



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

ENT 105202:2020 PG 1 of 6
JEFFERY SMITH
UTAH COUNTY RECORDER
2020 Jul 22 11:09 am FEE 40.00 BY MA
RECORDED FOR PAYSON CITY CORPORATION

Space above for County Recorder's use only

PARCEL I.D. # 30:061:0008

AGREEMENT TO DEFER INSTALLATION OF PUBLIC IMPROVEMENTS

THIS AGREEMENT is made this 1st day of April, 2020.

PARTIES

“APPLICANT”: IMN REAL ESTATE HOLDINGS, LLC, whose address is 1851 W 200 South, Payson, UT 84651.

“CITY”: PAYSON CITY, (PAYSON), a municipal corporation, whose address is 439 West Utah Avenue, Payson, Utah 84651

LEGAL DESCRIPTION

The legal description of land on which and contiguous to where the public improvements described below are to be installed and/or constructed is described as follows:

COM. AT A PT ON S R/W FENCE OF A COUNTY ROAD (10400 S), SD PT S 29' 58" E 37 FT
FR NE COR SEC 13, T9S, R1E, SLM; S 29' 58" E 2516.66 FT ALONG SEC LINE TO RR R/W
LINE; N 35 51' 32" E 2225.18 FT ALONG SD RR R/W LINE; N 86.31 FT; N 35 51' 32"E 218.82
FT TO NLY LINE OF DITCH;N 89 5 3' 28" W 590 FT ALONG N LINE OF DITCH; N19' 10" W
451.27 FT ALONG A FENCE TO SD 10400 S R/W FENCE; S 89 48' 23" ALONG S LINE OF SD
10400 S 861.10 FT TO BEG. AREA 44.474 ACRES

RECITALS

WHEREAS, APPLICANT desires to construct an addition to an existing structure on Utah County Parcel ID# 30:061:0008 (“PARCEL”), located at 1851 W 200 South, Payson, UT in the I-1, Light Industrial Zone;

WHEREAS, the structure has not had all public improvements installed as required by Payson City code,

WHEREAS, a building addition or site plan modification requires installation of all remaining public improvements required under Payson City Code,

WHEREAS, APPLICANT requested deferral of some of the improvements required at the time of issuance of said permit(s)/approval(s). APPLICANT is requesting the City to postpone (defer) the completion of:

1. installation and connection to city sewer, with APPLICANT required to:
 - a. extend the sewer main line from its present terminus to the property line, with the present terminus being defined as the point of terminus at the time of required installation.
APPLICANT will need to construct this off-site extension at the expense of APPLICANT,

- b. extend the sewer main line along the entire frontage of PARCEL,
 - c. connect the site, primary structure, and any accessory structure that requires utility service, to said utility systems and pay all associated fees, including, but not limited to, connection and impact fees.
 - d. disconnect from and remove all septic systems and meet all application regulations.
2. landscaping of all undeveloped areas between the street and a horizontal line running along the back wall of the primary structure, but not including the area used for agricultural purposes to the east of the building. Landscaping shall satisfy the requirements of Payson City Code.

WHEREAS, CITY cannot grant deferral of the required terms of the issuance of said permit(s) and/or approval(s) until APPLICANT agrees to the conditions set forth hereunder regarding the above-described improvements.

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

1. CITY agrees to defer improvements to allow APPLICANT to build the presently proposed addition as outlined in building permit 2020-220.
2. APPLICANT will provide a performance guarantee equal to 110% of the required improvements. APPLICANT shall submit said performance guarantee for the required improvements prior to the issuance of permit 2020-220 and complete said requirements prior to the issuance of the certificate of occupancy. APPLICANT agrees to provide said performance guarantee for all required utility installation at the time of any future action as outlined herein.
3. The parties acknowledge that an onsite septic system is required due to the lack of a connection to the Payson City sewer system. The continued use, expansion, modification, and/or improvement of a septic system is regulated by Utah County. If APPLICANT cannot obtain all necessary approvals from Utah County, and any other applicable regulatory agency, or for any other reason is unable to continue use of the septic system to meet all wastewater and/or associated environmental requirements, then APPLICANT will be required to extend and connect to Payson City sewer by following the process as described herein.
4. No building permits or land use applications for this property will be issued for any new construction or expansion, including accessory structures or any other improvement of any type that requires a building permit or land use application, except for those improvements outlined in the above listed building permit until all required public improvements are installed/completed in full, inspected and proper approvals given by Payson City. Any work done without a building permit, that otherwise requires a building permit, or any change of use will require completion of all remaining improvements, including the posting of the performance guarantee.
5. The parties expressly agree that CITY may at any time by written notice require APPLICANT to complete or partially complete the deferred improvements. APPLICANT shall commence such completion within 30 days of the date of the written notice and the improvements shall be completed within 180 days of the date of the written notice.
6. It is presumed that CITY will request completion of all public utility improvements once all public utilities have extended to within 300 feet from front of the property.
7. It is presumed that CITY will request completion of all public utility improvements at the time of site plan or subdivision approval or approval of a building permit for any property adjacent to the north or west of PARCEL.
8. If permit 2020-220 is not completed, this deferral agreement shall be come null and void. If work has been initiated but not completed, CITY may require all improvement outlined herein.
9. Should CITY exercise its option to request completion or partial completion of all or any portion of the deferred improvements and APPLICANT fails to complete the requested improvements, APPLICANT

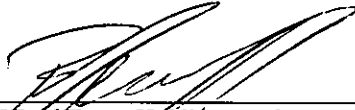
shall reimburse CITY, within 30 days of the date of notice costs resulting from said installation and/or completion, for CITY to complete the requested improvements.

10. APPLICANT expressly agrees that should APPLICANT fail to install and complete the improvements as required by CITY pursuant to the terms of this Agreement or reimburse CITY for the costs to install and complete the 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 improvements and file a lien against the property and obtain reimbursement therefore through any lawful means.
11. APPLICANT agrees a performance guarantee shall be provided prior to commencement of any additional construction, including excavation and grading, specifically a performance guarantee is required before any public improvements are installed.
12. This Agreement to Defer shall be signed by the owner(s) of property and recorded in the office of the Utah County Recorder.
13. The deferral process does not waive or modify any other regulations or requirements of Payson City Code.
14. APPLICANT shall not be relieved from the obligation to install the improvements until such installation has been performed to the satisfaction of CITY.
15. If APPLICANT sells or leases the property described above, the buyer or lessee is responsible for all remaining improvements.
16. If a special assessment area is proposed, which district would in whole or in part finance the installation of any or of all the 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 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 special assessment area.
17. 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.
18. If any provision of this Agreement is declared invalid by a court of competent jurisdiction, the remaining provisions shall not be affected thereby, but shall remain in full force and effect.
19. This Agreement contains the complete Agreement concerning the arrangement between the parties with respect to the required installation of utilities and performance guarantees and shall supersede all other agreements between the parties, written or oral.
20. 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.
21. 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.
22. 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.

23. In the event that any action is filed to enforce the terms of this Agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all the sums that either party may be called on to pay, a reasonable sum for the successful party's attorney's fees and costs.
24. APPLICANT agrees to indemnify, protect, and save and hold harmless the 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 prior to recordation of the final plat.

(Signature Pages Follow)

Signed this 1st day of April, 20~~19~~²⁰



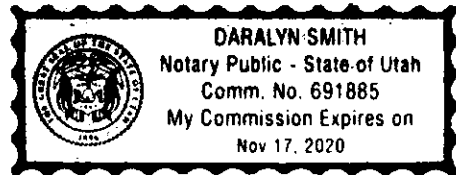
IMN Real Estate Holdings LLC
Name:
Title:

STATE OF UTAH)
 : ss
COUNTY OF UTAH)

On this 1 day of April, ~~2019~~²⁰²⁰, personally appeared before me, a Notary Public in and for the State of Utah, Ryan Gledhill, 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/she executed the same.

Daralyn Smith

Notary Public



Signed this 13th day of July, 201~~9~~²⁰

William R. Wright
William R. Wright, MAYOR

Attest:

Kim E. Holindrake
Kim E. Holindrake, City Recorder

