

SETTLEMENT AGREEMENT AND RELEASE

This SETTLEMENT AGREEMENT AND RELEASE (“Agreement”) is made and entered into by and between the CITY OF GRANTSVILLE, a municipal corporation of the State of Utah (“City”) and South Willow Ranches, LLC, herein referred to individually as a “SWR” and collectively as the “parties.”

RECITALS:

A. SWR applied for and received approval from City in 2006 to subdivide 47 acres of property into 43 lots within Grantsville City's corporate limits, which subdivision is identified as South Willow Ranches, Phase 2.

B. Pursuant to the requirements of City's Land Use Management and Development Code, SWR on September 18, 2006 entered into a Subdivision Improvements Agreement with City, guaranteeing that the required subdivision improvements would be timely completed and that said improvements would remain free from defects or damage through September 18, 2010.

C. City through its Maintenance Department Supervisor had numerous contacts with SWR prior to the end of the contract period, requesting that the failures and deficiencies in the subdivision improvements be corrected.

D. City through its Maintenance Department Supervisor made numerous contacts with SWR prior to the end of the contract period, requesting the failures and deficiencies in the subdivision improvements be corrected.

E. SWR as of September 15, 2009 had failed to complete and repair the deficiencies, defects and damages to the subdivision improvements as required by the terms of the Subdivisions Improvements Agreement and even though some work and repairs have been made by SWR, incomplete work and deficiencies still remain.

F. City filed a previous lawsuit in an attempt to recover cost associated with SWR's alleged deficiencies. City received \$2,598.55 as compensation towards SWR's outstanding deficiencies.

G. City filed a cause of action regarding what it perceived as breaches of contract between the parties in the Third District Court in and for Tooele County on August 23, 2011 which included Sea Ray Investments as a codefendant. Sea Ray Investments paid City \$12,451.32 on August 30, 2011 towards any deficiency.

H. Therefore, City has received \$15,049.87 towards these deficiencies.

I. To date, City has paid \$19,014.76 towards SWR's alleged deficiencies.

J. SWR as a part of the approval of South Willow Ranches, Phase 2 agreed to improve a portion of Quirk Street, also located in Grantsville City. City granted SWR the right to recover some of its costs to complete Quirk Street from other property owners that subsequently developed their property adjoining the improved portion of Quirk Street. City has collected some of these Quirk Street recovery fees from other developers. City has collected approximately \$22,103.51 in recovery fees from other property owners located along Quirk Street for the benefit of SWR.

K. The parties now formalize this agreement in an attempt to settle this matter outside of litigation.

AGREEMENT

In consideration of the mutual promises, covenants, releases, and agreements contained herein, the parties agree as follows:

1. SWR agrees to pay City \$2,000.00 in addition to any amounts it has previously collected as a settlement of these issues. This amount shall be retained by City from the \$22,103.51 it has collected as Recovery Rights for SWR on its behalf.

2. The remaining \$20,103.51 City has collected as Recovery Rights and is currently holding shall be paid to SWR as of today.

3. SWR agrees to complete the required improvements to the developments as outlined in the subdivision agreement the parties entered or to the acceptance of City. This includes the trail systems and any other remaining infrastructure required and deficiencies. SWR will improve the Phase 2 trails as follows:

- i. Inspect and clear trails of excess vegetation, rocks, and debris; filling in any holes and leveling trails.
- ii. Complete any trails which have yet to be constructed or provided.

4. SWR agrees to fix the sewer manhole on South Quirk Street which is currently paved over and needs brought to surface level and tied into the existing infrastructure.

5. SWR shall have completed all necessary improvements and infrastructure as required and stated herein by no later than December 31, 2013.

6. If SWR fully performs with the provisions herein, then City will continue to collect SWR's Recovery Right interest as legally required through the duration of that agreement.

7. If SWR fails to complete or to fully comply with the terms herein, SWR shall forfeit any and all interest it holds in the Recovery Right interest agreement to City and City will be allowed to collect the remaining Recovery Rights throughout the duration of that agreement for City's benefit.

8. Any and all Recovery Rights collected between the date of execution of this agreement and its deadline date of December 31, 2013 shall be held by City in trust for the benefit of both parties and shall be provided to the party to which is entitled by the terms of this agreement as of the completion deadline as stated herein.

9. General Release by the parties. Upon execution of this agreement and with the execution and completion of the requirements herein, the parties agree as follows:

- i. City releases and discharges their current litigation against SWR, Case number 110301623.

10. Successors and Assigns. This Agreement shall be binding on, and shall insure to the benefit of, the parties hereto and their respective successors and assigns.

11. Enforcement of Agreement. If any of the parties to this Agreement bring an action or proceeding to enforce its rights hereunder, the prevailing party shall be entitled to recover its costs and expenses, including court costs and attorney's fees, if any, incurred in connection with such action or proceeding, including any court costs or attorneys fees incurred on appeal.

12. Entire Agreement. This Agreement constitutes the final expression of the parties as to the terms of this Agreement and the subject matter hereof, and supersedes all prior agreements, negotiations, and discussions between the parties and/or their respective counsel with respect to the subject matter covered hereby. Except as expressly stated in this Agreement, no party hereto has made any statement or representation to the other party regarding the facts relied upon by said party in entering into this Agreement, and each party hereto specifically does not rely upon any statement, representation, or promise of the other party hereto in executing this Agreement, except as expressly stated in this Agreement. Each party and their attorneys, if the party so chose, had the opportunity to make such investigation of the facts pertaining to this Agreement, and all of the matters appertaining thereto, as they deem necessary.

13. Agreement May Be Executed In Counterparts. This Agreement may be executed in counterparts, which together shall constitute a fully executed original.

14. Effective Date. This Agreement shall be effective upon execution of this Agreement by each of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the indicated date upon which all parties shall have executed this Agreement.

Dated: 8-16-13

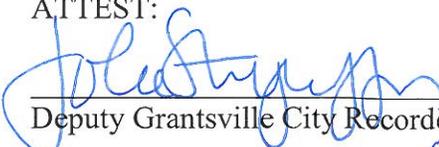
CITY OF GRANTSVILLE, a municipal corporation of the State of Utah


By: Brent K. Marshall
Its: Mayor

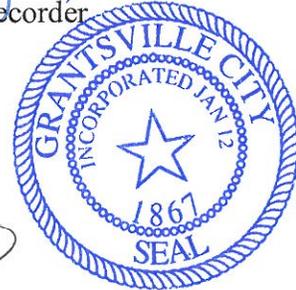
Approved as to Form:


Grantville City Attorney

ATTEST:


Deputy Grantsville City Recorder

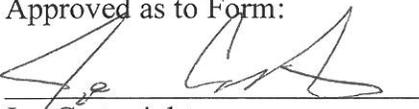
Seal:



Dated: 8/16/13


By: Alan Johnson
Registered Agent for South Willow Ranches, LLC

Approved as to Form:


Joe Cartwright
Legal Council for SWR



TO THE TREASURER OF GRANTSVILLE CITY, UTAH



KEY BANK NATIONAL ASSOCIATION
1-800-KEY 2 YOU
31-73/1240

089504

89504

8/16/2013

GENERAL P4-80 FUND
GRANTSVILLE CITY, UTAH 84029

PAY TO THE ORDER OF JOHNSON, ALAN D.

\$ 20,103.51

Twenty Thousand One Hundred Three and 51/100 Dollars

DOLLARS

I HEREBY CERTIFY THAT THIS WARRANT IS WITHIN THE LAWFUL DEBT
LIMIT OF GRANTSVILLE CITY AND ISSUED ACCORDING TO LAW.

JOHNSON, ALAN D.
GRANTSVILLE UTAH 84029

Susan P. Justice
2 SIGNATURES REQUIRED



MEMO

⑈089504⑈ ⑆124000737⑆ 822330003⑈

TO THE TREASURER OF GRANTSVILLE CITY, UTAH

089504

Vendor: 10478 JOHNSON, ALAN D. 8/16/13 Check #: 89504

INV DATE	INVOICE NO	DESCRIPTION	GROSS AMT	DISCOUNT	INV TOTAL
8/16/13	081613	RECOVERY RIGHTS SETTLEMENT	20,103.51		20,103.51

Total Gross Amount: 20,103.51

Total Discounts:

Total Net Amount: 20,103.51

Utah Business Search - Details

SOUTH WILLOW RANCHES, LLC

Entity Number: 5611930-0160

Company Type: LLC - Domestic

Address: 8 WEST MAIN STREET GRANTSVILLE, UT 84029

State of Origin:

Registered Agent: ALAN D JOHNSON

Registered Agent Address:

8 WEST MAIN STREET

GRANTSVILLE, UT 84029

Status: Expired

Status: Expired  as of 07/06/2010

Status Description: Failure to File Renewal

Employment Verification: Not Registered with Verify Utah

History

Registration Date: 03/26/2004

Last Renewed: 03/23/2009

Additional Information

NAICS Code: 9999 NAICS Title: 9999-Nonclassifiable Establishment

Refine your search by:

- Search by:
- Business Name
- Number
- Executive Name
- Search Hints

Name: