

WHEN RECORDED, RETURN TO:

KANAB CITY
26 N. 100 E.
Kanab, Utah 84741
435-644-2534

Tax ID #s K-57-1
K-54-1
K-55-3

ENTRY NO. 00202650

02/06/2023 02:31:01 PM B: 0599 P: 0740

Agreements PAGE 1 / 6
VERJEAN CARUSO, KANE COUNTY RECORDER
FEE \$ 0.00 BY KANAB CITY



DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is executed and entered into by Ben Riley and Lydia Ojuka ("Grantor") and Kanab City ("Kanab"). (Each individually a "Party" and collectively the "Parties").

RECITALS

A. The Grantor anticipates developing three parcels located in the vicinity of 400 West 200 North, Kanab, Utah, on property identified in the Office of the Kane County Recorder as parcel numbers K-57-1, K-54-1, and K-55-3 (the "Property"), and desires to utilize the Grantee's sewer system by hooking into the sewer mainline, located at approximately 350 West 200 North, Kanab, Utah, just to the east of the existing manhole thereabouts.

B. Due to the elevation Grantor's property and proposed development, the flow of the sewer line from Grantor's three parcels will not flow to the Grantee's sewer main by gravity. The Parties have agreed that a sewer pump (or "pump grinder") is necessary for each parcel with a 1 1/4" forced sewer lateral from the pump to the main sewer line.

C. Grantee is willing to install the 1 1/4" sewer line, upon arrangement with the Public Works Director, subject to the Grantee's fee schedule. Grantor will be responsible to purchase and install the sewer pump necessary for each parcel. Installation of each sewer pump is subject to the inspection and approval of the Grantee's Public Works Director.

D. Grantor and any successive owners of the subject parcels will be responsible for the maintenance, upkeep, repair, and replacement of each sewer pump and the 1 1/4" forced sewer lateral line from the point at which it connects to the Grantee's sewer main line.

AGREEMENT

1. Property to Be Bound. Grantor's agreement to pay for certain expenses, and maintain, repair, and replace certain infrastructure, as set forth in Section 2, which shall be

binding upon and run with the following described tract of land in Kane County, State of UTAH:

Parcel number K-57-1, further described as:

ALL OF LOT 1 & A FRACTION OF LOT 2 OR OTHERWISE KNOWN AS THE SOUTH ½ OF BLOCK 57 PLAT "A" OF THE OFFICIAL SURVEY OF KANAB TOWNSITE, CONTAINING 1.83 ACRES, MORE OR LESS. LESS 1.02 ACRES DEED TO K-57-1A, LEAVING 0.81 ACRES, MORE OR LESS

Parcel number K-54-1, further described as:

BEGINNING AT THE NORTHEAST CORNER OF BLOCK 54 PLAT "A" OF THE OFFICIAL SURVEY OF KANAB TOWNSITE & RUN THENCE SOUTH 0*13' EAST ALG THE EAST LINE OF BLOCK 54, A DISTANCE OF 390.0 FEET; THENCE NORTH 31*41'26" WEST 308.94 FEET; THENCE WEST 135.0 FEET TO THE WEST LINE OF BLOCK 54; THENCE NORTH 0*13' WEST 126.0 FEET TO THE NORTHWEST CORNER OF BLOCK 54; THENCE NORTH 89*47' EAST 297.98 FEET TO THE POINT OF BEGINNING.

Parcel number K-55-3, further described as:

BEGINNING AT A POINT 61.0 FEET SOUTH OF THE NORTHWEST CORNER OF BLOCK 55 PLAT "A" OF THE OFFICIAL SURVEY OF KANAB TOWNSITE & RUN THENCE NORTH 89*47' EAST 132.0 FEET THENCE SOUTH 0*13' EAST 30.0 FEET; THENCE NORTH 89*47' EAST 132.0 FEET; THENCE SOUTH 0*13' EAST 127.0 FEET; THENCE SOUTH 89*47' WEST 33.0 FEET; THENCE SOUTH 0*13' EAST 119.5 FEET, MORE OR LESS; THENCE NORTH 89*47' EAST 33.0 FEET; THENCE SOUTH 32.0 FEET; THENCE WEST 71.0 FEET; THENCE SOUTH 66*53'11" WEST 210.16 FEET; THENCE NORTH 0*13' WEST 390.0 FEET TO BEGINNING, CONTAINING 1.87 AC, M/L.

THIS IS A REMAINING DESCRIPTION

2. Duty to Pay Development Expenses, Maintenance, Replacement. Upon the conditions outlined below, Grantor shall be responsible to pay for the cost of connecting to the Grantee's sewer system, including, but not limited to the cost of parts, supplies, and labor to install a 1 ¼" forced sewer lateral line from Grantee's main line to a sewer pump (or "pump grinder"), subject to the Grantee's adopted fee schedule. Grantor shall be responsible for purchasing and install a sewer pump for each developed parcel, subject to the inspection and approval of the Grantee's Public Works Director. Thereafter, Grantor

ENTRY NO. 00202650

02/06/2023 02:31:01 PM B: 0599 P: 0741

Agreements PAGE 2 / 6
VERJEAN CARUSO, KANE COUNTY RECORDER
FEE \$ 0.00 BY KANAB CITY



shall bear the expense and responsibility to maintain, repair, and replace, if or when necessary, the sewer pump and the sewer lateral line from the sewer main line out.

4. **Default.** Failure by a Party to perform any of the Party's obligations under this Agreement within a thirty (30) day period (the "Cure Period") after written notice thereof from the other Party shall constitute a default ("Default") by such failing Party under this Agreement; provided, however, that if the failure cannot reasonably be cured within thirty (30) days, the Cure Period shall be extended for the time period reasonably required to cure such failure so long as the failing Party commences its efforts to cure within the initial thirty (30) day period and thereafter diligently proceeds to complete the cure. Said notice shall specify the nature of the alleged Default and the manner in which said Default may be satisfactorily cured, if possible. Upon the occurrence of an uncured Default under this Agreement, the non-defaulting Party may institute legal proceedings to enforce the terms of this Agreement or may terminate this Agreement. If the Default is cured, then no Default shall exist and the noticing Party shall take no further action.

5. **Binding on the Property.** This Agreement shall be recorded against each of the Grantor's properties. The obligations contained within this Agreement shall run with each Property, binding all successors, heirs, and assigns of the Property.

6. **Governing Law and Costs.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

7. **No Third-Party Beneficiary.** This Agreement is made for the sole protection and benefit of the Grantor and the Grantee and their assigns. No other person shall have any right of action based upon any provision of this Agreement whether as third-party beneficiary or otherwise.

8. **Severability.** If any part or provision of this Agreement shall be adjudged unconstitutional, invalid or unenforceable by a court of competent jurisdiction such determination shall not affect any other part or provision of this Agreement except that part or provision so adjudged to be unconstitutional, invalid or unenforceable. If any condition, covenant, or other provision of this Agreement shall be deemed invalid, due to its scope or breadth such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

9. **Attorneys' Fees.** If either the Grantor or Grantee brings any legal action to enforce or interpret this Agreement (or any of the documents contemplated or provided for in this Agreement), for damages on account of any default or breach of a liability, obligation, or covenant contained in this Agreement, or with respect to any other issue related to this Agreement, the prevailing Party shall be entitled to recover from the other Party the prevailing Party's reasonable attorneys' fees and costs incurred in any such action or in any appeal from such action, in addition to any other relief, remedies, and damages to which the prevailing Party is entitled.

ENTRY NO. 00202650

02/06/2023 02:31:01 PM B: 0599 P: 0742

Agreements PAGE 3 / 6
VERJEAN CARUSO, KANE COUNTY RECORDER
FEE \$ 0.00 BY KANAB CITY



10. Counterparts. This Agreement may be executed in any number of duplicate originals or counterparts, each of which when so executed shall constitute in the aggregate but one and the same document.

11. Waiver. No waiver of any of the provisions of this Agreement shall operate as a waiver of any other provision regardless of any similarity that may exist between such provisions nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding on Grantee or the Grantor, unless executed in writing by the waiving party.

12. Reasonableness. Except as otherwise stated to the contrary in this Agreement, when the consent, approval, or agreement of Grantor and/or the Grantee is required or contemplated under this Agreement, such consent, approval, or agreement shall not be unreasonably withheld, conditioned, or delayed; provided, this provision shall not bind the Grantee with respect to its legislative actions.

13. Non-Liability of City Officials, Employees, Members, or Managers. No officer, representative, agent, or employee of the Grantee shall be personally liable to Grantor or any of its successors or assigns in the event of any default or breach by the Grantee or for any amount which may become due to Grantor or its successors or assigns for any obligation arising out of the terms of this Agreement. Similarly, no officer, member, manager, or representative, agent, or employee of Grantor shall be personally liable to the Grantee or any of its successors or assigns in the event of any default or breach by the Grantor or for any amount which may become due to the Grantee or its successors or assigns for any obligation arising out of the terms of this Agreement.

14. Incorporation of Recitals. The foregoing recitals are true and correct and hereby incorporated by reference as part of this Agreement.

[Signatures on the following pages.]

ENTRY NO. 00202650

02/06/2023 02:31:01 PM B: 0599 P: 0743

Agreements PAGE 4 / 6
VERJEAN CARUSO, KANE COUNTY RECORDER
FEE \$ 0.00 BY KANAB CITY



IN WITNESS WHEREOF, this Agreement has been executed by the Grantor and by Kanab City, acting by and through its City Council by duly authorized persons as of the 26 day of JANUARY, 2023.

GRANTOR:



Ben Riley

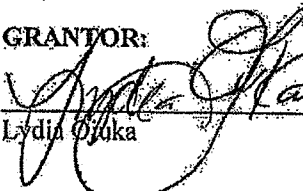
STATE OF UTAH)
) ss.
COUNTY OF KANE)

On the ____ day of _____, 2023, personally appeared before me Ben Riley, whose identity is personally known to or proved to me based on satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that she did duly acknowledge to me that she executed the foregoing document.



Notary Public

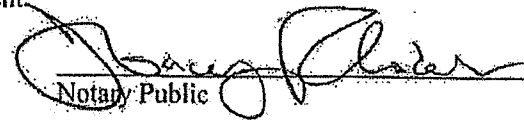
GRANTOR:



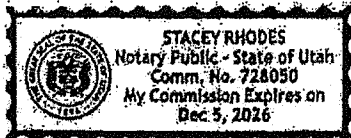
Lydia Ojuka


STATE OF UTAH)
) ss.
COUNTY OF KANE)

On the 26 day of January 2023, personally appeared before me Lydia Ojuka, whose identity is personally known to or proved to me based on satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that she did duly acknowledge to me that she executed the foregoing document.



Notary Public



ENTRY NO. 00202650
02/06/2023 02:31:01 PM B: 0599 P: 0744
Agreements PAGE 5 / 6
VERJEAN CARUSO, KANE COUNTY RECORDER
FEE \$ 0.00 BY KANAB CITY


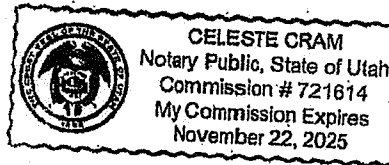
GRANTEE:

By: Colten Johnson
Colten Johnson, Mayor
KANAB CITY

STATE OF UTAH)
 ss.
COUNTY OF Kane)

On the 24 day of January, 2023, personally appeared before me Colten Johnson, Kanab City Mayor, whose identity is personally known to or proved to me based on satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that she did duly acknowledge to me that she executed the foregoing document.

Celeste Cram
Notary Public



ENTRY NO. 00202650

02/06/2023 02:31:01 PM B: 0599 P: 0745

Agreements PAGE 6 / 8
VERJEAN CARUSO, KANE COUNTY RECORDER
FEE \$ 0.00 BY KANAB CITY

