

RESOLUTION 08-2020

**A RESOLUTION APPROVING ENTRY INTO AN AGREEMENT
TO SELL DETENTION BASIN CAPACITY**

WHEREAS, the Developers of the Northwood Hills Subdivision desired to purchase some of the excess capacity in the Oaklawn Park Detention Basin (“Oaklawn Basin”); and,

WHEREAS, North Ogden City has a design and plan to increase the acre feet of storage capacity available in the Oaklawn Basin; and,

WHEREAS, North Ogden City desires to allow for the use of the excess capacity generated from the new design in the Oaklawn Basin in exchange for repayment of costs associated with the basin upgrades and other storm water improvements; and,

WHEREAS, the Developers desire to install improvements to convey storm water from 2600 N. and the Northwood Hills Subdivision to the Oaklawn Basin, including the upsizing of several storm water lines; and,

WHEREAS, North Ogden City has a plan to resolve sewer issues related to several homes on 2500 N. who are currently utilizing a large septic system; and

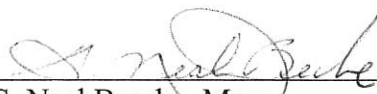
WHEREAS, North Ogden City has a desire for trail improvements associated with the connection between Oak Lawn Park and Barker Park; and

WHEREAS, Developer has a desire to utilize a portion of City owned property to install a sanitary sewer line.

BE IT THEREFORE RESOLVED by the North Ogden City Council that this Agreement is hereby approved and that the City’s Mayor and Recorder are authorized and directed to execute and deliver the attached Agreement on behalf of the City.

DATED this 11th day of February, 2020.

NORTH OGDEN CITY:

By 
S. Neal Berube, Mayor

CITY COUNCIL VOTE AS RECORDED:

	Aye	Nay
Council Member Barker:	<u>X</u>	___
Council Member Cevering:	<u>X</u>	___
Council Member Ekstrom:	<u>X</u>	___
Council Member Stoker:	<u>X</u>	___
Council Member Swanson:	<u>X</u>	___

(In event of a tie vote of the Council):

Mayor Berube: ___ ___

ATTEST:

S. Annette Spendlove
S. Annette Spendlove, MMC
City Recorder

AGREEMENT #A2-2020
A DEVELOPMENT AGREEMENT FOR CERTAIN PUBLIC INFRASTRUCTURE
IMPROVEMENTS IN THE NORTHWOOD HILLS SUBDIVISION

RECITAL OF PARTY RESPONSIBILITIES

1. The Oaklawn Basin was constructed with potential additional storage capacity that could be used to serve upstream development.
2. The developer of the Northwood Hills Subdivision, Visionary Homes, (“Developer”) wants to use the excess storage capacity in the Oaklawn Basin to serve 26.3 acres of the Northwood Hills development as shown on the attached Exhibit A.
3. The City Council has agreed to allow the Developer to purchase excess storm water storage capacity (1.0 acre feet) in the Oaklawn Basin.
4. In order to convey the storm water to the Oaklawn Basin the Developer will design and construct a new storm drain outfall lines as outlined on Exhibit A.
5. The design of the outfall lines has been approved by the City Engineer.
6. The Developer will pay for and apply for all permits, approvals, design, and construction costs associated with the storm drain changes.
7. North Ogden City will reimburse the Developer as follows for the improvements
 - a. \$32,587.38 for Storm Drain Improvements between 2600 N. and the Oaklawn Basin
 - b. \$23,478.25 for Storm Drain Improvements along 1125 E. in phase II of the development
 - c. \$49,009.00 for Detention Basin Improvements for the Oaklawn Basin.
8. Developer shall pay \$25,000 for the easement for the sewer line, storm drain line, and storm drain detention capacity, in addition to other improvements constructed or shown on the approved plans.
9. Developer shall install during phase II of the development a sanitary sewer line to connect the homes on 2500 north to the Northwood Hills sanitary sewer system. There will not be any upsizing required through the Northwood Hills subdivision.
10. North Ogden City and Visionary Homes shall evaluate the sewer system connection for phase 2 and agree upon a reimbursement amount which shall be approved by the Mayor and City Engineer. Visionary Homes shall contribute \$12,250 towards the expense of connecting sewer to homes in Coldwater Subdivision on 2550 North.
11. Developer shall install an asphalt trail as outlined on Exhibit A.
12. North Ogden City shall allow for the installation of the sewer line as approved by the City Engineer.
13. All work within the public right-of-way shall conform to North Ogden City Standards and Specifications.

AGREEMENT

Visionary Homes (“Developer”) and North Ogden City (the “City”) (collectively “Parties”) agree to the sale of excess capacity in the Oaklawn Park Detention Basin (“Oaklawn Basin”) and permission to utilize city property for sewer line installation. The Parties agree that the bargained for exchange is up to \$67,822.63 to handle the issues of storm water and trails. The Parties also agree that the Developer shall be required to install new or upsize existing storm water outfall lines to accommodate the expected flows of storm water as described in the Recitals and exhibits. Further the Parties agree that the Developer shall install sanitary sewer lines during phase II with a cost reimbursement as approved by the Mayor and Engineer.

Payment

Payment shall be made by the City to the Developer upon sign official signoff by the Public Works inspector of the various improvements as outlined on attached exhibits.

Reservation of Facilities

The City agrees to hold 1.0 acre feet of detention capacity in reserve in the Oaklawn Basin for the Northwood Hills Subdivision Phases.

General Provisions

The following provisions are also integral parts of the Agreement.

- a) Binding Agreement. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto. This agreement may be recorded against the property by either party.
- b) Captions. The headings used in this Agreement are inserted for reference purposes only and shall not be deemed to define, limit, extend, describe or affect in any way the meaning, scope or interpretation of any of the terms or provisions of this Agreement or intent hereof.
- c) Severability. The provisions of this Agreement are severable and should any provision hereof be void, voidable or invalid, such void, voidable, unenforceable or invalid provision shall not affect the other provisions of this Agreement.
- d) Waiver of Breach. Any waiver by either party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of or consent to any subsequent beach of this Agreement.
- e) Cumulative Remedies. The rights and remedies of the parities hereto shall be construed cumulatively and none of such rights and remedies shall be exclusive of, or in lieu or limitation of any other right, remedy or priority allowed by law.
- f) Amendment. This Agreement may not be modified except by an instrument in writing signed by both parties hereto.
- g) Interpretation. This Agreement shall be interpreted, construed and enforced according to the substantive laws of the State of Utah.
- h) Attorneys’ Fees. If any action or proceeding is brought by either party to enforce a provision of this Agreement, the prevailing party shall be entitled to recover its costs and

reasonable attorney's fees whether such sums are expended with or without suit at trial, on appeal or in any bankruptcy proceeding.

i) Notice. Any notices or other communication required or permitted to be given hereunder shall be deemed to have been received (a) upon personal delivery or actual receipt thereof or (b) within three (3) business days after such notice is deposited in the United States mail, postage prepaid and certified and addressed to the parties at their respective addresses set forth below.

j) Entire Agreement. This Agreement is only for the sale of excess capacity in the Oaklawn Basin and is not meant to create additional obligations for either party for payments, reimbursements, or other exchanges which are not expressly identified in this agreement. This Agreement constitutes the full and entire understanding and agreement of the parties with regard to the subjects discussed herein and related to the land area identified on Exhibit A.

k) Further Assurances. Each party to this Agreement shall do and perform or cause to be done and performed all such further acts and things and shall execute and deliver all such other agreements, certificates, instruments and documents as the other party hereto may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

Visionary Homes:

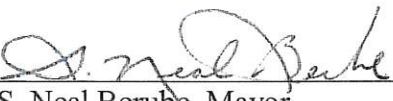
Jeff Jackson
50 E 2500 N,
North Logan, UT 84341

City:


Annette Spendlove
505 E. 2600 N.
North Ogden, UT 84414

j) Incorporation of Recitals. The recitals set forth above are hereby incorporated by reference as part of this Agreement.

NORTH OGDEN CITY:

By 
S. Neal Berube, Mayor

ATTEST:


S. Annette Spendlove, MMC
City Recorder

DATED this 28 day of February, 2020.

Visionary Homes:

By [Signature]

its MANAGING MANAGER

STATE OF UTAH)
) : ss.
COUNTY OF Cache)

The foregoing instrument was acknowledged before me this 9 day of March,
2020, by Kaye Lucherini.

[Signature]
NOTARY SIGNATURE AND SEAL

