



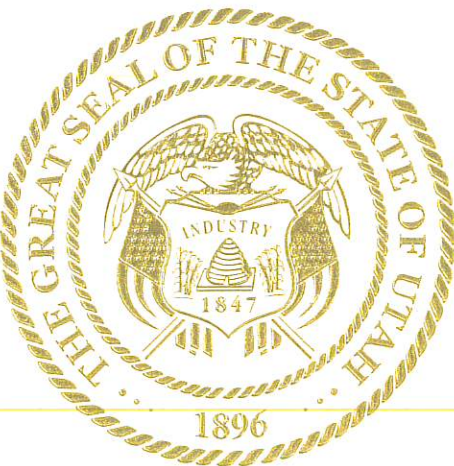
OFFICE OF THE LIEUTENANT GOVERNOR

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 COLEMAN ANNEXATION, located in AMERICAN FORK CITY, dated JULY 9, 2024, complying with §10-2-407, Utah Code Annotated, 1953, as amended.

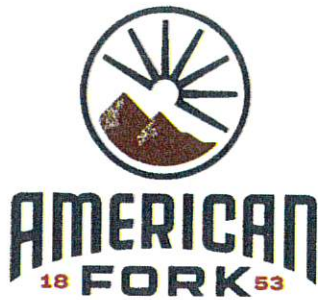
Now, therefore, notice is hereby given to all whom it may concern that the attached is a true and correct copy of the notice of annexation, referred to above, on file with the Office of the Lieutenant Governor pertaining to the COLEMAN ANNEXATION, located in UTAH COUNTY, State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed the Great Seal of the State of Utah this 19th day of July, 2024 at Salt Lake City, Utah.



A handwritten signature in black ink, reading "Deidre M. Henderson".

DEIDRE M. HENDERSON
Lieutenant Governor



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

51 E Main St
American Fork, UT
84003

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

July 9, 2024

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

RE: Coleman Annexation

To Whom It May Concern:

At the May 14, 2024, City Council meeting, American Fork City adopted Ordinance No. 2024-05-20 which approved the Coleman 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
Terilyn Lurker, 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.

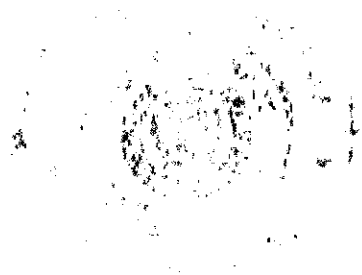
Sincerely,


David Bunker, City Administrator

Attest:


Terilyn Lurker, City Recorder





When recorded, return to:
American Fork City
51 E. Main Street
American Fork, UT 84003

ORDINANCE NO. 2024-05-20

AN ORDINANCE BY THE AMERICAN FORK CITY COUNCIL APPROVING THE COLEMAN ANNEXATION, CONSISTING OF 6.957 ACRES AT APPROXIMATELY 55 WEST 1500 SOUTH, AND ESTABLISHING ZONING CLASSIFICATION FOR SAID PROPERTY.

WHEREAS, a Petition for Annexation, along with an accurate plat of said property, was filed on March 8, 2023, by Coleman Real Estate Investment LLC., requesting American Fork City annex property into the city; and

WHEREAS, the City Council accepted the petition on March 28, 2023, 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 5, 2023; 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 Coleman Annexation consisting of 6.957 acres at approximately 55 West 1500 South 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 Marina (M-1) zone and subject to the terms and conditions of the «Annexation» Annexation Agreement as provided in Attachment 'B'.

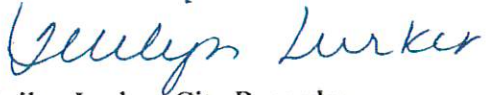
SECTION III. This ordinance shall take effect upon its passage and first publication.

PASSED by the City Council of American Fork this 14th day of May 2024.



Bradley J. Frost, Mayor

ATTEST:



Terilyn Lurker, City Recorder



ATTACHMENT "A"

PROPERTY DESCRIPTION

BEGINNING AT A POINT SOUTH 89°49'32" EAST 855.44 FEET AND SOUTH 00°24'06" WEST 44.36 FEET FROM THE NORTH 1/4 CORNER OF SECTION 35, T.5S., R.1E., S.L.B.&M., SAID POINT LOCATED AT THE NORTHWEST CORNER OF THE RUBEN & CHRISTINE ADAMS ANNEXATION PLAT, ENTRY #38534:2010 – MAP #13238, RECORDED MAY 11, 2010 IN THE OFFICE OF THE UTAH COUNTY RECORDER AND RUNNING THENCE ALONG THE BOUNDARY OF THE AFORESAID ANNEXATION PLAT THE NEXT TWO COURSES AND DISTANCES; 1) SOUTH 00°24'06" WEST 361.14 FEET; 2) NORTH 88°41'48" WEST 868.32 FEET TO THE EASTERLY BOUNDARY OF THE AMERICAN FORK BOAT HARBOR ANNEXATION PLAT, ENTRY #89992:2019 – MAP #16701, RECORDED SEPTEMBER 12, 2019 IN THE OFFICE OF THE UTAH COUNTY RECORDER; THENCE ALONG SAID EASTERLY BOUNDARY OF THE AFORESAID ANNEXATION PLAT THE NEXT THREE COURSES AND DISTANCES; 1) NORTH 00°06'44" WEST 290.17 FEET; 2) SOUTH 89°01'36" EAST 134.55 FEET; 3) NORTH 00°19'55" EAST 65.99 FEET TO THE SOUTHWEST CORNER OF THE PULLEY ANNEXATION PLAT, ENTRY #1072:2016 – MAP #14593, RECORDED JANUARY 06, 2016 IN THE OFFICE OF THE UTAH COUNTY RECORDER; THENCE SOUTH 89°01'38" EAST 736.39 FEET ALONG THE SOUTH LINE OF SAID PULLEY ANNEXATION TO THE POINT OF BEGINNING.

CONTAINS: 6.957 ACRES (AS DESCRIBED)

**ANNEXATION AGREEMENT
(Coleman Annexation)**

This Agreement, made and entered into this 4 day of MAY, 2023, by and between City of American Fork, Utah, a Utah Municipal Corporation (hereafter referred to as "City") and Coleman Real Estate Investment Limited Partnership, a Utah limited partnership, (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 Coleman 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), 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. 2023-03-11R, 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 Resort. Therefore, the zone classification attached to the parcel shall be Marina (M-1), 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 the Minor Collector in accordance with American Fork City Code in the location shown on the street dedication map prepared by the Applicant and approved by the City (Attachment 4 to this Agreement). 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). At the time of improvements and/or development, the applicant shall follow American Fork City's General Plan and Standards in establishing a Shared Use Path, minimum of 10' wide, and Bike Lane, with the appropriate cross section, along 1500 South. Additionally, at the time of improvements and/or development, the applicant shall establish a Shared Use Path, minimum of 12' wide, and Bike Lane, with the appropriate cross section, along 100 West. Along 100 West, the applicant will be responsible for providing a 30' right-of-way dedication, to American Fork City, for the maintenance of the river and inclusion of the minimum 12' wide Shared Use Path. Attachment 4 is hereby made part of this Agreement.

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 Don Coleman, 654 North 200 East St., American Fork, UT 84003

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

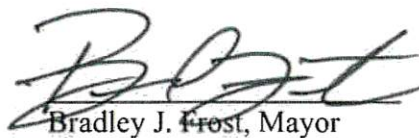
SECTION 13 --- Severability: The provisions of this Agreement shall be deemed to be severable, and if any provision of this Agreement is determined to be invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect or limit the validity or enforceability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

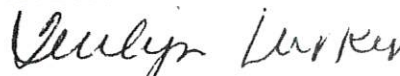
A handwritten signature in blue ink, consisting of stylized, cursive letters, positioned above a horizontal line.

AMERICAN FORK CITY

A handwritten signature in blue ink, appearing to read "Bradley J. Frost", positioned above the printed name.

Bradley J. Frost, Mayor

ATTEST:

A handwritten signature in blue ink, appearing to read "Carolyn Lurker", positioned above the printed title.

CCity Recorder





ATTACHMENT 1

RECEIVED

Date: 7-8-13

Petition for Annexation

American Fork City

Recorder's Office

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.

Name of Annexation: THE COLEMAN ANNEXATION

Approximate Location: 55 W. 1500 SOUTH, AMERICAN FORK, UT

Name: Coleman Real Estate Investment, LLC Address: 737 N. 730 East, American Fork, UT 84003

Phone Number: _____ Email: Don@ColemanXcavation.com

Signature: *Don* Tax ID #: 46-4575930

Name: _____ Address: _____

Phone Number: _____ Email: _____

Signature: _____ Tax ID #: _____

Name: _____ Address: _____

Phone Number: _____ Email: _____

Signature: _____ Tax ID #: _____

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 must do so no later than 30 days after American Fork City receives notice that the petition has been certified.

(Attached additional sheets if needed)

****Please note: a copy of this petition must be delivered to the Utah County Clerk the day this is submitted to the American Fork City Recorder****

**CERTIFICATE OF AUTHORITY
LIMITED LIABILITY COMPANY**

The undersigned hereby represents, warrants and certifies for the benefit of American Fork City and Utah County, and their respective elected officials (including, without limitation, the American Fork City Recorder and the Utah County Clerk), employees, agents and attorneys that the undersigned (a) is (and at all pertinent times has been) a manager or member-manager (a "**Manager**") of the limited liability company (the "**LLC**") described below; (b) is duly authorized to execute and deliver on behalf of the LLC the attached "Petition for Annexation" (the "**Petition**"); and (c) has duly executed and delivered the Petition on behalf of, and as a general partner of, the Partnership.

Dated this ____ day of _____, 2021.



(Manager's Signature)

~~Manager~~ MEMBER

DON W. COLEMAN

(Print Manager's Signature)

COLEMAN REAL ESTATE INVESTMENTS, LLC

(Print Name of LLC)

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 must do so no later than 30 days after American Fork City receives notice that the petition has been certified.

LIST OF AFFECTED ENTITIES TO WHICH NOTICE WAS SENT

The attached written notice to the following listed affected entities was sent on the 2 day of April, 2012.

Name and Address of Affected Entities:

Slit list

Affected entities:

Utah County Clerk, Aaron Davidson – 100 East Center Street Suite 3100, Provo, Utah 84606

Utah County Commissioners – 51 South University Avenue, Provo, Utah 84606

Brandon Gordon

Tom Sakievich

Amelia Powers

Utah County Treasurer, Kim Jackson – 100 East Center Street Suite 1200, Provo, Utah 84606

Utah County Surveyor, Anthony Canto – 2855 South State Street, Provo, Utah 84606

Utah Department of Transportation, Attn: David Avila – 658 N. 1500 W., Orem, Utah 84057

Central Utah Water Conservancy District – 1426 East 750 North, Suite 400, Orem Utah 84097

North Utah County Water Conservancy District – 75 N. Center Street, American Fork, Utah 84003

Utah Transit Authority – 669 West 200 South, Salt Lake City, Utah 84101

Central Utah 911 – 3047 N. 400 W., Spanish Fork, Utah 84660

Mountainland Association of Governments (MAG) – 586 E. 800 N., Orem Utah 84097

North Pointe Solid Waste Special Service District – 2000 W. 200 S., Lindon Utah 84042

Timpanogos Special Service District – PO Box 923, American Fork, Utah 84003

Alpine School District – 575 N. 100 E., American Fork, Utah 84003

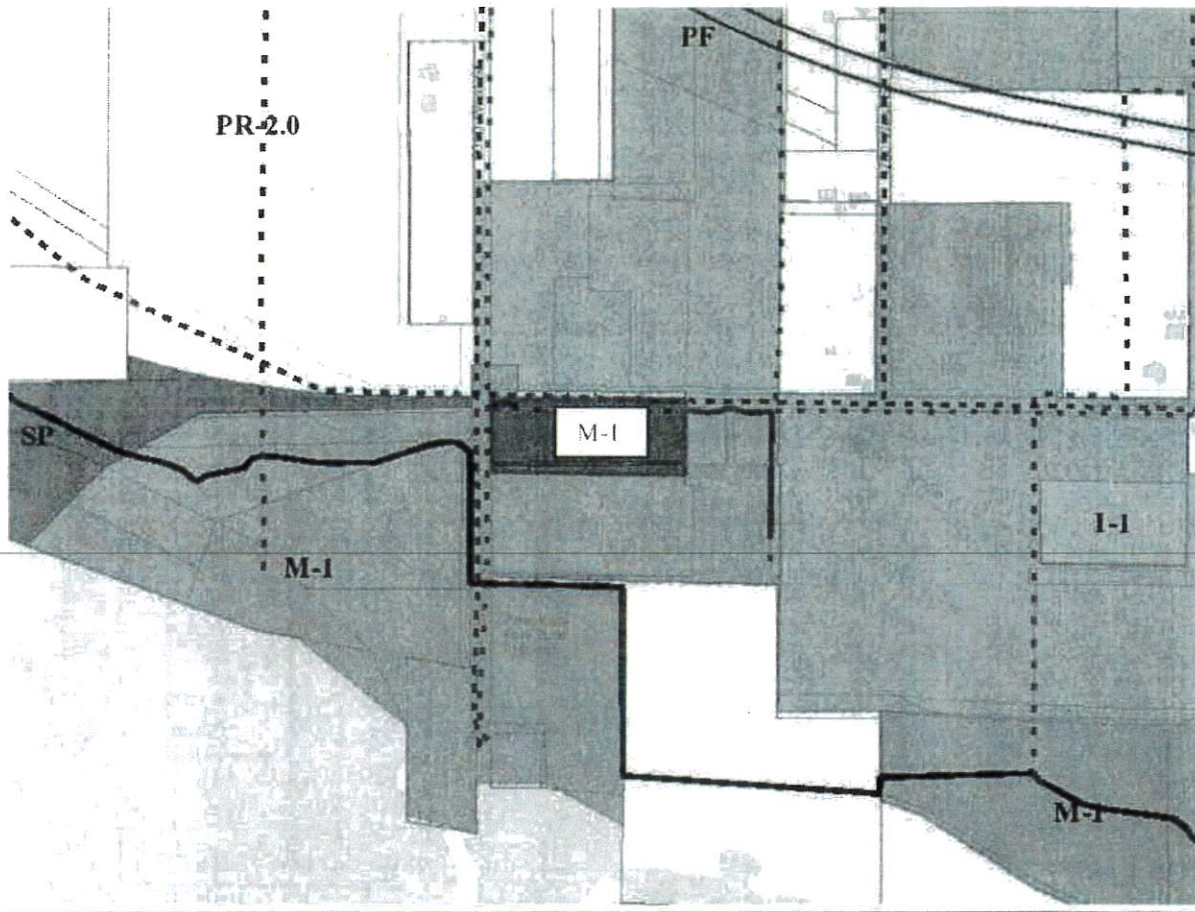
Rocky Mountain Power – 70 N. 200 E., American Fork, Utah 84003

Comcast, Attn: Gary Goldstein – 1350 East Miller Avenue, Salt Lake City, Utah 84106

CenturyLink – 1600 7th Avenue Floor 12, Seattle, WA 98191

Dominion Energy, Attn: Kayleen Deal – PO Box 45360, Salt Lake City, Utah 84145

ATTACHMENT 3



When Recorded Return To:
American Fork City
51 East Main Street
American Fork City, Utah 84003

QUIT CLAIM DEED

Coleman Real Estate Investment LLC, **Grantor/s**, of the County of Utah, State of Utah, hereby QUIT CLAIMS to **AMERICAN FORK CITY**, at 51 East Main Street, American Fork, Utah 84003, Grantee, for the sum of Forty dollars and 00/100 cents, and other good and valuable considerations, the following described parcel of land in Utah County, as Public Right-of-Way, to -wit:

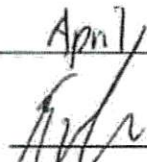
BEGINNING AT THE NORTHEAST CORNER OF THE COLEMAN REAL ESTATE INVESTMENT PROPERTY AS FOUND IN THE UTAH COUNTY RECORDER'S OFFICE AS ENTRY NO. 56694:2018, SAID CORNER LIES 1791.04 FEET N 89° 48' 53" W ALONG THE SECTION LINE AND 65.91 FEET SOUTH FROM THE NORTHEAST CORNER OF SECTION 35, TOWNSHIP 5 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; THENCE WEST 874.50 FEET; THENCE NORTH 38.56 FEET TO THE SOUTHERLY BOUDNARY LINE OF THE TIMPANOGOS SPECIAL SERVICE DISTRICT PROPERTY AS DESCRIBED IN SAID RECORDER'S OFFICE AS ENTRY NO. 2247-1997; THENCE S 89° 01' 10" E 121.42 FEET ALONG SAID SOUTHERLY LINE TO THE WESTERLY LINE OF THE AMERICAN FORK CITY PROPERTY AS FOUND IN THE SAID RECORDER'S OFFICE AS ENTRY NO. 1069:2016; THENCE ALONG THE BOUNDARY LINES OF SAID AMREICAN FOK CITY PROEPRTY THE FOLLOWING (2) TWO COURSES: (1) S 00° 19' 53" W 2.21 FEET, (2) S 89° 01' 36" E 753.21 FEET; THENCE SOUTH 21.47 FEET TO THE TRUE POINT OF BEGINNING.

Containing 0.586 acres, more or less

WITNESS, the hand of said Grantors, this 17 day of April, A.D. 2024.



Coleman Real Estate Investment LLC
Don Coleman, Owner/President

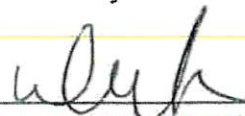


Coleman Real Estate Investment LLC
Kyle Coleman, Owner/Member

STATE OF Utah)
 §
COUNTY OF Utah)

On the date first above written personally appeared before me, Don Coleman, owner/president of Coleman Real Estate Investment LLC, and Kyle Coleman, owner/manager of Coleman Real Estate Investment LLC, the signers of the within and foregoing instrument, who duly acknowledged to me that they executed the same.

WITNESS my hand and official stamp the date in this certificate first above written:



Notary Public





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

51 E Main St
American Fork, UT
84003

April 15, 2024

RE: Recording Authorization of a Quit Claim Deed

To Whom It May Concern:

American Fork City authorizes the Utah County Recorder's Office to record the Quit Claim Deed from Coleman Real Estate Investment, LLC. (contains 0.586 acres) and will be used for public right-of-way.

If you have any questions, feel free to contact the American Fork City Engineering Department at 801-763-3060.

Thank you,

A handwritten signature in blue ink, appearing to read "B. Frost", written over a horizontal line.

Bradley J. Frost
Mayor



When Recorded Return To:
American Fork City
51 East Main Street
American Fork City, Utah 84003

QUIT CLAIM DEED

Parcel Tax ID: 13:076:0035

Coleman Real Estate Investment LLC, **Grantor/s**, of the County of Utah, State of Utah, hereby QUIT CLAIMS to **AMERICAN FORK CITY**, at 51 East Main Street, American Fork, Utah 84003, Grantee, for the sum of forty dollars and 00/100 cents, and other good and valuable considerations, the following described parcel of land in Utah County, as Public Right-of-Way, to -wit:

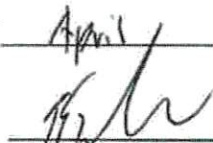
BEGINNING AT THE NORTHEAST CORNER OF THE COLEMAN REAL ESTATE INVESTMENT PROPERTY AS FOUND IN THE UTAH COUNTY RECORDER'S OFFICE AS ENTRY NO. 56694:2018, SAID CORNER LIES 1791.04 FEET N 89° 48' 53" W ALONG THE SECTION LINE AND 65.91 FEET SOUTH FROM THE NORTHEAST CORNER OF SECTION 35, TOWNSHIP 5 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; RUNNING THENCE SOUTH 41.17 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE AS SHOWN ON THE ROAD DEDICATION PLAT AS ENTRY NO. 3625:1988; THENCE ALONG THE SAID SOUTHERLY LINE N 89° 12' 28" W 874.58 FEET (N 89° 13' 07" W BY RECORD) TO THE WESTERLY BOUNDARY LINE OF SAID COLEMAN PROPERTY; THENCE ALONG THE BOUNDARY LINES OF SAID COLEMAN PROPERTY THE FOLLOWING (2) TWO COURSES: (1) NORTH 29.07 FEET, (2) EAST 874.50 FEET TO THE TRUE POINT OF BEGINNING.

Containing 0.702 acres, more or less.

WITNESS, the hand of said Grantors, this 17 day of April, A.D. 2024.



Coleman Real Estate Investment LLC
Don Coleman, Owner/President

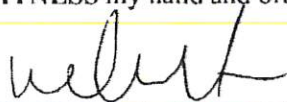


Coleman Real Estate Investment LLC
Kyle Coleman, Owner/Manager

STATE OF Utah)
 §
COUNTY OF Utah)

On the date first above written personally appeared before me, Don Coleman, owner/president of Coleman Real Estate Investment LLC, and Kyle Coleman, owner/manager of Coleman Real Estate Investment LLC, the signers of the within and foregoing instrument, who duly acknowledged to me that they executed the same.

WITNESS my hand and official stamp the date in this certificate first above written:



Notary Public





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

51 E Main St
American Fork, UT
84003

April 15, 2024

RE: Recording Authorization of a Quit Claim Deed

To Whom It May Concern:

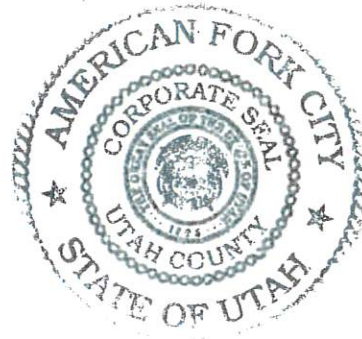
American Fork City authorizes the Utah County Recorder's Office to record the Quit Claim Deed from Coleman Real Estate Investment, LLC. The deed involves Parcel Tax ID 13:076:0035 (contains 0.702 acres) and will be used for public right-of-way.

If you have any questions, feel free to contact the American Fork City Engineering Department at 801-763-3060.

Thank you,

A handwritten signature in blue ink, appearing to read "Bradley J. Frost", written over a horizontal line.

Bradley J. Frost
Mayor



ATTACHMENT 5

WATER DELAY AGREEMENT FOR ANNEXATION

This Water Delay Agreement for Annexation ("Agreement") is entered into as of the 1st day of APRIL, 2024 ("Effective Date"), by and between COLEMAN REAL ESTATE INVESTMENTS 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. 13:076:0035 ("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.

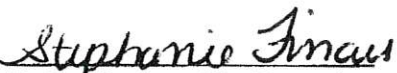
15. Authority of Parties. The persons signing this Agreement represent and warrant that they have full authority to do so and that their corporation or entity has undertaken and obtained whatever formalities and approvals are necessary to enter into this Agreement.

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, Mayor

Attest: 
Terilyn Lurker, City Recorder
Stephanie Finau
Deputy Recorder

STATE OF UTAH)
COUNTY OF Utah) :SS

On the 9 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.



Terilyn Lurker
NOTARY PUBLIC

[OWNER]

[Signature]

STATE OF UTAH)
COUNTY OF Utah) :SS

On the 16 day of May, 2024, Don Coleman 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

Exhibit A

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

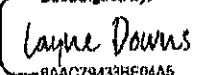
To Whom It May
Concern:

Our company, Layne Downs water broker, LLC, is a water broker dealing with purchasing and selling water shares for most of the water companies in Utah County.

Currently we have had discussions with 5141 West 6400 North represented by Coleman real estate Investment LLC of which Don Coleman, its Manager, and have 6 acre feet of water to deliver them the required American Fork Irrigation or Provo Reservoir water shares required to annex the property on the corner of 5141 West 6400 North, American Fork, Utah. We have the shares in our inventory and could deliver them upon request for the next few months

Sincerely,

Layne
Downs
Manager

DocuSigned by:

8AAC79433BE04A5

3/28/2024 | 11:04 PDT

