

ENT 113930:2021 PG 1 of 9
ANDREA ALLEN
UTAH COUNTY RECORDER
2021 Jun 24 1:52 pm FEE 0.00 BY AS
RECORDED FOR AMERICAN FORK CITY

PIONEERING AGREEMENT

This Pioneering Agreement (hereinafter referred to as "Agreement") is entered into as of this 9 day of March 2021, by and between White Horse Developers, a Limit Liability Company with its principal offices located at 520 South 850 East, Ste. A-4, Lehi, Utah 84043 (hereinafter referred to as "Developer") and American Fork City, a municipal corporation and political subdivision of the State of Utah with its principal offices located at 51 East Main Street, American Fork, Utah 84003 (hereinafter referred to as the "City").

RECITALS

WHEREAS, Developer owns certain parcels of property located in American Fork, Utah County, Utah, specifically 13:041:0097 and 13:040:0082 consisting of 43.56 acres and further described in Exhibit A attached hereto (hereinafter referred to as the "Property");

WHEREAS, Developer has obtained approvals from the City to develop the Property into a residential subdivision commonly known as Rockwell Ranch. However, development of the Property is subject to the installation of offsite water, pressurized irrigation, sewer, storm drain, and roadway improvements (the "Project Improvements") identified on Exhibit B attached hereto.

WHEREAS, the Project Improvements will provide direct benefit to other developers and owners of surrounding properties (the "Benefitted Properties") when they develop their properties. The Benefitted Properties are identified by tax parcel number and owner in Exhibit C attached hereto.

WHEREAS, Developer desires to be reimbursed for a proportionate share of the costs associated with the design, construction and installation of the Project Improvements as the Benefitted Properties connect and/or utilize the improvements;

WHEREAS, City is willing to administer reimbursement payments from the owners of the Benefitted Properties in accordance with the terms and provisions of this Agreement; and

WHEREAS, this Agreement is entered into to ensure the orderly development of real property within City limits, while maintaining and enhancing property values.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto contract, covenant, and agree as follows:

AGREEMENT

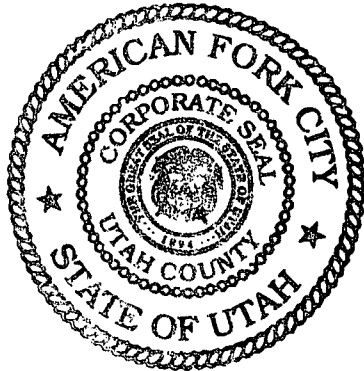
1. Necessity of Improvements. Developer expressly acknowledges that the Project Improvements are necessary for development of Rockwell Ranch, and are lawful conditions precedent for the approval and development of Rockwell Ranch.
2. Developer's Obligation. Developer shall install the Project Improvements at Developer's cost and expense including all costs and expenses associated with engineering, planning, surveying, design, materials, labor, easements, property, construction costs, and bonding relating to the Project Improvements, in accordance with the construction plans approved

by the City for the development of 1100 West 350 South and/or required by City ordinances and regulations (the "Pioneering Costs"). Pioneering Costs shall bear no interest from the date hereof to date of payment.

3. Approval, Inspection, and Acceptance. Developer and its assigns shall install the Project Improvements and post applicable bonds and improvement completion assurances in accordance with City ordinances to guarantee the installation of the Project Improvements according to City ordinances, regulations, and standards. The Project Improvements shall be approved by the City and inspections shall be conducted by the City to ensure that the Project Improvements are constructed per City standards. Upon completion, Developer shall deliver to City a set of as-built plans of the Project Improvements (in both paper and electronic format) with the verified actual amount of the Pioneering Costs of the Project Improvements. Upon successful completion of the Project Improvements and acceptance in writing by the City, Developer shall also provide an Improvement Warranty in accordance with City ordinances to ensure that the Project Improvements remain in good condition and free from defects for a period of one (1) year. Upon successful completion, approval by the City, and posting of an Improvement Warranty by Developer, the City shall accept, own, operate, and maintain the Project Improvements. Developer shall dedicate to the City ownership of all facilities, easements, and property necessary to properly operate and maintain the Project Improvements and shall not retain any ownership interest therein, unless City ordinances, agreements, or regulations provide otherwise.
4. Collection of Pioneering Costs. The City will require owners of the Benefitted Properties that develop their land or apply for building permits to pay to the City their proportionate share of the Pioneering Costs of the Project Improvements prior to granting development or subdivision approval or issuing building permits. The proportionate share shall be determined by the City based upon consideration of the street frontage, parcel size, and other relevant factors of each respective Benefitted Property. In no event shall City be liable for failure to make collection; it being understood and agreed that City will use its best efforts to make such collection.
5. Distribution of Pioneering Costs Received. The funds collected shall be paid by the City to the Developer within 60 days of collection, unless the payment is made under protest by the owner of the Benefitted Property or the payment is the subject of a lawsuit (filed or threatened), complaint, advisory opinion, or appeal. In such a case, the City will retain the funds until such time as the matter is resolved. When the matter is resolved, the City shall disburse the funds to Developer within 60 days. Nothing in this Agreement shall preclude Developer from arranging for up-front financial contributions for the Project Improvements from the owners of the Benefitted Properties.
6. Duration of Pioneering Costs for all improvements. If a development application is made after 10 years from the date hereof, there shall be no required payment of Pioneering Costs related to streets as a pre-condition of development approval or issuance of a building permit.

7. Full Compensation. The Developer hereby agrees it shall not be entitled to any reimbursement, compensation, incentive, or other payment from the City related to the Project Improvements. Nothing in this Agreement, however, shall preclude Developer from obtaining reimbursements or impact fee credits for “system improvements” or oversized public improvements requested or required by the City in relation to the Project. If the City requires Developer to upsize or extend any of the Project Improvements, the parties may negotiate a separate reimbursement agreement to be submitted to City Council for approval. Such upsizing costs, however, are not part of this Agreement.
8. Choice of law. This Agreement shall be interpreted and enforced under the laws of the State of Utah. Venue for any legal action brought on this Agreement shall lie with the Fourth Judicial District Court for Utah County, Utah.
9. Authority. Each individual executing this Agreement hereby represents and warrants that he or she has been duly authorized to sign this Agreement in the capacity and for the entities identified.
10. Recitals and Exhibits Incorporated. Each recital set forth above, and each exhibit attached to and referred to in this Agreement, is hereby incorporated by reference.
11. Counterparts and Severability. In the event that any provision of this Agreement shall be held invalid and unenforceable, such provision shall be severable from, and such invalidity and unenforceability shall not be construed to have any effect on, the remaining provisions of this Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
12. Entire Agreement. This Agreement constitutes and comprises the entire understanding of the parties hereto, and supersedes any previous written or oral communication or representation related to the subject matter hereof
13. Amendment. This Agreement may only be amended by written instrument signed by both parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.



AMERICAN FORK CITY

Bradley J. Frost
Bradley J. Frost, Mayor

Attest:

Terilyn Lurker
Terilyn Lurker, Recorder

DATED this 22 day of JUNE, 2021.

WHITE HORSE DEVELOPERS, LLC

By: *Jacob Horan*
Name: Jacob Horan
Its: Manager

State of Utah

County of Utah

On the day of ~~January~~ June 22, 2021, personally appeared before me Jacob Horan, of White Horse Developers, LLC, whose identity has been proven on the basis of satisfactory evidence, and after being duly sworn acknowledges that he had authority to execute the foregoing Pioneering Agreement, for the purposes stated therein, and did so of his own voluntary act.

Scott M Roberts
Notary

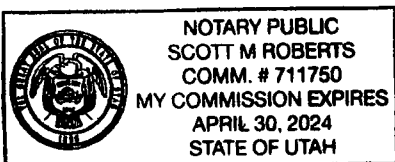


EXHIBIT A

PARCEL 13:041:0097

COM S 1982.6 FT & E 1098.92 FT FR NW COR. SEC. 22, T5S, R1E, SLB&M.; E 664.34 FT;
S 0 DEG 17' 5" W 797.71 FT; S 0 DEG 46' 16" W 622.59 FT; W 675.36 FT; N 0 DEG 56' 33" E
1420.42 FT TO BEG.

AREA 21.876 AC.

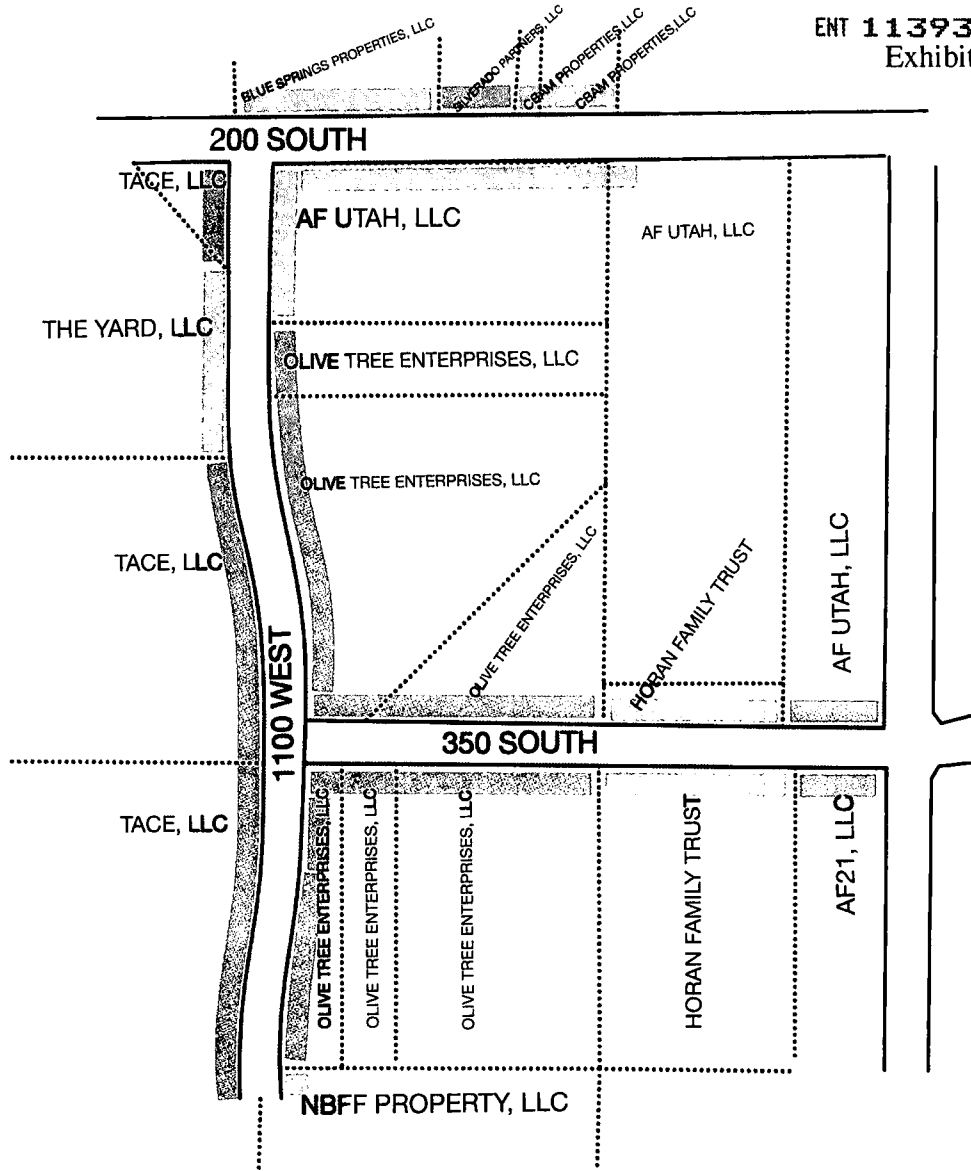
PARCEL 13:040:0082

COM S 89 DEG 53' 31" E 1075.57 FT & S 3400.8 FT FR W 1/4 COR. SEC. 22, T5S, R1E,
SLB&M.; E 675.36 FT; S 0 DEG 46' 16" W 210.23 FT; S 0 DEG 58' 23" W 157.02 FT; S 1
DEG 14' 3" W 820.46 FT; S 43 DEG 5' 3" W 456.97 FT; S 82 DEG 59' 11" W 119.78 FT; N 88
DEG 32' 33" W 205.57 FT; N 998.83 FT; W 24.4 FT; N 0 DEG 54' 6" E 15.65 FT; N 0 DEG 56'
33" E 516.22 FT TO BEG.

AREA 21.682 AC.

Exhibit B: 200 South

Description	CITY MINIMUM			CEAA Properties		Silverado Properties		Blue Spring Properties		AF Utah Franchise	
	Quantity	Unit Price	Total Price	Frontage	Total	Frontage	Total	Frontage	Total	Frontage	Total
WATER 200 S.				188		189		319		660	
Water Patching	1	\$ 21,700.00	\$ 21,700.00	188 \$ 3,008.55	189 \$ 3,024.56	319 \$ 5,104.94	660 \$ 10,561.95				
Water Traffic Control	1	\$ 15,000.00	\$ 15,000.00	188 \$ 2,079.65	189 \$ 2,090.71	319 \$ 3,528.76	660 \$ 7,300.88				
8" Water Main Installed	30	\$ 60.00	\$ 1,800.00	188 \$ 249.56	189 \$ 250.88	319 \$ 423.45	660 \$ 876.11				
8" Cross And Connection	1	\$ 1,500.00	\$ 1,500.00	188 \$ 207.96	189 \$ 209.07	319 \$ 352.88	660 \$ 730.09				
8" Water Main Installed	1,330	\$ 60.00	\$ 79,800.00	188 \$ 11,063.72	189 \$ 11,122.57	319 \$ 18,773.01	660 \$ 38,840.71				
8" Water Main Installed	120	\$ 60.00	\$ 7,200.00	188 \$ 998.23	189 \$ 1,003.54	319 \$ 1,693.81	660 \$ 3,504.42				
8" Valve	1	\$ 2,000.00	\$ 2,000.00	188 \$ 277.29	189 \$ 278.76	319 \$ 470.50	660 \$ 973.45				
8" Valve	6	\$ 2,000.00	\$ 12,000.00	188 \$ 1,663.72	189 \$ 1,672.57	319 \$ 2,823.01	660 \$ 5,840.71				
8" Valve	1	\$ 2,000.00	\$ 2,000.00	188 \$ 277.29	189 \$ 278.76	319 \$ 470.50	660 \$ 973.45				
8" Valve	3	\$ 2,000.00	\$ 6,000.00	188 \$ 831.86	189 \$ 836.28	319 \$ 1,411.50	660 \$ 2,920.35				
8" Valve	4	\$ 2,000.00	\$ 8,000.00	188 \$ 1,109.14	189 \$ 1,115.04	319 \$ 1,882.01	660 \$ 3,893.81				
8" Cross	3	\$ 1,200.00	\$ 3,600.00	188 \$ 499.12	189 \$ 501.77	319 \$ 846.90	660 \$ 1,752.21				
8" Tees	6	\$ 1,000.00	\$ 6,000.00	188 \$ 831.86	189 \$ 836.28	319 \$ 1,411.50	660 \$ 2,920.35				
8" Sleeve	1	\$ 500.00	\$ 500.00	188 \$ 69.32	189 \$ 69.69	319 \$ 117.63	660 \$ 243.36				
8" Sleeve	1	\$ 500.00	\$ 500.00	188 \$ 69.32	189 \$ 69.69	319 \$ 117.63	660 \$ 243.36				
Fire Hydrant	2	\$ 8,500.00	\$ 17,000.00	188 \$ 2,356.93	189 \$ 2,369.47	319 \$ 3,999.26	660 \$ 8,274.34				
Fire Hydrant Stubs	4	\$ 1,500.00	\$ 6,000.00	188 \$ 831.86	189 \$ 836.28	319 \$ 1,411.50	660 \$ 2,920.35				
Water Testing	1	\$ 4,500.00	\$ 4,500.00	188 \$ 623.89	189 \$ 627.21	319 \$ 1,058.63	660 \$ 2,190.27				
Water Trench Import	145	\$ 18.00	\$ 2,610.00	188 \$ 361.86	189 \$ 363.78	319 \$ 614.00	660 \$ 1,270.35				
SECONDARY 200 S.											
Water Patching	1	\$ 15,100.00	\$ 15,100.00	188 \$ 2,093.51	189 \$ 2,104.65	319 \$ 3,552.29	660 \$ 7,349.56				
Water Traffic Control	1	\$ 10,500.00	\$ 10,500.00	188 \$ 1,455.75	189 \$ 1,463.50	319 \$ 2,470.13	660 \$ 5,110.62				
Connect To Existing	1	\$ 2,500.00	\$ 2,500.00	188 \$ 346.61	189 \$ 348.45	319 \$ 588.13	660 \$ 1,216.81				
8" PI Main Installed	1,580	\$ 51.00	\$ 80,580.00	188 \$ 11,171.86	189 \$ 11,231.28	319 \$ 18,956.50	660 \$ 39,220.35				
8" PI Valves	1	\$ 24,500.00	\$ 24,500.00	188 \$ 3,396.76	189 \$ 3,414.82	319 \$ 5,763.64	660 \$ 11,924.78				
8" PI Fittings	1	\$ 4,000.00	\$ 4,000.00	188 \$ 554.57	189 \$ 557.52	319 \$ 941.00	660 \$ 1,946.90				
Blow Offs	4	\$ 1,300.00	\$ 5,200.00	188 \$ 720.94	189 \$ 724.78	319 \$ 1,223.30	660 \$ 2,530.97				
PI Testing	1	\$ 3,000.00	\$ 3,000.00	188 \$ 415.93	189 \$ 418.14	319 \$ 705.75	660 \$ 1,460.18				
Cap Spring and Additional 30"											
Cap Spring Onsite	2	\$ 2,500.00	\$ 5,000.00	188 \$ 693.22	189 \$ 696.90	319 \$ 1,176.25	660 \$ 2,433.63				
8" DI Water Main Installed	55	\$ 60.00	\$ 3,300.00	188 \$ 457.52	189 \$ 459.96	319 \$ 776.33	660 \$ 1,606.19				
8" DI Water Patching	1	\$ 2,800.00	\$ 2,800.00	188 \$ 388.20	189 \$ 390.27	319 \$ 658.70	660 \$ 1,362.83				
Water Traffic Control	1	\$ 250.00	\$ 250.00	188 \$ 34.66	189 \$ 34.85	319 \$ 58.81	660 \$ 121.68				
Total			\$ 354,440.00	\$ 49,140.65	\$ 49,402.04	\$ 83,382.27	\$ 172,515.04				



PROPERTY OWNER	PARCEL NUMBER	LINEAR FOOTAGE	TOTAL
CBAM PROPERTIES, LLC	13:041:0053, 13:041:0052	188	\$49,140.65
SILBERADO PARTNERS, LLC	13:041:0029	189	\$49,402.04
BLUE SPRING PROPERTIES, LLC	13:041:0080	319	\$83,382.27
AF UTAH, LLC	13:031:0011	660	\$172,515.04
AF UTAH, LLC	13:041:0087	672	\$168,507.58
AF 21, LLC	13:040:0060	272	\$104,239.57
OLIVE TREE ENTERPRISES, LLC	13:041:023, 13:041:0061, 13:040:0081, 13:040:0044, 13:040:0081	3243	\$1,112,551.25
HORAN FAMILY TRUST	13:040:0085, 13:040:0084	889	\$272,578.99
TACE, LLC	13:041:0087, 13:041,0096	1865	\$584,531.63
THE YARD, LLC	13:041:0094	521	\$160,428.55
NBFF PROPERTY, LLC	13:040:0082	121	\$43,430.56
TOTAL:			\$2,800,708.13