

Recorded at request of Town of Apple Valley
When recorded return to: Town of Apple Valley
1777 North Meadowlark Drive
Apple Valley, Utah 84737

APN: AV-_____

IMPROVEMENT DELAY AGREEMENT

This Improvement Delay Agreement ("Agreement") is entered into this ____ day of _____ Month, _____ Year, by and between the Town of Apple Valley, Utah, a Utah municipal corporation, hereinafter referred to as "Town," and _____, hereinafter referred to as "Developer."

WITNESSETH:

WHEREAS, Developer is the owner of real property as set forth on Exhibit A attached hereto ("Property"); and

WHEREAS, Developer desires to obtain zoning and lot / subdivision approval for the Property and has submitted a map depicting a Lot Split pursuant to Town ordinances ("Map"); and

WHEREAS, pursuant to Town ordinances certain improvements are required upon the lot / subdivision and improvement to the Property; and

WHEREAS, Developer has requested that Town delay certain of the requirements associated with the lot / subdivision and improvement of the Property; and

WHEREAS, Town agrees, upon the approval of the lot / subdivision and zoning of the Property, to delay some of the requirements associated with such lot / subdivision strictly in accordance with the terms of this Agreement.

NOW, THEREFORE, for good and valuable consideration, including the covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Town agrees to defer the completion of required public improvements along and related to _____ until such time as written notice is sent to Developer demanding the installation or completion of any or all of the improvements.
2. Unless otherwise expressly agreed in Paragraph 1 above, Town may require any or all of the improvements to be partially or wholly completed, in any order or pursuant to any time table deemed appropriate by Town.
3. Installation of the improvements by Applicants shall commence within 30 days of the date of the written notice or other time mentioned in Paragraph 1 above and shall be completed within 90 days of the date of the written notice.

4. The cost of the improvements, their installation and completion, shall be completely and wholly borne by Developer.

5. Developer shall not be relieved from the obligation to install the improvements until such installation has been performed to the satisfaction of the Town.

6. The parties expressly agree that in the event that Developer fails to carry out its obligations under this Agreement, Town may, at its option, install or complete any or all of the improvements. Should Town exercise its option, Developer shall reimburse to Town, within 30 days of written notice to Developer, all costs resulting from such installation and/or completion.

7. To secure the Developer's obligation to install the required improvements, Developer hereby grants to the Town a lien against the property within the Map. In the event that the Town so requests, Developer agrees to execute a Deed of Trust evidencing the Town's lien given to secure the installation of improvements.

8. Should Developer fail to install and complete the improvements as required by Town pursuant to the terms of this Agreement or reimburse Town as herein agreed, or otherwise fail to perform its obligation pursuant to the terms of this Agreement, Developer recognizes Town's right to recover the costs necessary to install the improvements or obtain reimbursement therefor, through foreclosure proceedings on the property described above, through court action or as applicable to deeds of trust under Utah law.

9. If Developer fails to carry out its obligations under this Agreement, and Town proposes a special improvement district, special assessment area or similar mechanism for the installation of the improvements, which district or area would in whole or in part finance the installation of any or all of the improvements required under this Agreement, Developer agrees not to oppose the forming of the special improvement district, special assessment area or similar financing mechanism or the reasonable cost thereof, for the improvements as described in this Agreement. Developer expressly acknowledges that its obligation for completion of or reimbursement for improvements which are the subject of this Agreement, but are not or will not be installed as part of the special improvement district, special assessment area or other financing mechanism, shall not be affected by said special improvement district, special assessment area or similar financing mechanism.

10. Developer agrees to release and hold Town harmless from any and all claims which may arise from (a) delay in the installation of required improvements; (b) refusal by the Town to issue a building permit or certificate of occupancy based upon the lack of required

improvements for a particular lot; or (c) any other claim or liability arising from the Developer's breach of this Agreement.

11. Any and all of the obligations of Developer 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 subsequent purchasers of the parties.

12. If the Town commences legal action to enforce or interpret any term of this Agreement, the prevailing party shall be entitled to recover all reasonable attorney fees, court costs, and any other costs incurred in connection with such action, whether with or without suit and at trial or on appeal.

13. 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.

WHEREFORE, the parties have executed this Agreement effective as of the date first written above.

TOWN

By: _____
Michael L. Farrar, Mayor

STATE OF UTAH)
) ss.
County of Washington)

On this ____ day of _____Month, _____Year, before me _____ a notary public, personally appeared Michael L. Farrar who being by me duly sworn did say that he is the Mayor of the Town of Apple Valley, Utah, a Utah municipal corporation, and that the foregoing instrument was signed on behalf of said Town by authority of its Town Council and he acknowledged to me that said Town executed the same.

Notary Public

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DEVELOPER

By: _____

_____, Developer

STATE OF UTAH)
) ss.
County of Washington)

On this _____ day of _____ Month, _____ Year, before me,
_____ a notary public, personally appeared
_____, proved on the basis of satisfactory
evidence to be the persons whose names are subscribed to this instrument, and
acknowledged they executed the same.

Witness my hand and official seal.

Notary Public

Exhibit A

Legal Description of Parcel