

# CONSTRUCTION ACCESS AGREEMENT

## SANITARY SEWER MAIN REPLACEMENT

### William Noble & Town of Saratoga

"A **Construction Access Agreement** for the construction, placement and maintenance of certain public improvements necessary for the proper conveyance of sanitary sewer discharge for the Town of Saratoga."

THIS CONSTRUCTION AGREEMENT (the "Agreement") is entered into effective this \_\_\_\_\_ day of \_\_\_\_\_, 2026 by and among the Town of Saratoga ("Town") and, William Noble ("Owner").

#### RECITALS

- A. Owner is the owner of record of certain real estate more particularly described as A PARCEL OF LAND IN E1/2SW1/4NE1/4 & SE1/4NE1/4: SEC 11 T 17 R 84 (BK 1288/78) (TDD BK 1432/262) (The "Property").
- B. The Town currently has sanitary sewer main lines located on the "Property".
- C. The Town currently has easements to locate and maintain the sanitary sewer main lines located on the "Property". This easement and associated recorded pages of record are shown on the plan view provided by Engineering Associates attached hereto as Exhibit "A".
- D. Due to their deteriorated condition the Town is engaging in the full replacement of the sewer main line across the North Platte River as well as portions of the existing sewer main lines existing on the Property, as shown on Exhibit A. '
- E. The Town proposing the replacement the lines be placed within the existing easement through the property.
- F. Construction plans for the required improvements have been designed by EA Engineers.
- G. The Town wishes to secure its interest as it pertains to temporary access, replacement and construction activities described herein. As well as the safety, security and best interest of future property owners, current residents and the public in general.
- H. The parties do enter into this Agreement with mutual consideration as reflected in the covenants, duties and obligations herein set forth.

**NOW THEREFORE**, in consideration of the above recitals which are incorporated below, and the mutual covenants and agreements herein contained and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Improvements. The Town of Saratoga is engaging in a vital replacement of existing sanitary sewer mainlines on portions of the Property and North Platte River. The Town has acquired adequate funding to complete the improvements and deemed them necessary to protect public health and safety. The improvements are further described in the attached plans developed by Engineering Associates (Exhibit "B"). The legal right to placement and maintenance are further described below.
2. Construction and access
  - a. The Owner's Responsibilities
    - i. Owner agrees to provide access to the Town as described in Section 4 "Access" below.
  - b. The Town's Responsibilities
    - i. The Town shall provide, all fuel, equipment and labor to construct all the new improvements identified in this agreement, as well as the removal and abandonment of existing facilities identified in this agreement.
    - ii. All construction shall be done in accordance with Wyoming Public Works Construction Standards.
    - iii. The Town agrees to restore all easement areas in accordance with section 4.b. All costs of reclamation to be borne by the Town.
    - iv. Town agrees to acquire all state, local, and federal permits required for the project.
    - v. The Town and its contractors shall use reasonable efforts to minimize disruption to Owner and adjacent residents during construction activities. Construction access shall remain limited to the areas shown on the Exhibits unless otherwise approved in writing by Owner. The Town shall maintain reasonable access for residents and emergency vehicles throughout construction whenever practicable.
    - vi. The Town shall have construction easements staked prior to construction and maintain said markers during construction.
    - vii. No hazardous substances, fuel, chemicals, or contaminated materials shall be stored on the Property except as reasonably necessary for daily construction operations and in compliance with applicable environmental regulations. All temporary staging, stockpiling, and debris shall be removed promptly upon completion of construction activities.
    - viii. The Town and its contractors shall take all commercially reasonable measures to minimize disruption, noise, dust, and

interference with access to the Property and adjacent residences during construction activities.

c. **Insurance and Indemnification**

- i. Prior to commencement of construction activities, the Town and/or its contractor shall maintain, or cause to be maintained, commercial general liability insurance, automobile liability insurance, workers compensation insurance, and contractor's pollution liability insurance in commercially reasonable amounts applicable to the scope of the Project. Upon request, certificates of insurance shall be provided to Owner.
- ii. To the fullest extent permitted by law, the Town shall require its contractors and subcontractors to indemnify, defend, and hold harmless the Owner, and Owner's successors, assigns, tenants, agents, and invitees from and against claims, damages, losses, liabilities, fines, penalties, and expenses, including reasonable attorney fees, arising out of or resulting from the negligent acts or omissions of the contractor, subcontractors, or persons employed by them in connection with the Project.
- iii. Nothing herein shall be construed as a waiver of any governmental immunity, limitation of liability, or defense available to the Town under the Wyoming Governmental Claims Act or applicable law.

3. **Maintenance**

- a. All future maintenance, repair, replacement of the identified improvements shall be the sole responsibility of the Town.

4. **Access**

a. **Construction Access**

- i. Owner agrees to allow the Town access to the area shown as the temporary construction easement on the attached "Exhibit A". This area is generally described as a 70-foot by 295-foot strip of land along the southern property boundary of the property. An existing 30ft wide placement and maintenance easement currently exist within the proposed temporary easement area. The temporary construction easement is granted for the replacement of existing sanitary sewer mains and manholes. The temporary easement is legally described as:

a. **Description of Temporary Construction Easement**

A temporary construction easement 70.00 feet in width, located in the S1/2NE1/4, Section 11, Township 17 North, Range 84 West, Sixth Principal Meridian, Carbon County, Wyoming, and within a tract of land, herein referred to as the Noble Tract, described in book 1288 page 78 in the office of the carbon county

clerk, said easement being more particularly described as follows:

Commencing from the East Quarter Corner of said Section 11, from which a 2" aluminum cap witness corner bears south 1 foot; thence on and along the east-west centerline of said Section 11 North 89° 00' 50" West, a distance of 1261.51 feet, more or less, to the south east corner of said Noble Tract, the location of which falls in the North Platte River, and the point of beginning;

Thence continuing on and along the east-west centerline of Section 11, North 89° 00' 50" West, a distance of 512.67 feet;

Thence North 0° 59' 10" East, 70.00 feet;

Thence 70.00 feet from and parallel to the east-west centerline of said Section 11; South 89° 00' 50" east, 452.48 feet, more or less, to a point on the east line of said Noble Tract;

Thence on and along the east line of said Noble Tract, South 39° 42' 17" East, 92.32 feet to the point of beginning;

Said Easement contains 0.78 acres.

- ii. Temporary Construction Easement is granted for equipment, vehicular and pedestrian ingress and egress and staging for the Town's use to do all things reasonably necessary to construct and install the improvements described above including, but not limited to construction water settling tanks/settling ditches, the transport, stockpiling and storage of construction materials, soil, equipment and vehicles.

b. Restoration

- i. Upon expiration or termination of the Temporary Construction Easement, the Town shall, at its sole cost and expense, restore all disturbed portions of the Property to substantially the same or better condition existing immediately prior to construction activities, including grading, compaction, drainage patterns, surfacing, vegetation, fencing, access routes, and erosion protection. Restoration shall comply with applicable engineering standards and shall be completed within a reasonable time following completion of construction activities. Surface restoration shall include re-seeding disturbed areas and well as erosion protection until seed stabilizes.
- ii. Rip rap bank armoring of adequate size shall be placed on the areas of the riverbank that have been disturbed to prevent erosion, armoring shall be placed in a way to not create additional erosion risks to undisturbed property. This shall be completed in accordance with the engineered plans.
- iii. Elevations of existing berms and flood protections put in place by owner shall be surveyed prior to construction and shall be placed by in the same elevation upon completion of the project.

- iv. Surfaces will be replaced with the same material as existed prior to construction. i.e. gravel driveway shall be restored to a gravel driveway with the same style of gravel as existed prior to construction.
- v. Prior to commencement of construction, the parties shall conduct and document a joint pre-construction site inspection, including photographs of existing conditions. Upon completion of construction and restoration, the parties shall conduct a final inspection to identify any remaining restoration or corrective work reasonably required under this Agreement.

c. Environmental Protection

- i. The Town and its contractors shall conduct all work in compliance with applicable federal, state, and local environmental laws, permits, and regulations. Any spills, releases, contamination, or environmental damage caused by construction activities shall be promptly remediated by the Town or its contractors at no cost to Owner. The Town shall be responsible for obtaining all required environmental permits associated with the Project.

5. Acceptance and Completion.

a. Acceptance

- i. Upon substantial completion of construction and restoration activities, the Town shall notify Owner and request a final inspection. Owner shall, within fifteen (15) business days, either provide written acceptance of the work or provide a written list of reasonably identifiable deficiencies. Upon correction of such deficiencies, the work shall be deemed complete and all conditions of this Agreement satisfied.

b. Timeline

- i. This Agreement shall become effective upon execution by both parties and approval by the Town Council. Construction activities may commence on or after October 1, 2026, and shall be substantially completed no later than May 1, 2027, unless extended by mutual written agreement of the parties. If construction activities have not commenced by July 31, 2027, this Agreement shall automatically terminate unless otherwise extended in writing.

c. Warranty

- i. The Town shall require its contractor to warranty restoration work performed on the Property for a period of one (1) year following final completion. During such period, the Town shall correct settlement, erosion, drainage failures, or defective restoration attributable to construction activities.

6. Remedies. In the event either party fails to faithfully perform its obligations under this Agreement, the non-breaching party may pursue any remedies available at law or in equity following compliance with the notice and cure provisions of Section 7. This Agreement shall be enforceable in the courts of the State of Wyoming, with venue in Carbon County, Wyoming.
7. Right to Cure. In the event of a material breach of this Agreement, the parties agree that Town and Owner, shall have thirty(30) days after delivery of notice of said breach to correct the same prior to the non-breaching party seeking any remedy provided for herein; provided, however, that in the case of any such default which cannot with diligence be cured within such thirty(30) day period, if the defaulting party shall commence to cure the same within such thirty (30) day period and thereafter shall prosecute the curing of same with diligence and continuity, then the time within which such failure may be cured shall be extended for such period as may be necessary to complete the curing of the same with diligence and continuity.
8. Termination or Rescission. The Town Council may terminate or rescind this Agreement if—after compliance with the requirements of the Saratoga Town Code, Wyoming State Code and the requirements of this Agreement—the Town determines that Owner is in breach of this Agreement and failed to cure in accordance with section 7.
9. Force Majeure. In the event the performance of any covenant to be performed hereunder by either Owner or Town is delayed for causes which are beyond the reasonable control of the party responsible for such performance, which shall include, without limitation, acts of civil disobedience, strikes, war or similar causes, the time for such performance shall be extended by the amount of time of such delay.
10. Recording and Property Rights
  - a. The Temporary Construction Easement granted herein is temporary in nature and shall terminate automatically upon completion of construction, restoration, and final acceptance pursuant to Section 5.
  - b. The parties acknowledge that this Agreement may be recorded in the real property records of Carbon County, Wyoming. Upon expiration or termination of the temporary rights granted herein, the Town shall execute and record any documents reasonably necessary to evidence termination of the Temporary Construction Easement.
  - c. Nothing herein shall be construed to grant the Town any permanent property rights beyond those contained within existing recorded easements.
11. Modifications. This Agreement may be modified only by the permission of the Town Council.

12. Miscellaneous.

a. Waiver

- i. A waiver by Town of any default by Owner of any one or more of the covenants or conditions hereof shall apply solely to the breach and breaches waived and shall not bar any other rights or remedies of Town or apply to any subsequent breach of any such or other covenants and conditions.

b. Notices

- i. Any and all notices, demands, requests and other communications required to be given hereunder by either of the parties hereto shall be in writing and be deemed properly served or delivered, if delivered by hand to the party to whose attention it is directed, or when sent, two (2) days after deposit in the U.S. mail, postage prepaid, or upon the sending of a facsimile, followed by a copy sent by U.S. mail as provided herein, addressed as follows:

To Town:      Town of Saratoga  
                         c/o Administrator, Director of Public Works  
                         P.O. Box 486  
                         Saratoga, WY 82331  
                         (307) 326-8335

To Owner:      \_\_\_\_\_  
                         \_\_\_\_\_  
                         \_\_\_\_\_  
                         \_\_\_\_\_

or at such other address, or facsimile number, or to such other party which any party entitled to receive notice hereunder designates to the other in writing as provided above.

13. Attorney Fees. Should any litigation be commenced between the parties hereto concerning this Agreement, the prevailing party shall be entitled, in addition to any other relief as may be granted, to court costs and reasonable attorney's fees as determined by a Court of competent jurisdiction. This provision shall be deemed to be a separate contract between the parties and shall survive any default, termination or forfeiture of this Agreement.

14. Time is of the Essence. The parties hereto acknowledge and agree that time is strictly of the essence with respect to each and every term, condition and provision hereof, and that the failure to timely perform any of the obligations hereunder shall constitute a breach of and a default under this Agreement by the party so failing to perform.

15. Binding upon Successors. This Agreement shall be binding upon and inure to the benefit of the parties' respective heirs, successors, assigns and personal representatives, including Town's corporate authorities and their successors in office. This Agreement shall be binding on the owner of the Property, each subsequent owner and each other person acquiring an interest in the Property. Nothing herein shall in any way prevent sale or alienation of the property, or portions thereof, except that any sale or alienation shall be subject to the provisions hereof and any successor owner or owners shall be both benefitted and bound by the conditions and restrictions herein expressed.

16. Wyoming Governmental Claims Act. The Town is protected by the Wyoming Governmental Claims Act, Wyo. Stat. 1-39-101, *et seq.* Town of Saratoga does not waive its governmental immunity by entering into this lease agreement, and fully retains all immunities and defenses available under W.S. § 1-39-104(a) and all other immunities provided by law with respect to any action based on or occurring as a result of this lease agreement.

17. Final Agreement: This Agreement sets forth all promises, inducements, agreements, conditions and understandings between Owner and The Town relative to the subject matter hereof, and there are no promises, agreements, conditions or understanding, either oral or written, express or implied, between Owner and Town, other than as stated herein. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless reduced to writing and signed by them or their successors in interest or their assigns, and pursuant, with respect to the Town, to a duly adopted ordinance or resolution of the Town.

18. Invalid Provisions. If any provision of this Agreement is held not valid, such provision shall be deemed to be excised therefrom and the invalidity thereof shall not affect any of the other provisions contained herein, except that if any provision of this Agreement is held not valid which Owner deems essential to its development of the Property, Owner may, at its sole discretion, declare this entire Agreement null and void and of no force and effect and thereby relieve all parties from any obligations hereunder.

IN WITNESS WHEREOF, the parties, having been duly authorized, have hereunto caused this agreement to be executed, on the day and first above written, the same being done after public hearing, notice and statutory requirements having been fulfilled.

**\*\*Left Intentionally Blank\*\***

Town of Saratoga, a Wyoming  
Municipal corporation

ATTEST:

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
Town Clerk

STATE OF WYOMING )  
 ) ss.  
County of Carbon )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2026, before me, a Notary Public in and for said State, personally appeared Chuck Davis, known or identified to me to be the Mayor of the Town of Saratoga that executed the said instrument, and acknowledged to me that such Town of Saratoga executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for Wyoming  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

OWNER(s):

\_\_\_\_\_

\_\_\_\_\_

By \_\_\_\_\_,

By \_\_\_\_\_,

STATE OF \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2026, before me, a Notary Public in and for said State, personally appeared \_\_\_\_\_, known or identified to me to be The owner of the property that executed the instrument or the person who executed the instrument on behalf of said corporation and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_