

AF City
51 E. Main
AF, UT 84003 ←

(2)

10-23-06
PC Draft #8

ANNEXATION AGREEMENT
(Spring Creek Addition Annexation - Allred/Lamph Portion)
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This Agreement, made and entered into this 17 day of Nov, 2006 by and between The City of American Fork, Utah, a Utah Municipal Corporation (hereafter referred to as "City"), and Blue Spring Properties LLC., Neal Allred and/or Cassie Allred, and L Claude Lamph (hereafter referred to collectively as ("Applicant")), is based on the following:

RECITALS

WHEREAS, Applicant is the owner ^{WEST} of certain parcels of real property situated within and constituting a portion of the Spring Creek Annexation, the boundaries of which are set forth on an Annexation Plat (Attachment 1) and identified thereon as belonging to Blue Spring Properties LLC, Cassie Allred, Neal Allred, or L. Claude Lamph (hereafter referred to collectively as "Blue Spring/Allred/Lamph Parcels"); and

WHEREAS, the real property within the boundaries of the Spring Creek ^{WEST} Annexation (hereafter referred to as "Annexation Area") consisting of the Blue Spring/Allred/Lamph Parcels, together with adjacent lands owned by others, is located within the unincorporated territory of Utah County, but contiguous to the corporate boundary of City. A *Request to Initiate Annexation of Land Within an Island or Peninsula* relating to the Annexation Area has been submitted to City; and

WHEREAS, the Annexation Area constitutes a portion of an existing peninsula, as defined by Utah State law; and

WHEREAS, in accordance with the provisions of UCA 10-2-418, the American Fork City Council has heretofore adopted a resolution indicating its intent to annex the entire Annexation Area (Resolution 98-03-08R). Further, notice of hearing regarding the proposed annexation has been published and the public hearing thereon held. No protests to the annexation were received; and

WHEREAS, the City Council has determined that annexation of the real property described on Attachment 1 is in the best interest of City and has indicated an intent to: (1) enact an ordinance of annexation relating thereto, concurrently with the approval and execution of this Agreement, and (2) authorize the recording of the annexation plat at the office of the Utah County Recorder, subject to those certain understandings as are more fully set forth in this Agreement, together with similar agreements with owners of other properties located within the boundaries of the Annexation Area, and completion of all outstanding tasks identified herein or otherwise required prior to annexation.

TERMS AND CONDITIONS

NOW THEREFORE, based on the above recitals and in consideration of the annexation of the Blue Spring/Allred/Lamph Parcels to City, the parties covenant and agree as follows:

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SECTION 1. The real property to which the terms of this Agreement apply shall be the parcels of private property within the Annexation Area, identified as Blue Spring/Allred/Lamph Parcels.

SECTION 2. Applicant and City acknowledge that City is not required to approve the annexation and that the terms and conditions of annexation, as set forth herein, are reasonable and entered into freely and voluntarily. Further, Applicant hereby acknowledges and agrees that the benefit received from annexation of the properties is equal to or greater than the requirements and conditions of development thereon, imposed by City pursuant to this Agreement and contained within City's Development Code and Impact Fee Ordinance, and does not constitute a constitutional taking as defined pursuant to the terms of UCA 10-9a-103(6), as amended.

SECTION 3. Applicant affirms that it is the sole owner of the Blue Spring/Allred/Lamph Parcels, and has complete authority to enter into this Agreement and to bind the properties hereto.

SECTION 4. City affirms that, pursuant to the terms of the proposed Annexation Ordinance, upon annexation the zone designation of the Blue Spring/Allred/Lamph Parcels will be the RA-5 Residential-Agricultural Zone.

SECTION 5. Applicant has indicated an intent to retain the use of the Blue Spring/Allred/Lamph Parcels as at present. The current uses include 5 separate dwellings with the remainder of the Annexation Area being agricultural and grazing pasture. The lands are currently within an Agricultural Protection Zone established through Utah County and it is the intent of the owners to continue the Agricultural Protection designation for the foreseeable future. City acknowledges the intent of the owners and agrees to the continuation of the current agricultural protection designation.

SECTION 6. Because the area is to be placed in the RA-5 Residential Agricultural Zone, no annexation concept plan will be required.

SECTION 7. The owners of portions of the Annexation Area, not including the Blue Spring/Allred/Lamph Parcels, have indicated an intent to request approval for residential development of their respective parcel(s). A review of development alternatives within the area suggests that the most appropriate location for a sewer collection, line connecting the northern portions of the Blue Spring/Allred/Lamph parcels and adjacent lands to the west with the existing Timpanogos Special Service District (TSSD) sewer outfall line located to the south of the Annexation Area would be through a City owned sewer outfall line across a portion of the Blue Spring Parcels, in the location identified on Attachment 2. However, because of constraints imposed by the Internal Revenue Service (IRS), construction of a sewer in the location indicated is not currently possible, but will be possible in approximately eight years. At such time as the IRS imposed constraints are no longer applicable, and unless Applicant shall have requested rezoning of the property for the purpose of development, Applicant hereby agrees to convey City an easement located over an existing lane in the approximate location shown on Attachment 2, having a width not greater than sixteen feet, unless a wider width is subsequently approved by Applicant, for the purpose of constructing and maintaining a City owned sewer line. Applicant agrees to inform City at such time as the IRS imposed constraints are no longer applicable and to execute said easement and allow its recording at the office of the Utah County Recorder upon request of City.

SECTION 8. At such time as the sewer line is constructed on the easement and connected to the TSSD outfall line, City agrees to allow connection to the sewer of the existing five dwellings located within the property owned by Applicant and up to four additional dwellings located upon the property owned by Applicant, and to waive any sewer connection fee, sewer impact fee or other sewer related fee that may be charged by City as a prerequisite to connection

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of said dwellings to the sewer. This waiver of fees shall be limited to fees imposed by City, but not those imposed by TSSD or other agency. Provided, however, that no such waiver of fees shall be required if the easement area and sewer are included or made necessary to accommodate a request for development of a subdivision or residential development which includes all or a portion of the Blue Spring/Allred/Lamph Parcels and contains more than four new dwelling sites.

SECTION 9. Applicant has indicated an intent to continue the farming operation as at present. In accordance with the provisions of Section 2-1.4-C-1 of City's development code, no water rights for the undeveloped portion of the Blue Spring/Allred/Lamph Parcels will be required at the time of annexation. In the event that the Annexation Area, or any portion thereof, is subsequently submitted for development approval, City retains the right to require the conveyance of water right, in an amount necessary to meet the demand for the proposed development, to be conveyed at the time of development approval and in accordance with the water right conveyance requirements in effect at the time of the request.

SECTION 10. No impact fees are required as a condition of annexation. However, except as provided under Section 8, nothing in this Agreement constitutes a waiver of any obligation that Applicant or its successor may have for the payment of impact fees required as a condition of development of the Annexation Area or any portion thereof. Applicant acknowledges that no development approval or building permit shall be issued until all applicable fees required by City ordinances have been paid at the amount then in effect.

SECTION 11. Should either party default in the performance of any of the terms of this agreement, the parties shall first seek mediation to resolve any defaulting performance. The defaulting party shall pay all costs and expenses, including mediation fees and/or reasonable attorney's fee, which may arise from enforcing this agreement, whether such remedy is pursued by mediation and/or filing suit or otherwise.

SECTION 12. Any Notice to be given hereunder shall be given by certified mail, return receipt requested, addressed as follows:

- a. If to City, to City of American Fork, 51 East Main Street, American Fork, Utah 84003
- b. If to Applicant, to Cassie Allred, 7060 West 7750 North American Fork, Utah 84003

SECTION 13. This Agreement constitutes the entire agreement between the parties and may be changed only in writing signed by all parties, and this agreement shall bind the heirs, assigns and successors in interest of the respective parties. If any party shall breach this Agreement, the other parties shall be entitled to recover their attorney's fees and court costs in addition to other lawful damages resulting therefrom.

IN WITNESS WHEREOF, the parties have signed this Agreement on the date first mentioned above.

BLUE SPRING PROPERTIES LLC.

by: *Cassie Allred*
its: *manager*

AMERICAN FORK CITY

Heber M. Thompson
Heber M. Thompson, Mayor

3-NA
3-10-06

and:

Daken Allred

Daken Allred
member

ATTEST:

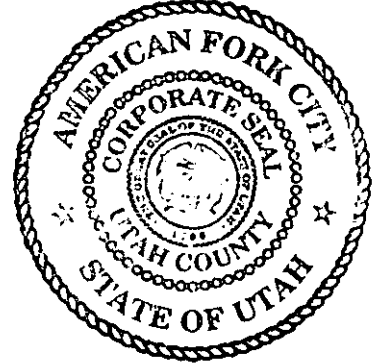
R. M. Allred
City Recorder

Derek Allred

Derek Allred
member

Challin Peterson

Challin A. Peterson
member



NEAL ALLRED

Neal Allred

CASSIE ALLRED

Cassie Allred

L. CLAUDE LAMPH

L. Claude Lamph

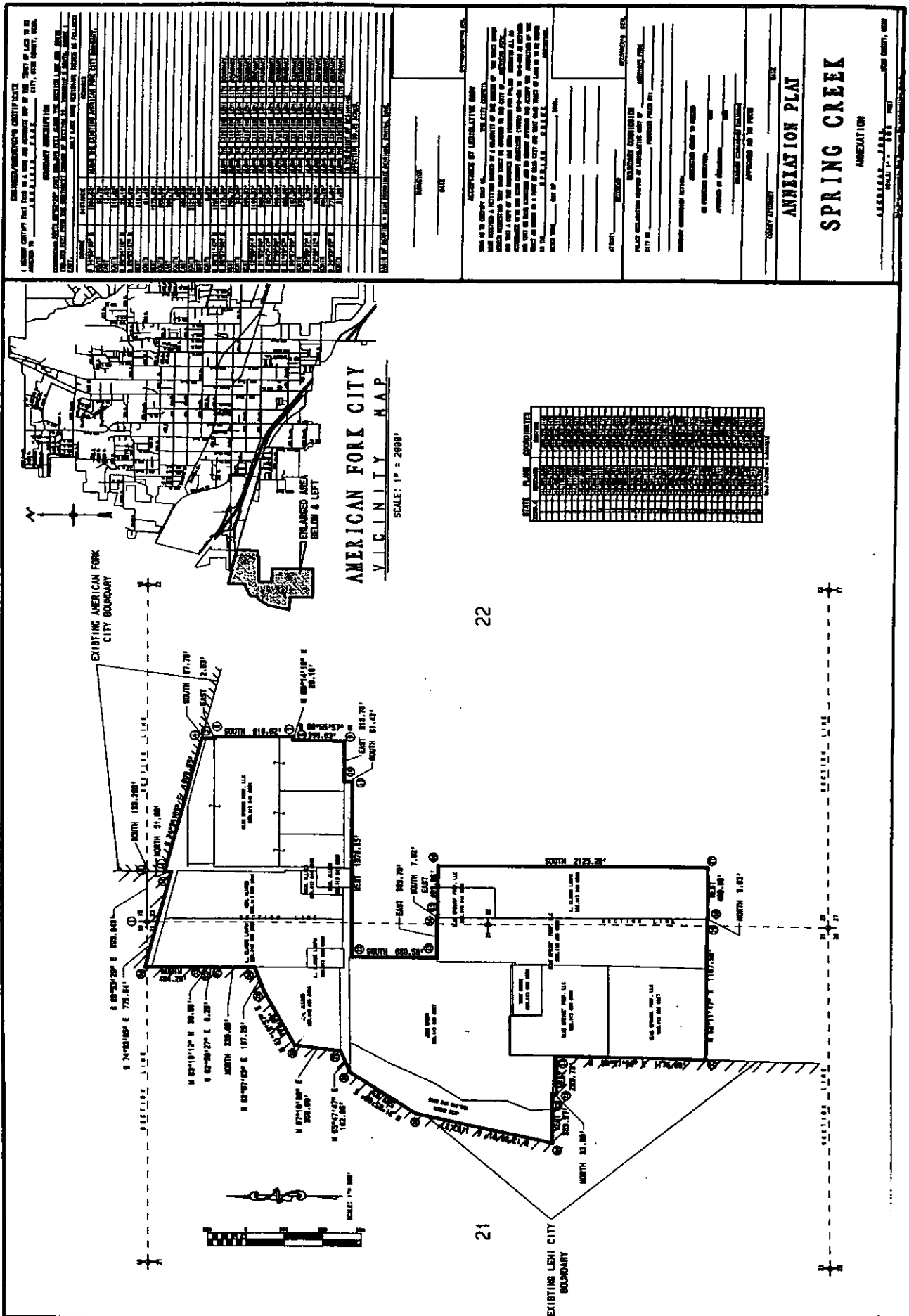
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LIST OF ATTACHMENTS

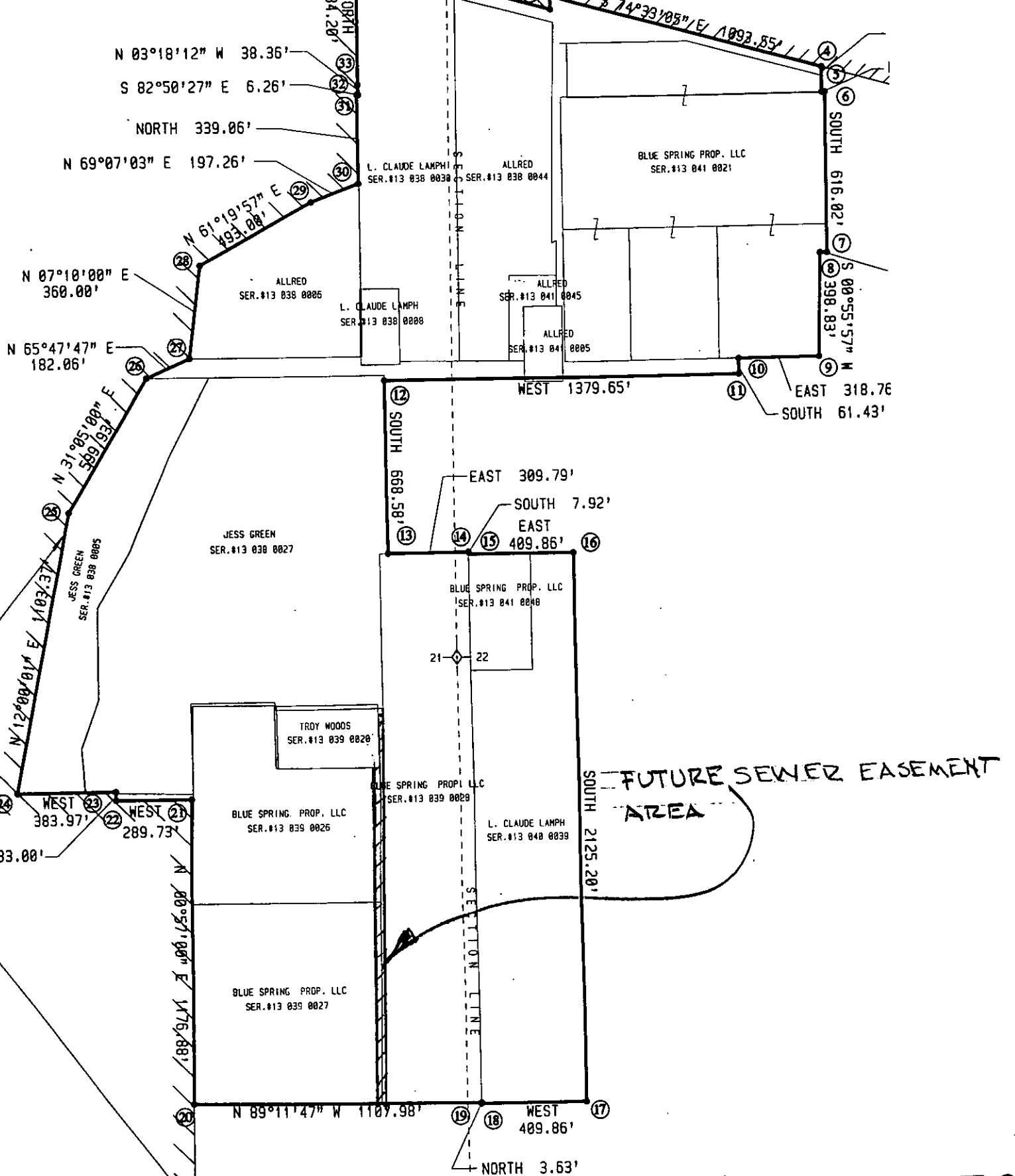
- Attachment 1.** Copy of Annexation Plat
- Attachment 2.** Copy of map showing general location of future sewer easement across Blue Spring Parcels

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ATTACHMENT 1



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ATTACHMENT 2
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AMERICAN FORK CITY

10-4-06
PC Draft #9

ANNEXATION AGREEMENT
(Spring Creek Addition Annexation - Green Parcel)
^ WEST

This Agreement, made and entered into this ____ day of _____, 2006, by and between The City of American Fork, Utah, a Utah Municipal Corporation (hereafter referred to as "City") and Jess Green (hereafter referred to as "Applicant"), is based on the following:

RECITALS

WHEREAS, Applicant is the owner of certain parcels of privately owned real property situated within the boundary of the Spring Creek Addition Annexation, which parcels are located within the unincorporated territory of Utah County, and in combination with parcels owned by others, contiguous to the corporate boundary of City; and
WEST

WHEREAS, the real property within the Spring Creek Addition Annexation (hereafter referred to as "Annexation Area") constitutes a portion of the territory for which a *Request to Initiate Annexation of Land Within an Island or Peninsula* has been previously received, a resolution of intent to annex enacted by the City Council, (Resolution 98-03-08R), and the required public notices and hearings completed; and
WEST

WHEREAS, the real property within the Spring Creek Addition Annexation constitutes a portion of an existing island or peninsula; and

WHEREAS, the City Council has determined that annexation of the real property within the Spring Creek Addition Annexation is in the best interest of City and has indicated an intent to: (1) enact an ordinance of annexation relating thereto concurrently with the approval and execution of this Agreement and (2) authorize the recording of the annexation plat at the office of the Utah County Recorder, subject to those certain understandings as are more fully set forth in this Agreement and completion of all outstanding tasks identified herein or otherwise required prior to annexation.

TERMS AND CONDITIONS

NOW THEREFORE, based on the above recitals and in consideration of the annexation to the City of the territory described in the Spring Creek Addition Annexation (Attachment 1), the parties covenant and agree as follows:

SECTION 1. The real property to which the terms of this Agreement apply shall be that portion of private real property located within the Annexation Area, and identified on Attachment 1 as "Green Parcels." Attachment 1 is hereby adopted by reference.

SECTION 2. Applicant hereby acknowledges that City is not required to approve the Spring Creek Addition Annexation and that the terms and conditions of annexation, as set forth herein, are reasonable and entered into freely and voluntarily. Further, Applicant, by virtue of the request for annexation hereby acknowledges and agrees that the benefit received from annexation

of the parcel is equal to or greater than the terms, conditions and understandings of annexation set forth under this Agreement and the conditions of development imposed by City upon the property, pursuant to the terms of City's Development Code and Impact Fee Ordinance, and does not constitute a taking as defined pursuant to the terms of UCA 10-9a-103(6), 1953, as amended.

SECTION 3. Applicant affirms that he is the sole owner of the Green Parcels and has complete authority to enter into this Agreement and to bind the property hereto.

SECTION 4. City acknowledges that the purpose of Annexation of the Green Parcels is to facilitate the subsequent development of the land for residential purposes. Applicant acknowledges that the Annexation Area has significant physical limitations for development including, but not necessarily limited to, an open perpetual natural stream channel (Spring Creek), liquefaction potential, potential high water table and unstable soils and potential land drains which require the need for more definitive studies to determine suitability of the area for development. As a condition of development approval, City may require a geotechnical study and such other documents as it deems necessary to establish the impact of natural conditions upon development on the lands and recommendations for mitigation.

SECTION 5. Applicant proposes early development of only a portion of the Green Parcel. Accordingly, a significant portion of the land area is placed within the RA-5 to allow continuation of agricultural use. To facilitate initial development of a portion of the parcel a portion has been placed in the R-1-20,000 Zone and the remainder of the area, consisting of the lands along Spring Creek is placed in the RA-1 Zone. Applicant hereby indicates his intention to develop an agricultural based PUD which include the riparian area along the west side of Spring Creek as part of the open space component, which area is intended to be suitable for use by the home owners in the PUD and conveyance to the City as part of its linear park along Spring Creek. While no specific concept plan is proposed, Applicant agrees that future development will be consistent with the terms of the Zone District and the terms and intent of the Land Use, Transportation, Trails, Drainage and other elements of the General Plan. City agrees that development as a residential-agricultural PUD compatible with the provisions of the General Plan would be permitted. The specific location of the zone district boundaries initially applicable to the Green Parcel shall be as shown on the Zone Designation Map (Attachment 2).

SECTION 6. All further submissions for development approval within the Green Parcels will be in substantial compliance with the terms of the respective zone districts applicable at the time of request. All plans shall incorporate the impacts relating to any drainage or other natural condition or the placement of trails and street right-of-way. The conditions possibly requiring adjustments include, but are not limited to:

- A. Results of the physical features evaluation and recommendations of the geotechnical study.
- B. Impact of Drainage Facilities. The Green Parcels may contain land drainage facilities. Relocation and improvement of any on-site land drains in order to better accommodate the construction of adjacent roads and utilities may be required.
- C. Preservation of Water Quality and Rates of Flow. Development may affect the quality and rate of flow of storm water generated from the Green Parcels. Any proposal for development within the Green Parcels shall include provisions and facilities for the preservation of historic stream flows.

- D. Limitations from high water table conditions and impact on underground water flows. Development of structures and utility systems will likely effect, or be affected by, ground water conditions. Any development proposal shall include provisions for accommodating ground water conditions.

SECTION 7. The Green Parcels include portions of 200 South Street which is essential to proper vehicular access to and circulation within the Annexation Area. The final location of the right-of-way for this street is uncertain and no additional area will be required at time of annexation. However, Applicant agrees to convey such additional right-of-way for the widening or relocation of 200 South Street in the event development plans for the area require further dedication. Also, development of a City street along the eastern boundary of the property, providing access to the interior portions of the Green Parcels and facilitating future extension to properties located south of the Green Parcels, is necessary. The actual alignment of the City street in this area will be determined as a condition of development approval, but will include the existing lane and will be conveyed as a condition of development approval. All public streets to be constructed within the Green Parcel will be considered as "project improvements" and will be conveyed or dedicated as a condition of project approval.

SECTION 8. Applicant agrees to convey sufficient water right to meet the needs the future uses within the portion of the Annexation Area intended for urban development. Because of the amount of land area designated as RA-5; the fact that there is no firm Annexation Concept Plan; and the desire of the applicant to continue agricultural use of the majority of the parcel, the amount of water right is uncertain. Also, the water rights proposed for conveyance consist of that certain surface water right appurtenant to the Green Parcels pursuant to a decree of the 4th District Court of Utah under Case No.24,698. Because of the need to further study the appropriate use of the water proposed to be conveyed, City agrees to allow a delay in the actual conveyance of water right to a time following the annexation of property subject to the following terms:

- A. Applicant agrees to convey sufficient water to meet the needs of the proposed development, as determined in accordance with the terms of the ordinance in effect at the time of the request for development approval.
- B. The primary source of water rights to be applied in satisfaction of this requirement consists of the water represented by the above referenced right and also shown on the records of the Utah State Engineer as Water User Claims # 55-1337 and 55-7755.

The provisions of this Section shall be considered as the water transfer agreement required pursuant to the provisions of Section 21.4-C-1-c of the Development Code.

SECTION 9. Because of legal constraints applicable to adjacent parcels, immediate construction of a sewer outfall line connecting the Green Parcels with the appropriate TSSD outfall line is not possible for the next several years. To facilitate development of the Green Parcels, City agrees to allow development of a portion of the Green Parcels using temporary sewage disposal facilities consisting of: (1) a private lift station and force main disposal system connecting the project area to the existing sewer outfall line at approximately 1200 West and 200 South street, or (2) individual septic tank sewage disposal systems, subject to the following:

- A. All lots to be served by a septic tank or lift station will have an area of not less than 20,000 square feet.

- B. Any parcel proposing use of a septic tank shall have been approved for the use of a septic tank by the City/County Health Department.
- C. The parcel will be served by a properly designed sewage collection line and lateral which will allow the flow of sewage effluent to the lift station/force main facility, which facility shall have been approved by the City or, in the instance of a septic tank system, such lines and laterals shall be installed in such a manner that a dwelling constructed on the lot can be readily connected to the line at such time as the outfall line is connected to the TSSD line.
- D. All impact fees necessary for the connection of the lot to the central collection system shall have been paid and.

Approval of any development proposing to utilize a temporary sewage disposal alternative shall include provisions and procedures to ensure elimination of the temporary conditions without the need for approval of the owner of the dwelling and without further cost to City.

SECTION 10. No impact fees are required as a condition of annexation. However, nothing in this Agreement constitutes a waiver of any obligation that Applicant or his successor may have for the payment of impact fees required as a condition of development of the Green Parcels or any portion thereof. Applicant acknowledges that no development approval or building permit shall be issued until all applicable fees required by City ordinance have been paid at the amount then in effect.

SECTION 11. Development of the site requires the extension of water lines connecting to existing facilities. City may require that some or all of the off-site water facilities will need to be oversized to better accommodate future growth in the area. The extent of any oversizing and any provisions for cost sharing or reimbursement by City will be established at the time of final approval of any development project and in accordance with Section 3-9 of the Development Code and other applicable City policies relating thereto.

SECTION 12. Should any of the parties default in the performance of any of the terms of this Agreement, the parties shall first seek mediation to resolve any defaulting performance. The defaulting party shall pay all costs and expenses, including mediation fees and/or reasonable attorney's fee, which may arise from enforcing this Agreement, whether such remedy is pursued by mediation and/or filing suit or otherwise.

SECTION 13. Any Notice to be given hereunder shall be given by certified mail, return receipt requested, addressed as follows:

- a. If to City, to the City of American Fork, 51 East Main Street, American Fork, Utah 84003
- b. If to Applicant, to Jess Green, 135 South 300 West, American Fork, Utah 84003.

SECTION 14. This Agreement constitutes the entire agreement between the parties and may be changed only in writing signed by all parties, and this agreement shall bind the heirs, assigns and successors in interest of the respective parties. If any party shall breach this Agreement, the other party shall be entitled to recover their attorney's fees and court costs in addition to other lawful damages resulting therefrom.

IN WITNESS WHEREOF, the parties have signed this Agreement on the date first mentioned above.

JESS GREEN

Jess Green

AMERICAN FORK CITY

by: *Robert M. Thompson*
Mayor

ATTEST:

R. M. O'Neil
City Recorder



LIST OF ATTACHMENTS

- Attachment 1.** Copy of Annexation Plat
- Attachment 2.** Zone District Classification Map
- Attachment 3.** Copy of water rights conveyance documents (Form only)

ATTACHMENT 3

**SPECIAL WARRANTY DEED
(WATER)**

_____, of Utah County, Utah, Grantor, in consideration of the payment of the sum of ten dollars (\$10) and other good and valuable consideration hereby conveys and warrants against all claiming by, through or under Grantor, to the City of American Fork, Utah, a municipal corporation of the State of Utah, Grantee, the following described water right in Utah County, Utah.

All right title and interest in and to the first _____ () acre feet of that certain water right awarded to _____, pursuant to a decree of the 4th District Court of Utah under Case No. 24698 and further identified on the records of the Utah State Engineer as Water User Claim No. 55-1337 and 55-7755.

WITNESS the hand of said Grantor this ____ day of _____ 2006.

STATE OF UTAH)

: ss.

COUNTY OF UTAH)

On the __ day of _____, 2006, personally appeared before me the undersigned, a Notary Public said county and state, _____, signer of the foregoing instrument, who is known to me and who acknowledged to me that he signed said document freely and voluntarily.

WITNESS my hand and official seal

Residing at: _____
Notary Public

My commission expires:
