

RETURN TO:  
ENOCH CITY CORPORATION  
900 EAST MIDVALLEY ROAD  
ENOCH, UTAH 84721

00718363

B: 1421 P: 1105 Fee \$0.00  
Debbie B. Johnson, Iron County Recorder Page 1 of 7  
08/27/2018 12:21:07 PM By ENOCH CITY



**Delay Agreement  
For Completion of Public Improvements**

THIS AGREEMENT entered into this 21 day of Aug 2018, by and between Enoch City, a Utah municipal corporation, hereafter referred to as "City," and Fosters, Inc., hereinafter referred to as "the Developer."

**WITNESSETH:**

WHEREAS, the Developer desires the issuance of a building and occupancy permit for real property (A-0772-0008-0000) located at approximately 4650 North Minersville Highway, Enoch, Utah 84720; and

WHEREAS, the City cannot grant such permits until the Developer agrees to the conditions set forth hereunder regarding completion of certain improvements; and

WHEREAS, the Utah Department of Transportation, hereafter referred to as "UDOT", is currently developing plans and funding the widening of SR-130 which is pertinent to Developer's property; and,

WHEREAS, the location and construction of certain improvements by the Developer and required by the City before SR-130 expansion, is unknown and may constitute a waste of investment by Developer if improvements are required to be demolished and replaced.

NOW, THEREFORE, in consideration of the premises, the parties agree as follows:

1. Subject to the City's right to require completion of the improvements at any time as set forth hereafter, City agrees to permit Developer to defer the temporary completion of the improvements set forth on Exhibit A attached hereto until such time as the UDOT improvement and construction plans are completed and UDOT construction has commenced on the widening of SR-130.
2. The City may require any or all of the improvements to be partially or wholly completed, in any order or pursuant to any time table deemed appropriate to the City.
3. Installation of the improvements by the Developer shall commence within 30 days of the date of a written notice and shall be completed within 90 days of the date of written notice.
4. The cost of improvements, their installation and completion, shall be completely and wholly borne by the Developer.

5. The Developer shall not be relieved from the obligation to install the improvements until such installation has been performed to the satisfaction of the City.
6. The parties expressly agree that the City may at any time, at its option, install or complete any or all of the improvements. Should the City exercise its option, the Developer shall reimburse to the City, within 30 days of written notice to the Developer, all costs resulting from such installation and/or completion. If Developer fails to pay such costs incurred within 30 days, the Developer grants to City a consensual lien which City may record against the Property
7. Should the Developer fail to install and complete the improvements as required by the City pursuant to the terms of this Agreement or reimburse the City as herein agreed, or otherwise fail to perform its obligation pursuant to the terms of this Agreement, the Developer recognizes the City's right to recover the costs necessary to install the improvements or obtain reimbursement therefore, through foreclosure proceedings of the consensual lien recorded on the property described above through court action or as applicable to deeds of trust under Utah law.
8. If a special improvement district is proposed, which district would in whole or in part finance the installation of any or all of the improvements required under this Agreement, the Developer agrees not to oppose the forming of the special improvement district or the cost thereof. The Developer expressly acknowledges that its obligation for completion of or reimbursement for improvements which are the subject of this Agreement, but are not or will not be installed as part of the special improvement district, shall not be affected by said special improvement district.
9. Any and all of the obligations of the Developer as outlined in this Agreement shall run with the land described above and shall constitute an encumbrance thereon. The rights, duties and obligations herein shall inure the benefit of and be binding upon the heirs, successors-in-interest, assigns, transferees, and subsequent purchasers of the parties.
10. If the City commences legal action to enforce or interpret any term of this Agreement, the City shall be entitled to recover from the Developer, all reasonable attorney fees, court costs, and any other costs incurred in connection with such action, whether with or without suit and at trial or an appeal.
11. The parties hereby waive the right to any Jury Trial in any action, proceeding or counterclaim under this Contract. All parties knowingly and voluntarily submit to the personal jurisdiction of the courts of the State of Utah, Fifth District Court in and for Iron County, for purposes of any dispute arising out of this Agreement, including but not limited to any breach of this Agreement.
12. If any provision of this Agreement is declared invalid by a court of competent jurisdiction, the remaining provisions shall not be affected thereby, but shall remain in full force and effect.
13. The provisions hereof shall constitute a lien on the Property and this Agreement or a Notice

**00718363**

B: 1421 P: 1106 Fee \$0.00  
Debbie B. Johnson, Iron County Recorder Page 2 of 7  
08/27/2018 12:21:07 PM By ENOCH CITY



of Memorandum of this Agreement will be recorded by the City upon consent of the Developer on the real property described in Exhibit A, and shall remain as an encumbrance on the real property until such improvements have been completed and paid-in-full by Developer.

14. This Agreement contains the entire understanding between and among the parties and supersedes any prior understandings and agreements between and among the parties, whether oral or written, and this Agreement may only be amended or altered with the prior written approval of all parties.

WHEREFORE, the parties have executed this Agreement effective as of the date first written above.

CITY

By: Robert J. Dobson

Title: City Manager

DEVELOPER

By: Neil Foster

Title: President

Approved as to content:

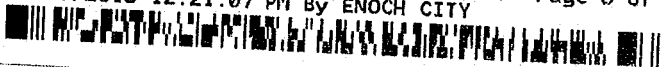
Justin Dwyer 8-22-2018  
City Attorney Date

Approved as to form:

Earl Debra 8-21-2018  
City Public Works Date

00718363

B: 1421 P: 1107 Fee \$0.00  
Debbie B. Johnson, Iron County Recorder Page 3 of 7  
08/27/2018 12:21:07 PM By ENOCH CITY





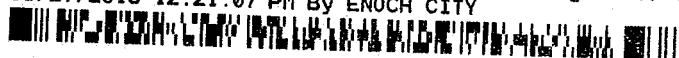


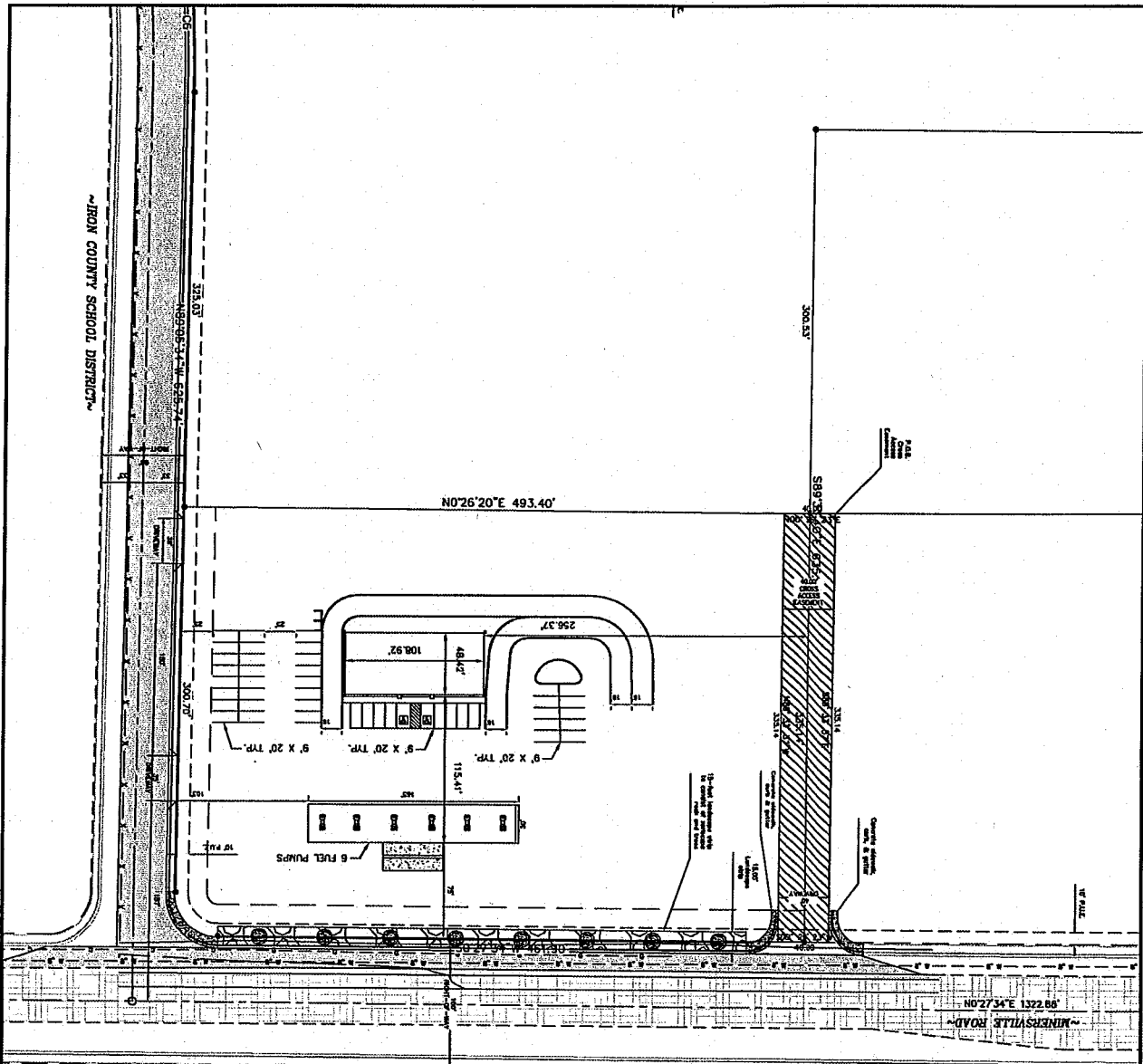
Delayed Agreement for Completion of Public Improvements  
Property Description

BEG S88\*55'27"E ALG SEC LN 569.54 FT & S00\*00'00"E 39.66 FT FR N1/4 COR SEC 14,T35S,R11W, SLM; SD PT BE ON S R/W LN OF MIDVALLEY RD; SD PT ALSO BE ON RECORD E LN OF 3 PEAK SUBDIVISION, PHASE 1; S82\*48'19"E ALG SD R/W 97.04 FT; S88\*55'27" E ALG SD R/W LN 37.64 FT; DEPART SD R/W LN & S00\*26'18"W 761.35 FT; S89\*33'40"E 635.67 FT TO W R/W LN OF MINERSVILLE HWY; S00\*27'34"W ALG SD R/W LN 461.90 FT TO PC OF CURV TO RT, CURV DATA: DELTA = 90\*26'52", RADIUS = 34.00, CHORD = S45\*41'00"W 48.27'; ALG ARC OF SD CURV 53.67 FT TO PT; N89\*05'34"W 625.74 FT TO PC OF CURV TO LEFT, CURV DATA: DELTA = 05\*27'44", RADIUS = 1150.00'; CHORD = S88\*10'34"W 109.59'; ALG ARC OF SD CURV 109.63 FT; DEPART SD CURV & N00\*26'18"E 1268.28 FT TO POB. SUBJ TO 7.50 PUBLIC UTIL EASE ALG W LN OF ABOVE DESC PARCEL. SUBJ TO 10.00 PUBLIC UTIL EASE ALG S EXTREME E (ALG MINERSVILLE HWY) & EXTREME N (ALG MIDVALLEY RD) LN OF ABOVE DESC PARCEL.

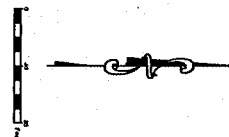
**00718363**

B: 1421 P: 1110 Fee \$0.00  
Debbie B. Johnson, Iron County Recorder Page 6 of 7  
08/27/2018 12:21:07 PM By ENOCH CITY





~HRH GRISHAW INC~



**00718363**

B: 1421 P: 1111 Fee \$0.00  
 Debbie B. Johnson, Iron County Recorder Page 7 of 7  
 08/27/2018 12:21:07 PM By ENOCH CITY



PROJECT/OWNER	SITE PLAN		REVISION	DESCRIPTION	ENGINEER	DRAWN
	FOSTER'S INC.					
SHEET	WITHIN THE NE 1/4 OF SECTION 23, T. 35 S., R. 11 W., SLB&M				PLATT & PLATT, INC. phone 435-588-8151 CIVIL ENGINEERS & SURVEYORS Fax 435-588-5567 195 N. 100 E., CEDAR CITY, UTAH 84720	
1	ENOCH, IRON COUNTY, UTAH				DATE: MAY, 2018 APPROVED: R.B. PLATT	