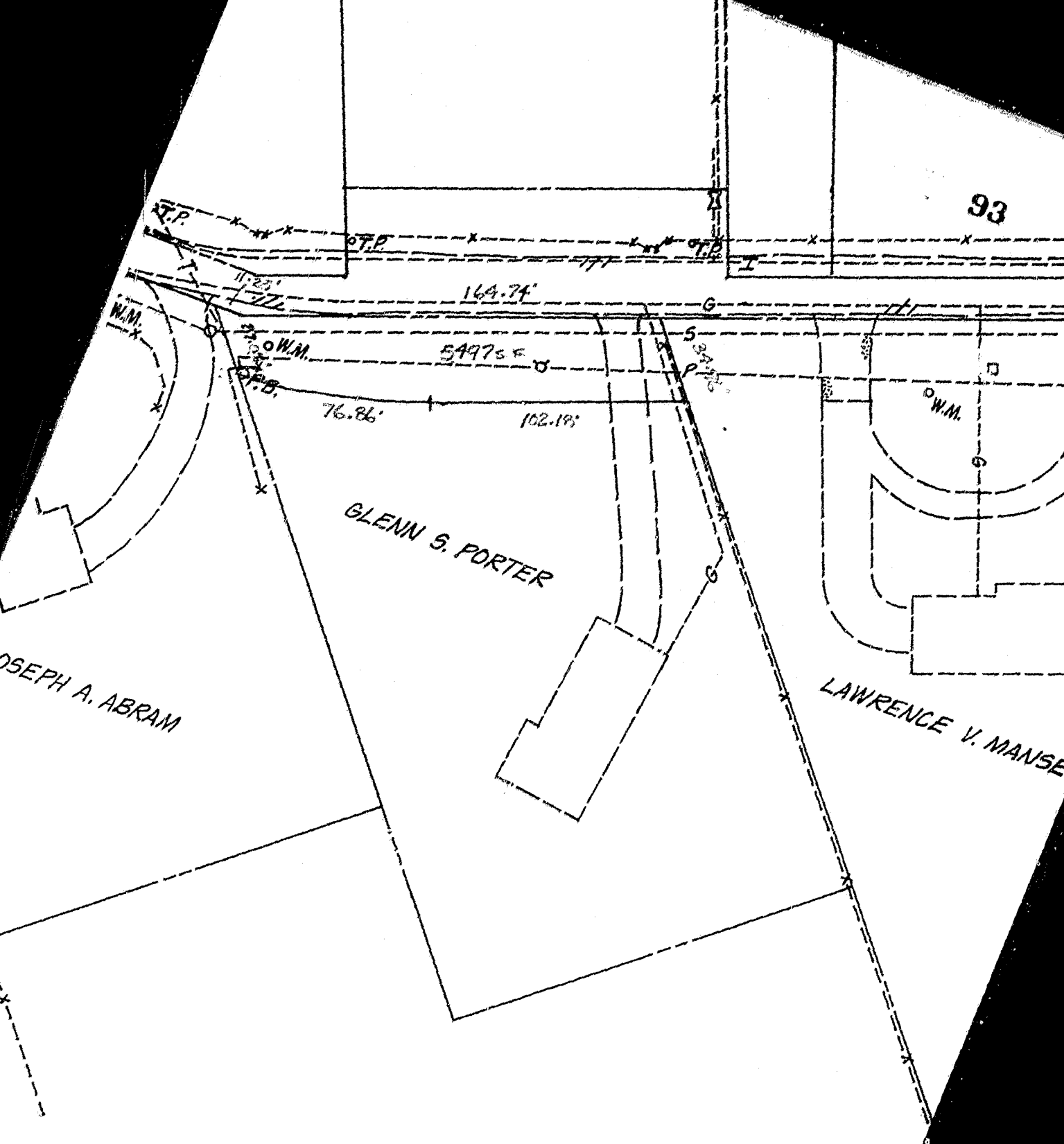
On the 13th day of June, 1985, personally appeared before me Glen S. & Bonnie J. Porter, signers of the within the instrument, who being by me duly sworn did say they execute the same,

Delva M. Shovast
Notary Public
Residing at Fruit Heights, Utah

My Commission Expires:

Nov. 16, 1986

93



JOSEPH A. ABRAM

GLENN S. PORTER

LAWRENCE V. MANSE

SCHEDULE "A"



CONSULTING ENGINEERS

94

GREEN ROAD IMPROVEMENT PROJECT

Right-of-Way Acquisition

TO: Fruit Heights City

FROM: Glenn S. Porter and Wife Bonnie Porter

Map 2 & 6.8

Sub 11-1161002

A part of the Southeast Quarter of Section 35, T. 4 N., R. 1 W., S.L.B. & M., U.S. Survey: Beginning at a point in Green Road which is North 190.88 ft. and West 1132.31 ft. from the Southeast corner of said Section 35; running thence South 89° 23' East 11.25 ft. and North 70° 31' East 164.74 ft. along the Grantors North line to the Grantors East line; thence South 38° 46' East 34.96 ft. along said East line; thence South 70° 31' West 102.18 ft.; thence along the arc of a 258.70 ft. radius curve to the right a distance of 76.86 ft. to the Grantors West line; thence North 38° 46' West 27.05 ft. along said West line to the point of beginning.

Contains 5,487 s.f.

(0.126 ac.)

SCHEDULE "A-1"

Recorded at Request of _____
 at _____ M. Fee Paid \$ _____
 by _____ Dep. Book _____ Page _____ Ref.: _____
 Mail tax notice to _____ Address _____

WARRANTY DEED

(Special)

GLENN S. PORTER and BONNIE PORTER grantor
 of Fruit Heights, Utah hereby

CONVEY AND WARRANT against all claimants, through or under

to FRUIT HEIGHTS CITY, a municipal corporation grantee

of Davis County, State of Utah for the sum of

TEN and No/100 _____ and other good and valuable consideration _____ DOLLARS,

the following described tract of land in Davis County,

State of Utah:

A part of the Southeast Quarter of Section 35, T.4 N., R. 1W., S.L.B. & M., U.S. Survey: Beginning at a point in Green Road which is North 180.88 ft. and West 1132.31 ft. from the Southeast corner of said Section 35; running thence South 89° 23' EAST 11.25 ft. and North 70° 31' EAST 164.74 ft. along the Grantors North line to the Grantors EAST line; thence South 38° 46' EAST 34.96 ft. along said EAST line; thence South 70° 31' West 102.18 ft.; thence along the arc of a 258.70 ft. radius curve to the right a distance of 76.86 ft. to the Grantors West line; thence North 38° 46' WEST 27.05 ft. along said West line to the point of beginning.
 Contains 5,497 s.f.
 (0.126 ac.)

WITNESS, the hand of said grantors, this thirteenth (13) day of June, A. D. 1985

Signed in the Presence of
[Signature]

[Signature]
[Signature]

STATE OF UTAH,

County of Davis } ss.

On the 13th day of June, A. D. 1985
 personally appeared before me GLENN S. PORTER & BONNIE PORTER

the signers of the within instrument, who duly acknowledged to me that they executed the same.

[Signature]
 Notary Public.

My commission expires Nov. 16, 1986 Residing in Fruit Heights