

STATE OF UTAH



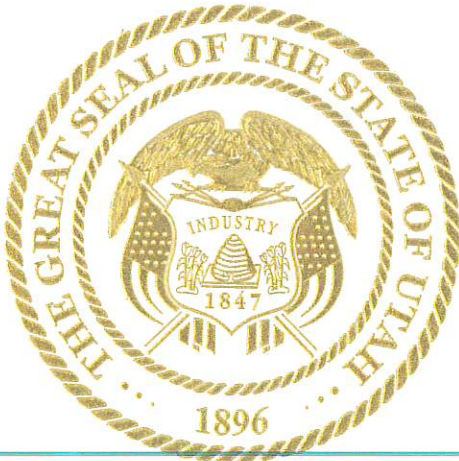
OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE OF ANNEXATION

I, Deidre M. Henderson, Lieutenant Governor of the State of Utah, hereby certify that there has been filed in my office a notice for the YD3 ANNEXATION, located in AMERICAN FORK CITY, dated JULY 30, 2024, complying with §10-2-407, Utah Code Annotated, 1953, as amended.

Now, therefore, notice is hereby given to all whom it may concern that the attached is a true and correct copy of the notice of annexation, referred to above, on file with the Office of the Lieutenant Governor pertaining to the YD3 ANNEXATION, located in UTAH COUNTY, State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed the Great Seal of the State of Utah this 9<sup>th</sup> day of August, 2024 at Salt Lake City, Utah.



A handwritten signature in black ink that reads "Deidre M. Henderson".

DEIDRE M. HENDERSON  
Lieutenant Governor





**\*\*NOTICE OF IMPENDING BOUNDARY ACTION\*\***

**PHONE:** (801) 763-3000  
**FAX:** (801) 763-3033  
**WEB:** www.americanfork.gov

51 E Main St  
American Fork, UT  
84003

July 30, 2024

Lt. Governor's Office  
P.O. Box 142325  
Salt Lake City, Utah 84114-2325

RE: YD3 Annexation

To Whom It May Concern:

At the July 23, 2024, City Council meeting, American Fork City adopted Ordinance No. 2024-07-35 which approved the YD3 Annexation into American Fork City. Enclosed you will find a copy of our Ordinance of Annexation, which includes the boundary description of the annexation, and a copy of the annexation map.

American Fork City certifies that all requirements applicable to Utah Code Title 10 Utah Municipal Code Part 4 Annexation have been met for the above annexation. American Fork seeks a Certificate of Annexation as described in Utah Code 10-2-407.

Please send the Certificate of Annexation to:  
American Fork City Recorder  
51 East Main  
American Fork, UT 84003

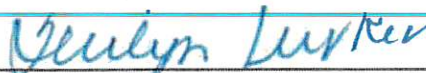
If you have any questions or need further information, please call me at 801-763-3000.

Sincerely,  
  
David Bunker, City Administrator

State of Utah  
County of Utah

On this 30<sup>th</sup> day of July, 2024, personally appeared David Bunker, proved on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged he executed the same.

Witness my hand and official seal.

  
\_\_\_\_\_  
Notary Public





**ORDINANCE NO. 2024-07-35**

**AN ORDINANCE BY THE AMERICAN FORK CITY COUNCIL APPROVING THE YD3 ANNEXATION, CONSISTING OF 0.20 ACRES AT APPROXIMATELY 250 SOUTH 1160 WEST, AND ESTABLISHING ZONING CLASSIFICATION FOR SAID PROPERTY.**

WHEREAS, a Petition for Annexation, along with an accurate plat of said property, was filed on March 21, 2024, by Brian Bird, requesting American Fork City annex property into the city; and

WHEREAS, the City Council accepted the petition on April 9, 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 April 11, 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 May 14, 2024, pursuant to Utah Code Ann §10-2-407(7).

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

SECTION I. That the City Council hereby approves the YD3 Annexation consisting of 0.20 acres at approximately 250 South 1160 West 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 TOD Zone and subject to the terms and conditions of the YD3 Annexation Agreement as provided in Attachment 'B'.



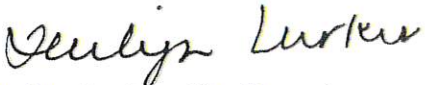
SECTION III. This ordinance shall take effect upon its passage and first publication.

PASSED by the City Council of American Fork this 23rd day of July 2024.

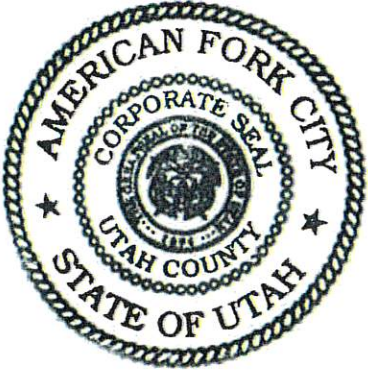


Bradley J. Frost, Mayor

ATTEST:



Terilyn Lurker, City Recorder



ATTACHMENT "A"

**BOUNDARY DESCRIPTION**

A PORTION OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 5 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN, MORE PARTICULAR DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED 444.40 FEET S 89°53'29" E ALONG THE SECTION LINE AND 1649.64 FEET SOUTH FROM THE NORTHWEST CORNER OF SAID SECTION 22, SAID POINT IS ALSO THE NORTHWEST ANGLE POINT ON THE WESTERLY BOUNDARY LINE OF THE YARD SUBDIVISION PLAT ON FILE IN THE OFFICE OF THE UTAH COUNTY RECORDER, FILE NO. 17159; AND RUNNING THENCE ALONG THE BOUNDARY OF THE SAID THE YARD SUBDIVISION PLAT S 89°29'34" E FOR A DISTANCE OF 9.06 FEET TO A POINT ON THE EXISTING BOUNDARY OF AMERICAN FORK CITY LIMITS SHOWN ON THE WESTERLY DESCRIBED LINE OF BOLEY II ANNEXATION PLAT OF OFFICIAL RECORDS, THENCE ALONG SAID BOUNDARY S 00°00'00" W FOR A DISTANCE OF 629.81 FEET TO THE EXISTING BOUNDARY OF AMERICAN FORK CITY LIMITS SHOWN ON THE SPRING CREEK WEST ANNEXATION PLAT OF OFFICIAL RECORDS, THENCE ALONG SAID EXISTING BOUNDARY N 90°00'00" W 18.95 FEET, THENCE N 00°54'00" E FOR A DISTANCE OF 629.97 FEET ALONG THE WESTERLY DESCRIBED LINE IN QUIT CLAIM DEED 126162:2020 AND THE WESTERLY BOUNDARY OF SAID THE YARD SUBDIVISION PLAT TO THE POINT OF BEGINNING.

INCLUDING UTAH COUNTY TAX ID PARCELS: 13:041:0125, 56:040:0014, & 56:040:0015

SAID ANNEXATION CONTAINS 0.20 ACRES (8,820 SQ FT) ±



**ANNEXATION AGREEMENT  
(YD3 Annexation)**

This Agreement, made and entered into this 22<sup>nd</sup> day of June, 2024, by and between City of American Fork, Utah, a Utah Municipal Corporation (hereafter referred to as "City") and Brian Bird; The Yard AF LLC, a Utah corporation, (hereafter collectively 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 YD3 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**, the annexation will create an unincorporated island;

**WHEREAS**, Utah County approved a Resolution on 04/09/2024 agreeing to the annexation and the creation of the unincorporated island;

**WHEREAS**, a "Petition for Annexation" (Attachment 1), together with a plat (Attachment 2) 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. 2024-04-08R, 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:** 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.

**SECTION 2 - Annexation a benefit to Applicant:** Applicant and City acknowledge that the 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 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 taking as 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 Land Use Element of the General Plan shows the Annexation Area classified as Transit Oriented Development. Therefore, the zone classification attached to the parcel shall be Transit Oriented Development for areas designated as such under the Land Use Plan. A map illustrating the zone classification has been prepared by the City and is made part of this agreement (Attachment 3).

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

As a condition of annexation, Applicant hereby agrees to dedicate and convey to the City the right-of-way necessary for the construction of 300 South and 1160 West in accordance with American Fork City Code in the location shown on the YD3 1160 West Road Dedication Plat "A" prepared by the Applicant and approved by the City (Attachment 4). Applicant shall have no obligation to construct any improvements to the ROWs unless and until any improvement or development occurs within the Annexation Area, subject to the provisions as outlined in the American Fork City Development Code Section 17.5.126 (Minimum Level of Improvements Required).

**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. A Water Delay Agreement is hereby entered into by the parties and is incorporated into this Agreement as (Attachment 5).

**SECTION 7 - Open Ditches to be Piped:** Applicant acknowledges that it is its 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.

**SECTION 8 - Property Taxes and Rollback Taxes to be Paid on any Right-of-Way Dedicated to City:** Applicant agrees to pay any outstanding property taxes on the Annexation 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 to be dedicated to City. 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 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 Brian Bird, The Yard, AF LLC, 980 E 800 N #102 Orem, UT 84097

**SECTION 12 - Entire Agreement:** This Agreement constitutes the entire agreement between the parties 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.

OWNER: YARD AF, LLC a UTAH Limited Liability Company AMERICAN FORK CITY

By Ryan Poelman  
Ryan Poelman - Its manager

Bradley J. Frost  
Bradley J. Frost, Mayor

ATTEST:

Ulrich Lutter  
City Recorder

By Brian Bird  
Brian Bird Its Manager





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

## Petition for Annexation

Petition Title: YD3 Annexation

Property Location: Approx. 250 S. 1160 W American Fork      Acreage: .20 acres

Property Owner Names:	Property Address:	Parcel ID#:
<u>YARD AF, LLC</u>	<u>1160 W. 250 S. AF, UT</u>	<u>56:040:0014 / 56:040:0015</u>
<u>TACE, LLC</u>	<u>"</u>	<u>13:041:0125</u>

(Attach Additional Sheets if needed)

Sponsor Name: Brian Bird      Phone: \_\_\_\_\_  
Address: \_\_\_\_\_  
Email Address: brian@birdhomes.net

### Include with Petition:

- Petition for Annexation and signature page
- Accurate and recordable mylar map
  - Electronic copy of map emailed to [tlurker@americanfork.gov](mailto:tlurker@americanfork.gov) and [mwhite@americanfork.gov](mailto: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





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

## Petition for Annexation Signature Page

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.

BBA as sponsor                      Brian Bird                      56:040:0014/56:040:0015  
 Signature                                      Printed Name                                      Parcel ID

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Telephone Number                                      brian@birdhomes.net                                      Email Address

[Signature]                      - as Manager Rachel Bird                      \_\_\_\_\_  
 Signature                                      Yard AF, UT Printed Name                                      Parcel ID

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Telephone Number                                      Email Address

X                      \_\_\_\_\_                      Bart Brodbeck                      13:041:0125  
 Signature                                      Printed Name                                      Parcel ID

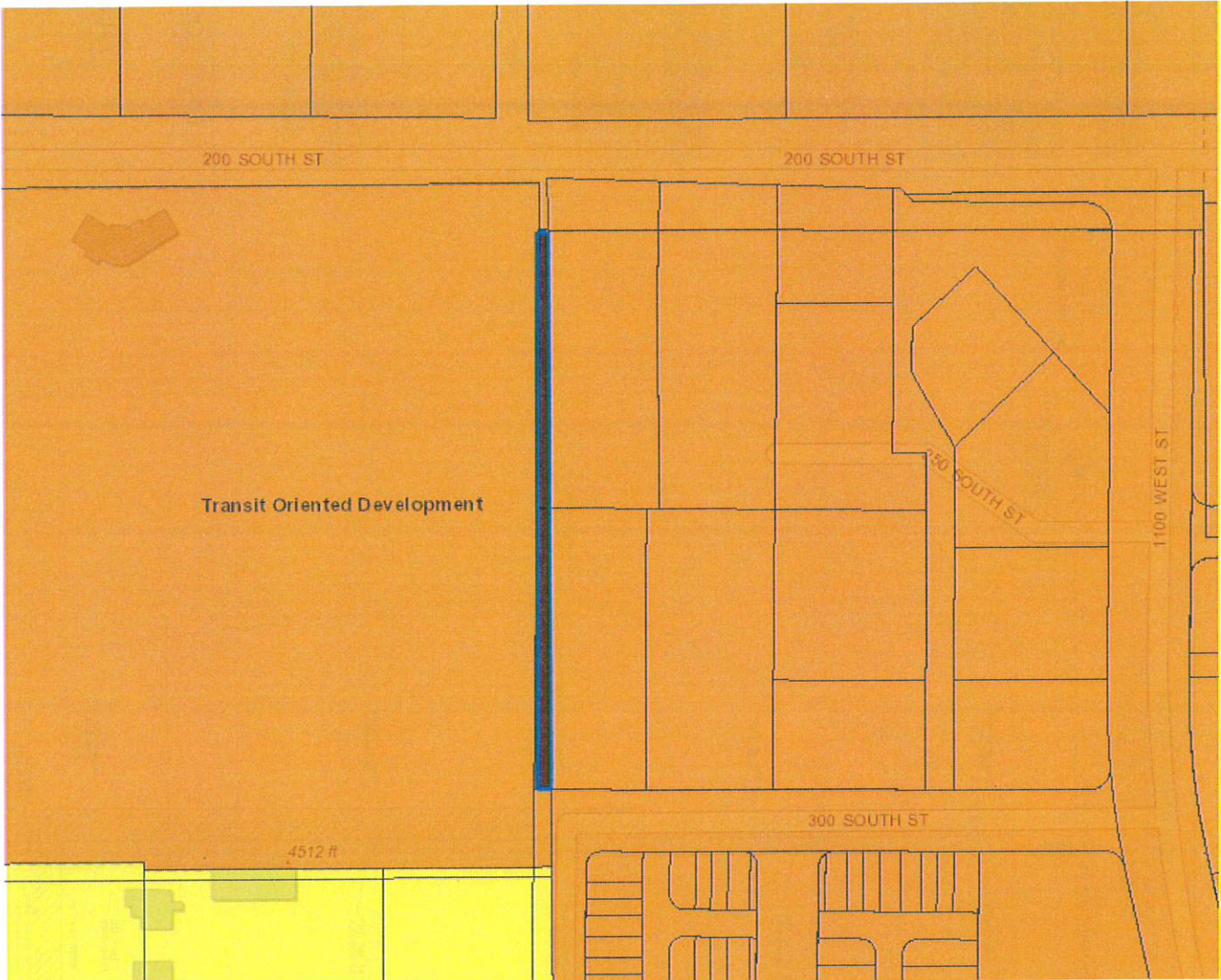
\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Telephone Number                                      Email Address

(Attach additional Sheets as needed)



**Attachment 3**



Attachment 3 highlights the area proposed for annexation. Identified as Transit Oriented Development Land Use, the zoning is recommended to be Transit Oriented Development





## WATER DELAY AGREEMENT FOR ANNEXATION

This Water Delay Agreement for Annexation (“**Agreement**”) is entered into as of the \_\_\_\_ day of April, 2024 (“**Effective Date**”), by and between YARD AF, LLC (“**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. 13:041:0125 (“**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 \_\_\_\_\_, 20\_\_\_\_. 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.

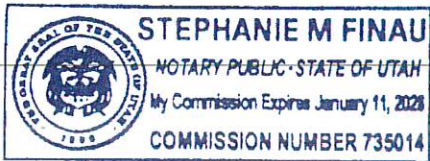
AMERICAN FORK CITY

*Bradley J. Frost*  
Bradley J. Frost, Mayor

Attest: *Terilyn Lurker*  
Terilyn Lurker, City Recorder

STATE OF UTAH )  
 )  
COUNTY OF Utah ) :SS

On the 30<sup>th</sup> day of July, 2024, personally appeared before me Bradley J. Frost and Terilyn Lurker, known to me to be the Mayor and City 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.



*Stephanie M. Finau*  
NOTARY PUBLIC

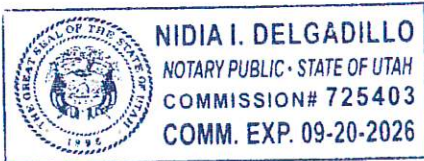
[OWNER] YARD AF, LLC

*Ryan Padman*  
By: Ryan Padman its manager

STATE OF UTAH )  
 )  
COUNTY OF UTAH ) :SS

On the 18 day of JULY, 2024, Ryan Padman Manager for YARD AF, LLC personally appeared before me and duly acknowledged that he/she executed this Water Delay Agreement for the purposes stated therein.

*Nidia I. Delgado*  
NOTARY PUBLIC



**EXHIBIT A**

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

**Please reference previous assignment of water shares: January 20, 2020, AFIC – No. 9701, R2R Ventures, LLC.**





