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ENT 77974-2024 PG 1 of 15
ANDREA ALLEN
UTAH COUNTY RECORDER
2024 Nov 6 11:34 AM FEE 0.00 BY AS
RECORDED FOR AMERICAN FORK CITY

ORDINANCE NO. 2024-08-41

AN ORDINANCE BY THE AMERICAN FORK CITY COUNCIL APPROVING THE THN 2 ANNEXATION, CONSISTING OF 1.308 ACRES AT APPROXIMATELY 1054 EAST 300 NORTH, AND ESTABLISHING ZONING CLASSIFICATION FOR SAID PROPERTY.

WHEREAS, a Petition for Annexation, along with an accurate plat of said property, was filed on April 3, 2024, by RBAK Ventures, requesting American Fork City annex property into the city; and

WHEREAS, the City Council accepted the petition on April 30, 2024, and the city recorder determined the annexation complies with all provisions of state law and certification was provided to the Utah County Commission pursuant to Utah Code Ann §10-2-405 on May 21, 2024; and

WHEREAS, a 30-day protest period was held and no written protests that would affect the proposed annexation were received; and

WHEREAS, a public hearing considering the proposed annexation was held by the City Council on August 27, 2024, pursuant to Utah Code Ann §10-2-407(7).

NOW, THEREORE, BE IT ORDAINED BY THE AMERICAN FORK CITY COUNCIL, UTAH:

SECTION I. That the City Council hereby approves the THN 2 Annexation consisting of 1.308 acres at approximately 1054 East 300 North into American Fork City, and the boundaries of American Fork City are hereby extended to include within the city limits the following described land located in Utah County as provided in Attachment "A".

SECTION II. That the territory annexed under Section 1 above is hereby classified into the R1-9000 and PO-1 zones as shown in Attachment "B" and subject to the terms and conditions of the THN 2 Annexation Agreement as provided in Attachment 'B'.

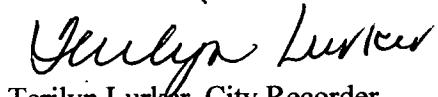
SECTION III. This ordinance shall take effect upon its passage and first publication.

PASSED by the City Council of American Fork this 27th day of August 2024.

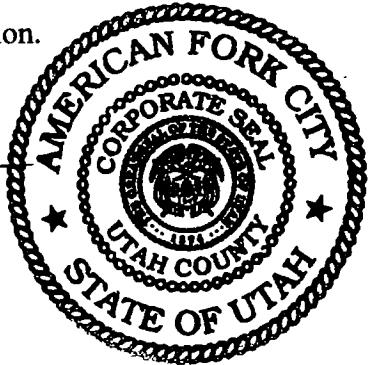


Bradley J. Frost, Mayor

ATTEST:



Terilyn Lurker, City Recorder



ATTACHMENT "A"

BOUNDARY DESCRIPTION

BEGINNING AT THE NORTHEAST CORNER OF THE BOND ANNEXATION, SAID POINT BEING LOCATED SOUTH 544.31 FEET AND EAST 816.47 FEET FROM THE WEST QUARTER CORNER OF SECTION 18, TOWNSHIP 5 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN;

THENCE ALONG THE EXISTING AMERICAN FORK CITY BOUNDARY THE FOLLOWING FOURTEEN COURSES AND DISTANCES: 1) SOUTH 89°06'22" EAST 50.53 FEET, 2) NORTH 158.12 FEET, 3) EAST 105.72 FEET, 4) SOUTH 76.95 FEET, 5) WEST 29.32 FEET, 6) SOUTH 0°30'39" WEST 215.06 FEET, 7) SOUTH 89°58'55" EAST 0.30 FEET, 8) SOUTH 0°31'00" WEST 224.23 FEET, 9) SOUTH 86°55'15" WEST 29.23 FEET, 10) SOUTH 0°28'23" EAST 28.88 FEET, 11) NORTH 89°18'52" WEST 58.87 FEET, 12) NORTH 1°32'33" WEST 114.72 FEET, 13) SOUTH 86°54'50" WEST 25.00 FEET, AND 14) NORTH 1°32'41" WEST 275.35 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.308 ACRES, MORE OR LESS.

BASIS OF BEARING: UTAH STATE PLANE COORDINATE SYSTEM NAD 1927, CENTRAL ZONE.

ANNEXATION AGREEMENT
(THN 2 Annexation)

This Annexation Agreement ("Agreement"), made and entered into this 27 day of Aug 4, 2024, by and between City of American Fork, Utah, a Utah Municipal Corporation (hereafter referred to as "City") and RBAK Ventures, a Utah corporation (hereafter referred to as "Applicant"), is based on the following:

RECITALS

WHEREAS, Applicant is the owner of certain parcels of privately-owned real property constituting the entirety of the THN 2 Annexation Area, which annexation is located within the unincorporated territory of Utah County, contiguous to the corporate boundary of the City, and is within the City's proposed expansion area;

WHEREAS, a "Petition for Annexation" (Attachment 1 to this Agreement), together with a plat (Attachment 2 to this Agreement) have been prepared by the Applicant and show the real property proposed for annexation (hereafter referred to as "Annexation Area");

WHEREAS, in accordance with the provisions of UCA 10-2-402, the American Fork City Council has heretofore adopted Resolution No. No. 2024-04-12 R, accepting the Petition for Annexation;

WHEREAS, notice of hearing regarding the proposed annexation has been published and the public hearing thereon held;

WHEREAS, the City Council has determined that annexation of the Annexation Area is in the best interest of the City and has indicated an intent to: (1) enact an ordinance of annexation relating thereto, subject to the prior execution of this Agreement, and (2) authorize the recording of the annexation plat at the office of the Utah County Recorder, subject to the terms and conditions of this Agreement.

TERMS AND CONDITIONS

NOW THEREFORE, based on the above recitals and in consideration of the annexation of the Annexation Area to the City, the parties covenant and agree as follows:

SECTION 1 - Applicability of Agreement and Annexation Contingency: The real property to which the terms of this Agreement apply shall be the parcels of private property within the Annexation Area, identified on Attachment 2. Attachment 2 is hereby made part of this Agreement. This Agreement will be effective if, and only if, (a) the City approves an ordinance annexing the Annexation Area into the City; and (b) all procedural requirements associated with an annexation under the law of the State of Utah have been complied with, including the issuance of a certificate of annexation by the Lieutenant Governor.

SECTION 2 - Annexation a benefit to Applicant: Applicant and City acknowledge that the City has discretion to approve or deny 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 property is equal to or greater than the requirements and conditions of annexation as set forth in this Agreement and the conditions of the development as set forth herein and under the terms of the City's Development Code and Impact Fee Ordinance does not constitute a constitutional taking as that term is defined pursuant to the terms of UCA 10-9a-103(6), 1953, as amended.

SECTION 3 - Authority of Applicant: Applicant hereby affirms that it is the current owner of the total private land area within the Annexation Area and has complete authority to enter into this Agreement and bind the property hereto.

SECTION 4 - Compatibility with Land Use Plan and Initial Zone Classification:
The City's General Plan classifies the proposed uses for the Annexation Area classified as Professional Office and Residential Low Density. Therefore, the zone classification attached to the parcel shall be Professional Office and R1-9000. A map illustrating the zone classification for the Annexation Area has been prepared by the City and is made part of this agreement (Attachment 3 to this Agreement).

SECTION 5 - Right-of-way to be Conveyed:

The City's General Plan provides for the development of a local road ("Local Road") which will be located at approximately 300 North American Fork. As a condition of annexation, Applicant hereby agrees to dedicate and convey to the City any right-of-way necessary for the Local Road in the location shown on the street dedication map prepared by the Applicant and approved the City (Attachment 4 to this Agreement). Applicant shall have no obligation to construct any right-of-way improvements for the Local Road unless and until any improvement or development occurs within the Annexation Area. Development of the Local Road will be subject to the provisions as outlined in the American Fork City Development Code in effect at the time of development. Applicant shall be responsible for the cost of all minimum level of improvements at the time of improvement or development.

SECTION 6 - Conveyance of Water Right: American Fork City Code 17.1.400, Conveyance of Water, requires conveyance of water shares/rights at the time of annexation unless the City determines that there is good and sufficient reason to delay the time of the conveyance. City and Applicant acknowledge and agree that the parties are unable to determine the quantity of shares/rights required for the Annexation Area at the present time and therefore, the City authorizes a delay in the time of conveyance of water shares/rights until the time of development. Any subsequent conveyance of water shares/rights shall be no more than what is required for the development of the Annexation Area as provided for under applicable City standards. A Water Delay Agreement is entered into by the parties concurrently with this Agreement and the terms of such Water Delay Agreement are incorporated into this Agreement as Attachment 5.

SECTION 7 - Open Ditches to be Piped: Applicant acknowledges that it is Applicant's burden in full to pipe any and all gravity irrigation conveyances (ditches), to the standards of the City and to the standards of the applicable irrigation company or private ditch easement holders as part of any forthcoming development project within the Annexation Area.

SECTION 8 - Property Taxes and Rollback Taxes to be Paid on any Right-of-Way

Area including any and all rollback taxes if the subject area is classified as "Greenbelt" with the Utah County Tax Assessor, for any areas identified as ROW which are to be dedicated to City in connection with this Agreement. Proof of payment of these taxes shall be required prior to recording of this Agreement.

SECTION 9 - Impact Fees: No impact fees are required to be paid at this time as a condition of annexation. However, nothing in this Agreement constitutes a waiver of any obligation that Applicant or any successor may have for the payment of any generally applicable 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 ordinance have been paid at the amount then in effect.

SECTION 10 - Default: In the event either party seeks to enforce the terms hereof in a lawsuit or other proceeding, the prevailing party shall be entitled to an award of the costs incurred, including reasonable attorney fees.

SECTION 11 - Notice: Any notice to be given hereunder shall be given by certified mail, return receipt requested, addressed as follows:

- a. If to the City, to the City of American Fork, 51 East Main Street, American Fork Utah, 84003.
- b. If to Applicant, to Ryan Davis, RBAK Ventures, 228 Farm Springs Lane, Midway, Utah 84049.

SECTION 12 - Entire Agreement: This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof and may be changed only in writing signed by all parties.

SECTION 13 — Severability: The provisions of this Agreement shall be deemed to be severable, and if any provision of this Agreement is determined to be invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect or limit the validity or enforceability of the remaining provisions hereof.

SECTION 14 - Binding Effect: This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, representatives, officers, agents, employees, members, successors and assigns. **IN WITNESS WHEREOF**, the parties have signed this agreement on the date first mentioned above.

AMERICAN FORK CITY



ATTEST:




Bradley J. Frost, Mayor


Evelyn Lurker
City Recorder



ATTACHMENT #1

American Fork City
Recorder's Office
51 E. Main Street
American Fork, UT 84003
801-763-3000

AMERICAN
FORK

Petition for Annexation

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Petition Title: TIAN2 Annexation

Property Location: 1054 E 300 N, American Fork Acreage: 1.121 Acres

Property Owner Names:

RBAK Ventures, LLC

Property Address:

1054 E. 300 N.

Parcel ID#:

14:017:0128

Hansen, John & Sandra

1083 E 300 N

14:017:0156

TIAN, Allen

14:017:0132

(Attach Additional Sheets if needed)

Sponsor Name: RBAK VENTURES

Phone: 801-875-8589

Address: 1054 E 300 N. American Fork, ut 84011

Email Address: rdavis1@gmail.com

Include with Petition:

- Petition for Annexation and signature page
- Accurate and recordable mylar map
 - Electronic copy of map emailed to tlurker@americanfork.gov and mwhite@americanfork.gov
 - One 24" x 36" map stamped by a licensed surveyor
- Copy of the Notice of Intent to File an Annexation Petition sent to affected entities, including the date notices were sent and a list of the affected entities notices were sent.
- On the date of filing with the city recorder, deliver copy of petition to Utah County Clerk



ATTACHMENT #1

American Fork City
Recorder's Office
51 E. Main Street
American Fork, UT 84003
801-763-3000

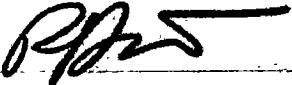
Petition for Annexation Signature Page

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Notice:

- There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.
- If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder of American Fork City. If you choose to withdraw your signature, you shall do so no later than 30 days after American Fork City receives notice that the petition has been certified.

We, the undersigned owners of private real property, hereby petition the area shown on the attached accurate and recordable map prepared by a licensed surveyor to be annexed into American Fork City. Each of the undersigned affirms that (a) each has personally signed this petition, (b) each is an owner of real property that is located within the area, and (c) each desire to be annexed into American Fork City. The petitioners hereby request this petition be considered by the American Fork City Council and that a resolution be adopted as required by law accepting this petition for further consideration.


Signature


Printed Name

14:017:0128
Parcel ID

1054 E 300 N American Fork, ut 84001
Address

801-875-8589
Telephone Number

rdavis1c@gmail.com
Email Address

Signature

Printed Name

Parcel ID

Address

Telephone Number

Email Address

Signature

Printed Name

Parcel ID

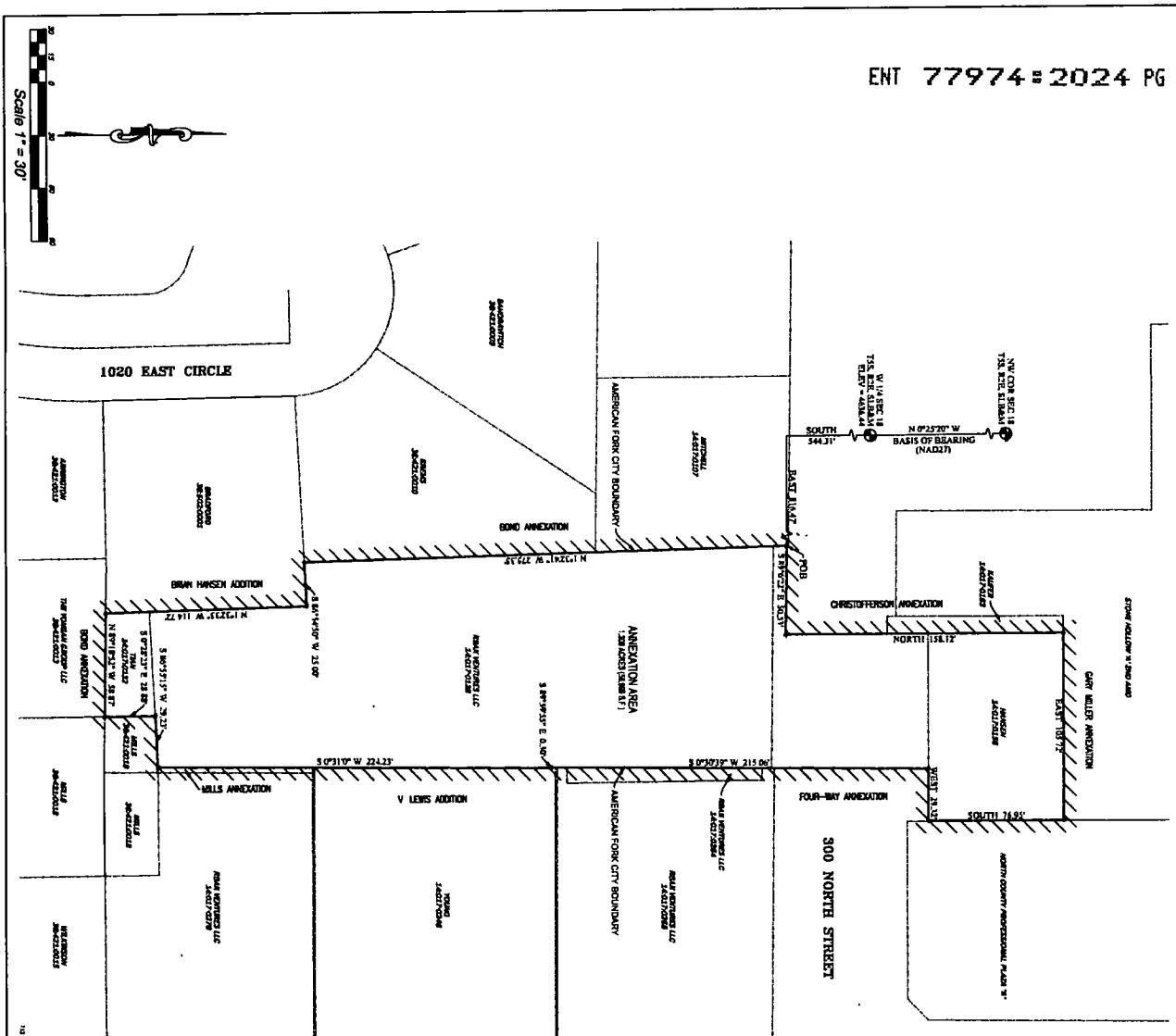
Address

Telephone Number

Email Address

(Attach additional Sheets as needed)

ATTACHMENT #2



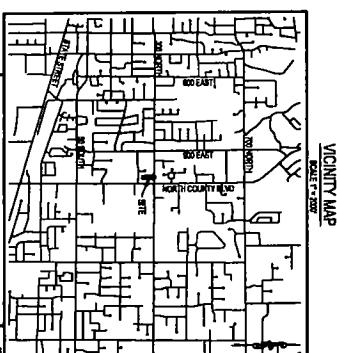
SURVEYOR'S CERTIFICATE
DO HEREBY CERTIFY THAT I AM A
LICENSED SURVEYOR IN THE STATE OF UTAH.
I FURTHER CERTIFY THAT I
AM A CORPORATE UNIT OF AMERICAN
TRUE AND CORRECT REPRESENTATION
FILE IN THE OFFICE OF THE UTAH CO.

AN EXISTING ISLAND OR PENINSULA WHICH OR CONTRIBUTS TO THE CITY, AND
NO EXISTING CITY, IT HAS BEEN AGREED TO FORM A UNION, ENTITLED
THE UNION OF THE STATE, AND TO APPROPRIATE AN APPROPRIATE PROVIDED FOR THE
MANAGEMENT OF THE TRACT, TO THE CITY, ALL IN ACCORDANCE WITH THE
PROVISIONS OF SECTION 10-4-14 UTM WHICH IS ANNOTATED AS AMENDED, AND
THAT THE COUNCILS HEREIN APPROVE AND ACCEPT THE ANNEXATION
TO THE CITY, AND THAT THE COUNCILS OF THE AMERICAN PARK CITY,
TO BE NAMED HEREIN AFTER THE UNION ANNEXATION.

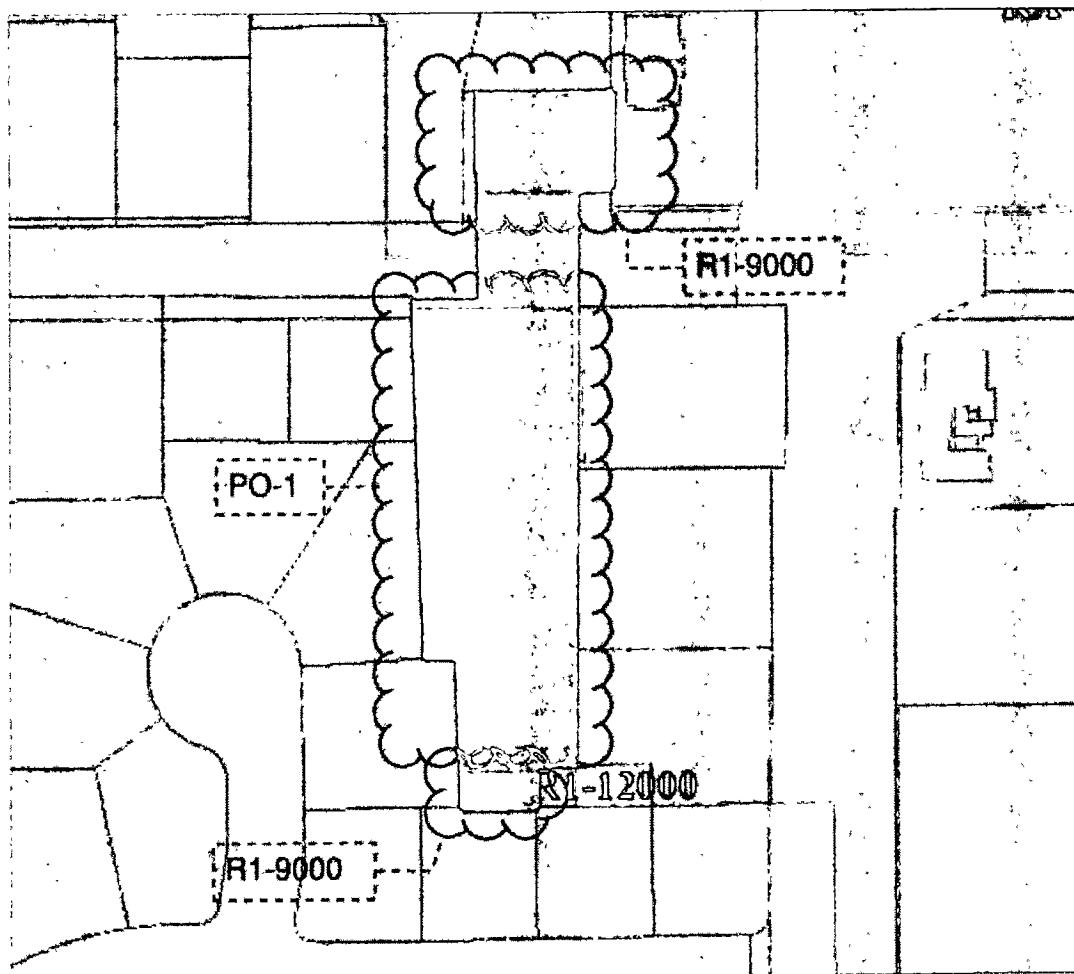
FINAL LOCAL ENTITY PLAT

ANNEXATION

 AZTEC COUNTY TEXAS <small>1856 - 1904 - 1936 - 1956 - 1976 - 1996</small>	
1976-2006 AS AMENDED	
COUNTY SURVEYOR	DATE

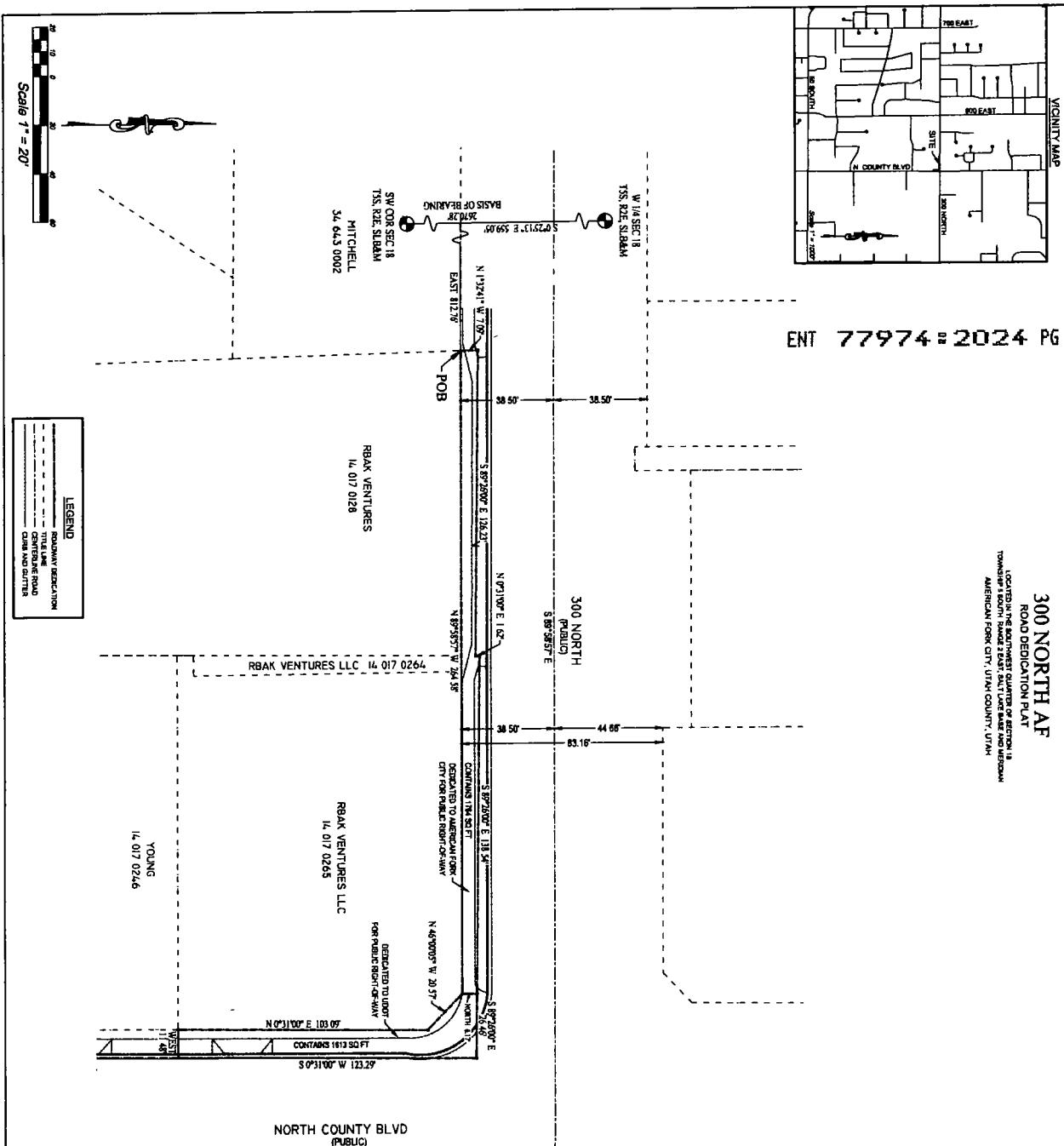


Attachment 3



ATTACHMENT #4

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ATTACHMENT #5

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WATER DELAY AGREEMENT FOR ANNEXATION

This Water Delay Agreement for Annexation ("Agreement") is entered into as of the 27 day of August, 2024 ("Effective Date"), by and between Alan Davis ("Owner"), and AMERICAN FORK CITY, a municipal corporation and political subdivision of the State of Utah ("City").

RECITALS

WHEREAS Owner is the owner of Parcel Nos. 14:017:0128, 14:017:0156, 14:017:0132, ("Property"), which are located outside of the City's current municipal boundaries; and

WHEREAS Owner has filed with the City a request to have the Property annexed into the City ("Annexation Request"); and

WHEREAS Section 17.1.400(C) of the City Code requires the conveyance of title to water rights concurrently with final action by the City Council on an annexation, except under pursuant to certain findings, terms, and conditions; and

WHEREAS City and Owner desire to enter into this Agreement as part of the findings, terms, and conditions required under Section 17.1.400(C) of the City Code.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants hereafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and City, incorporating the recitals set forth above, agree as follows:

AGREEMENT

1. Determination of City Council. The City Council, with the recommendation of the City Planning Commission, has determined that there is good and sufficient reason to delay the time of conveyance of water rights and/or water shares beyond the time of the City Council's final action on the Annexation Request. This determination was made in the City Council meeting held on August 27, 2024. The basis and reasoning for the City Council's determination are included within the recording, minutes, and other documentation from said City Council meeting.

2. Water Rights/Shares. The specific water rights and/or water shares that may be conveyed to the City, and that pursuant to the terms and conditions of this Agreement are hereby committed to the City, which commitment is irrevocable by Owner and may be released by the City only as provided in this Agreement ("Committed Water"), are identified in Exhibit A of this Agreement.

3. Conveyance of Committed Water. Prior to the City's approval of any development on the Property that will require the delivery of water, the City will determine the amount of water rights/shares required for dedication and conveyance to the City in order to meet the water requirements of the development. Owner will convey clear title to the required amount of the Committed Water to the City. If the amount of water necessary for the development is less than the

total amount of the Committed Water, the City will release the commitment (provided in paragraph 2 above) as to the unnecessary portion of the Committed Water. If the amount of water necessary for the development is more than the total amount of the Committed Water, Owner shall convey additional acceptable water rights/shares to the City to meet the dedication requirements. If the Committed Water consists of any water rights, the conveyance shall be by Warranty Deed and an accompanying Water Rights Deed Addendum. If the Committed Water consists of any water shares, the conveyance shall be by assignment, endorsement, and delivery of the appropriate share certificates. Owner acknowledges that under the Article XI, Section 6 of the Utah Constitution, City is prohibited from returning to Owner any portion of the Committed Water once it has been conveyed to the City.

4. Change Application. If any of the Committed Water consists of water rights, an express prerequisite for conveyance shall be the filing and approval of an Application for Permanent Change of Water ("Change Application") with the Utah Division of Water Rights ("Division") to convert the water rights to municipal use to be diverted from the City's wells. Prior to the filing of the Change Application, the water rights shall be reviewed by the City's water attorneys to ensure that the water rights are suitable for dedication. The City's water attorneys shall also prepare and prosecute the Change Application, with the full assistance and support of Owner. The water rights will be deemed acceptable for conveyance to the City under this paragraph upon the issuance of an Order approving the Change Application that is acceptable to the City and upon expiration of all applicable deadlines for requests for reconsideration and/or appeal of the Order. Owner shall be responsible for all costs associated with the Change Application, including but not limited to the City's attorney fees, application filing fees, and document fees.

5. Title to Committed Water. Owner shall convey unencumbered title to the Committed Water to the City. If the Committed Water consists of water rights, the City will obtain a water rights title insurance policy for the water rights. Owner shall be responsible for all costs associated with the water rights title insurance, including but not limited to the policy premium and recording fees. Owner shall be responsible for satisfying the requirements and conditions of the Title Commitment in order for the title company to issue a title insurance policy that is acceptable to the City. A water rights title insurance policy that is agreeable to the City is an express condition to the acceptability of the water rights for dedication and conveyance to the City. If the Committed Water consists of water shares, the City will obtain written confirmation of share ownership and current payment of all assessments from the respective water company/companies. Owner shall be responsible for all costs associated with obtaining the written confirmation. From the date of this Agreement until the Committed Water is conveyed to the City, Owner shall not sell or otherwise dispose of the Committed Water, nor shall Owner allow any liens or encumbrances upon the Committed Water that would prevent Owner from conveying unencumbered title to the Committed Water to the City.

6. Cessation of Owner's Use. Upon conveyance of the Committed Water to the City, Owner shall immediately cease any and all use of the Committed Water.

7. Successors and Assigns. Pursuant to the terms of this Agreement, Owner shall have the right to assign its rights, duties, and obligations. The parties acknowledge that the rights, duties, and obligations of Owner will also apply to any successor or assign of Owner, and that the use of the term "Owner" in this contract includes Owner's successors or assigns.

8. Ownership of Water Facilities. Nothing in this Agreement shall alter the ownership of any wells or other water facilities of Owner or City.

9. Entire Agreement. This Agreement represents the entire agreement between the parties and supersedes all prior agreements and understandings concerning the commitment and conveyance of water rights for the Property. This Agreement shall not be amended, modified, or terminated except by written instrument signed by all parties.

10. Construction and Enforcement. This Agreement shall be construed in accordance with and governed by the laws of the State of Utah. This Agreement may be specifically enforced.

11. Third Party Beneficiaries. This Agreement is not intended to and shall not create any rights in any person or entity not a party to this Agreement.

12. Attorney Fees. In any action arising out of this Agreement, the prevailing party shall be entitled to costs and reasonable attorney fees.

13. Further Assurances. After the execution of this Agreement, the parties agree to execute and deliver such documents, and to take or cause to be taken all such other actions, as either party may reasonably deem necessary or appropriate in order to carry out the intents and purposes of this Agreement.

14. Severability. If any term, covenant, or condition of this Agreement shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and the remainder of the Agreement shall remain in full force and effect.

15. Authority of Parties. The persons signing this Agreement represent and warrant that they have full authority to do so and that their corporation or entity has undertaken and obtained whatever formalities and approvals are necessary to enter into this Agreement.

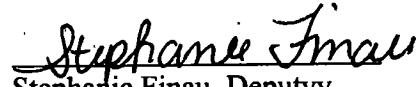
16. Counterparts. This Agreement may be executed in multiple counterparts, all of which taken together shall comprise one agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

AMERICAN FORK CITY

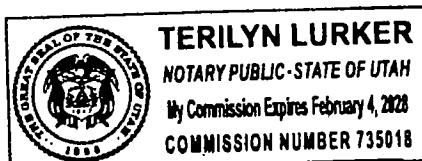

Bradley J. Frost, Mayor

Attest:


Stephanie Finau, Deputy

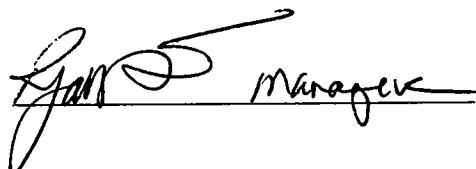
STATE OF UTAH)
:ss
COUNTY OF Utah)

On the 28 day of August, 2024, personally appeared before me Bradley J. Frost and Stephanie Finau, known to me to be the Mayor and Deputy Recorder, respectively, of American Fork City, who acknowledged to me that they executed the within Water Delay Agreement pursuant to the approval and authorization of the City Council at a regular meeting at which a quorum was in attendance.




Terilyn Lurker
NOTARY PUBLIC

[OWNER]


Ryan Davis
Manager

STATE OF UTAH)
:ss
COUNTY OF Utah)

On the 1 day of Aug, 2024, Ryan Davis personally appeared before me and duly acknowledged that he/she executed this Water Delay Agreement for the purposes stated therein.




Terilyn Lurker
NOTARY PUBLIC

EXHIBIT A

Description of Water Rights and/or Water Shares Committed to the City

Based on the municipal code section 17.1.400 Conveyance of Water, with the category of one dwelling unit per lot, and the indoor use being 0.45 acre-feet of water per dwelling, the city will recognize a credit of 0.45 acre-feet of water.