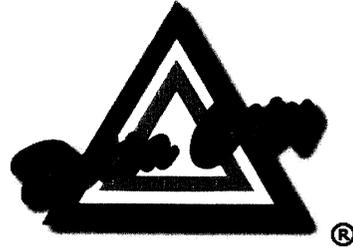


Delta City
76 N 200 W
Delta UT 84624-9440
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Certificate of Resolution Passage

STATE OF UTAH)
)
CITY OF DELTA) SS.

I, GREGORY J. SCHAFER, as the duly appointed, sworn and acting Delta City Recorder, do hereby certify that the attached, numbered as City of Delta Resolution Number 12-351 was duly adopted by the necessary quorum of the Delta City Council on October 4, 2012.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and impressed hereon the corporate seal of said City.



GREGORY JAY SCHAFER, MMC
Delta City Recorder





RESOLUTION

NUMBER 12-351

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DELTA, STATE OF UTAH, APPROVING THE SUBSTITUTION OF A TRUST DEED ON REAL PROPERTY FOR CASH THAT WAS PREVIOUSLY DEPOSITED WITH THE MUNICIPALITY TO GUARANTEE IMPROVEMENTS TO BE DEDICATED TO DELTA CITY.

The City Council of the City of Delta, Utah, ("City Council") hereby recites the following as the basis for adopting the Resolution:

WHEREAS, Section 5 of Delta City Ordinance No 80-05 (herein referred to as the "Subdivision Ordinance") requires a person seeking to subdivide real property located wholly or in part within Delta City to complete certain improvements that must be dedicated and accepted by Delta City;

WHEREAS, Section 5 of the Subdivision Ordinance also requires that the "subdivider shall guarantee the installation and construction of the required improvements within two years from the date of the approval of the final plat and shall also guarantee that the improvements shall be maintained in a state of good repair free from defective material or workmanship for a period of 12 months from the date of completion."

WHEREAS, Section 5 of the Subdivision Ordinance also requires that such "guarantee" shall be made by, among other alternatives as set out in the Subdivision Ordinance, a deposit with the Municipality pursuant to Subdivision Ordinance § 5.4(D), or providing Delta City with a first trust deed(s) pursuant to Subdivision Ordinance § 5.4(F);

WHEREAS, Kyle Rowley ("Rowley"), a subdivider of the Pahvant Butte Phase 2 Subdivision (the "Subdivision"), or his agent, previously deposited with the Municipality an amount of \$145,494.00 (the "Deposit") for the purposes of guaranteeing certain improvements relevant to the Subdivision as provided for in the Subdivision Ordinance § 5.4(D);

WHEREAS, Rowley has substantially completed improvements necessary for the Subdivision and has requested that Delta City release all of the Deposit and accept in the Deposit's place a first trust deed to guarantee the improvements as required by Section 5 of the Subdivision Ordinance;

NOW, THEREFORE, be it hereby RESOLVED by the City Council of the City of Delta, Utah THAT:

Section 1. Delta City will accept a first trust deed as provided and allowed in the Subdivision Ordinance § 5.4(F) to guarantee the improvements of the Subdivision.

Section 2. Upon the receipt of a first trust deed as provided in Section 1, Delta City will release any funds held by Delta City that were deposited by Rowley or his agent(s) for the purpose of guaranteeing improvements related to the Subdivision.

Section 3. Because the Subdivision Ordinance does not expressly allow for the substitution of one means of guaranteeing of improvements for another, Section 1 and 2 of this Resolution are conditioned upon Rowley not only satisfying all applicable requirements of the Subdivision Ordinance, but also reimbursing and holding Delta City harmless for all reasonable and necessary expenses and costs incurred by Delta City to effectuate the substitution of guarantee as contained herein, including but not limited to, Delta City Staff Time and Attorney Fees incurred. Fees and Costs incurred should be defrayed and reimbursed to Delta City commensurate to the currently adopted Delta City Consolidated Fee Schedule, where applicable, to determine Delta City costs.

Section 4. The requirement of § 5.4(F) of the Subdivision Ordinance that requires the value of the lot(s) described in the trust deed be determined by a qualified MAI appraiser are hereby waived. All other requirements of that § 5.4(F) shall remain in full force and effect and apply to the trust deed offered and accepted by the City.

Section 5. The Mayor of Delta City is hereby authorized to effectuate the provisions of this Resolution as follows: to determine Delta City's reasonable and necessary expenses incurred by Delta City effectuating this Resolution; to accept on behalf of Delta City a first trust deed as required by the Subdivision Ordinance and cause that trust deed to be recorded in the office of the Millard County Recorder; to determine and state in writing, which shall be filed by the Delta City Recorder, a "completion date" or "date of completion" of the of the required improvements of the Subdivision and provide the same to Rowley by mail; and all other reasonably necessary and proper tasks not expressly listed herein to effectuate the terms of this Resolution of the Council.

Section 6. To the extent that any resolutions, policies, procedures or fee schedules previously adopted by the City Council of the City of Delta conflict with the terms of this Resolution, this Resolution and the terms adopted hereby shall be deemed controlling and such other conflicting resolutions, regulations or policies shall be deemed amended to comply herewith.

PASSED AND ADOPTED this 4th day of October, 2012.

	Aye	Nay	Abstain	Absent
Robert W. Banks	<u> X </u>	_____	_____	_____
John W. Niles	<u> X </u>	_____	_____	_____
Steven R. Pratt	<u> X </u>	_____	_____	_____
Thomas N. Stephenson	_____	_____	_____	<u> X </u>
Betty Jo Western	<u> X </u>	_____	_____	_____



Gayle K. Bunker

 GAYLE K. BUNKER
 MAYOR

Gregory Jay Schaffer

 GREGORY JAY SCHAFFER, MMC
 CITY RECORDER