

WHEN RECORDED RETURN TO:
Payson City Recorder
439 West Utah Avenue
Payson, Utah 84651

Space above for County Recorder's use only

PARCEL I.D. # 30:073:0087

AGREEMENT TO DELAY AND DEFER COMPLETION OF CERTAIN UTILITY AND INFRASTRUCTURE IMPROVEMENTS

THIS AGREEMENT is made this ____ day of _____, 2023.

PARTIES

“APPLICANT”: MICHAEL CHAD STAHELI, as property owner, subject of this agreement, located at 1614 E Ranch Lane, Payson, Utah herein referred to as “APPLICANT”, whose address is the same.

“CITY”: PAYSON CITY, a municipal corporation, herein referred to as “CITY”, whose address is 439 West Utah Avenue, Payson, Utah 84651.

RECITALS

WHEREAS, APPLICANT desires the following permits, approvals or agreements:

APPLICANT has received a building permit (BP2021-089) for a single-family dwelling on Utah County Parcel 30:073:0087 located at 1614 E Ranch Lane, Payson, Utah, and the construction of the dwelling and improvement of the property necessitates the completion of required improvements as outlined in Payson City Municipal Code, and

APPLICANT is requesting to delay the required performance guarantee and installation of some on-site and off-site improvements, including installation of curb, gutter, and sidewalk along Ranch Lane, and the installation of public utilities and municipal services to serve the subject parcel.

The legal description of land where the public improvements described herein are to be installed and/or constructed is more particularly described in Exhibit A.

WHEREAS, new dwellings on lots of record in the MH-2, Mountain and Hillside Zone may connect to on-site systems (well, septic tank) or private systems if city utilities are not readily available. Due to the distance the subject parcel and the existing city utilities, CITY has determined the dwelling may be served by an on-site septic system and connected to Goosenest Water System until such time city utilities are available. APPLICANT is required to obtain all necessary permits and approvals from the agencies that

regulate these systems.

WHEREAS, the terms of the issuance of said approvals or agreements require APPLICANT to install and complete the following public improvements:

All required off-site and on-site public improvements, including but not limited to all legally required performance guarantees, permits, utility and infrastructure improvements including streets, curbs, gutters, and sidewalks, the disconnection of any existing on-site utilities (i.e. wells, septic tanks) or connections to private systems, and the installation, completion of, and connection to the City utilities, services and infrastructure (i.e. culinary water, pressurized irrigation, sewer, etc.).

WHEREAS, CITY cannot grant approval of a permit and delay the installation of said legally required public improvements, and delay legally required performance guarantees until APPLICANT agrees to the conditions set forth hereunder regarding the above-described public improvements.

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

1. CITY agrees to permit APPLICANT to defer completion of the above referenced public improvements until:
 - a. the property owner and/or APPLICANT submits a land use application for a more intense use of the property (i.e. zone change, subdivision, conditional use permit), and/or other properties along Ranch Lane construct the improvements adjacent to this property;
 - b. the City utilities and services are within 300 feet of the parcel;
 - c. roadway improvements will be required when Ranch Lane is extended or improved to provide access to additional parcels in the area,
 - d. such time as written notice is sent to APPLICANT demanding installation and/or completion of any or all the public improvements, or
 - e. such time as written notice is sent to APPLICANT to reimburse CITY for CITY's installation and/or completion of the public improvements.
2. Installation of the public improvements by the APPLICANT shall commence within 30 days of the date of the written notice or such other time as mentioned in paragraph 1 above, and shall be completed within 90 days of the written notice.
3. The cost of the public improvements and their installation and completion shall be completely and wholly borne by APPLICANT.
4. APPLICANT shall not be relieved from the obligation to install the public improvements until such installation has been performed to the satisfaction of CITY.
5. Notwithstanding the provisions set forth above, if prior to the deferred time period set out in paragraph 1 above, an applicant applies to CITY for approval to develop the property adjacent to the property described above, CITY may require said deferred public improvements to be installed at the same time approval is given to develop the adjacent property.
6. The parties expressly agree that CITY may at any time, at its option, install and/or complete the public improvements for the property described above. Should CITY exercise its option,

APPLICANT shall reimburse to CITY, within 30 days of the date of notice costs resulting from said installation and/or completion.

7. APPLICANT expressly agrees that should APPLICANT fail to install and complete the public improvements as required by CITY pursuant to the terms of this Agreement or reimburse CITY for the costs to install and complete the public improvements, or otherwise fail to perform its obligation pursuant to the terms of this Agreement, APPLICANT agrees and recognizes CITY's right to recover the costs necessary to install the public improvements or obtain reimbursement therefore through foreclosure proceedings on the property described above or obtain reimbursement therefore through any lawful means, including through foreclosure proceedings on the property described above.
8. Parties agree that the property described above is located in the MH-2 Zone, and access is provided via Ranch Lane (private) and Rim Rock Canyon Drive (public).
9. APPLICANT agrees a performance guarantee, which can be in the form of a letter of credit, shall be provided prior to commencement of any construction.
10. This Deferral Agreement shall be signed by the owners of property and recorded in the office of the Utah County Recorder.
11. The deferral process does not waive or modify any other regulations or requirements of the Payson City Municipal Code or the Municipal Land Use Development and Management Act, Utah Code Annotated, 10-9a-101 et seq.
12. If APPLICANT sells or leases the property or any portion of the property described above, and the buyer or lessee applies to CITY for approval to develop or improve the property, CITY may require the public improvements to be installed at the same time approval is given to develop the property.
13. If a special assessment area is proposed, which would in whole or in part finance the installation of any or of all the public improvements required under this Agreement, APPLICANT expressly agrees not to oppose the forming of the special assessment area or the cost thereof. APPLICANT expressly acknowledges that its obligation for completion of or reimbursement for any public improvements which are the subject of this Agreement, but are not or will not be installed as part of the special assessment area, shall not be affected by said assessment area.
14. Any and all of the obligations of APPLICANT 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 to the benefit of and be binding upon the heirs, successors-in-interest, assigns, transferees, and any subsequent purchaser of the parties.
15. This Agreement contains the complete Agreement concerning the arrangement between the parties with respect to the posting of an infrastructure performance guarantee and/or completion of any or of all the public improvements for the infrastructure described herein, and shall supersede all other agreements between the parties, written or oral. All recitals and exhibits are incorporated herein by this reference. This agreement does not waive other conditions of approval for the building permit.
16. Any modification of this Agreement or additional obligations assumed by either party in connection with this Agreement shall be binding only if evidenced in writing and signed by each party.
17. If any provision of this Agreement is declared invalid by a court of competent jurisdiction, the remaining provisions shall not be affected thereby, and shall remain in full force and effect.

18. This Agreement, performance hereunder, and enforcement of the terms contained herein shall be construed in accordance with and pursuant to the laws of the State of Utah.
19. The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions contained herein, or the waiver of any breach of any of the term and conditions contained herein, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver has occurred.
20. In the event CITY commences legal action to enforce or interpret any term of this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorney's fees, court costs, and any other costs in connection with said action.
21. APPLICANT agrees to indemnify, protect, and save and hold harmless CITY, its employees and agents, from and against all losses, damages, injuries, claims, demands, and expenses, including attorneys' fees and court costs of whatsoever nature, arising out of the non-posting of a performance guarantee and/or delay of completion of any or of all the public improvements.
22. This Agreement shall be binding upon any and all successors and assigns of all or any portion of the Property. This Agreement may not be assigned to someone other than a purchaser of the Property without written authorization by CITY.

Dated this ____ day of _____, 2023.

Michael Chad Staheli, Property Owner

STATE OF UTAH)
 : ss
COUNTY OF UTAH)

On this ____ day of _____, 2023, personally appeared before me, a Notary Public in and for the State of Utah, _____, whose identity is personally known to me or proved to me on the basis of satisfactory evidence to be the person, whose name is subscribed to this instrument, and acknowledged that he is the same.

Notary Public

William R. Wright, Mayor
Payson City

STATE OF UTAH)
 : ss
COUNTY OF UTAH)

On this ____ day of _____, 2023, personally appeared before me, a Notary Public in and for the State of Utah, William R. Wright, Mayor of Payson City, and the signer of this instrument, who duly acknowledged that he executed the same.

Notary Public

EXHIBIT A

COM N 1320 FT & E 748.3 FT FR SW COR SEC 22, T9S, R2E, SLM; E 1891.7 FT; S 1287.12 FT; S 89 DEG 28'56"W 737.16 FT; N 41 DEG 44'44"W 1734.04 FT TO BEG.

AREA 38.98 ACRES.