CITY COUNCIL AGENDA  
Wednesday, January 24, 2018

NOTICE IS HEREBY GIVEN that the Herriman City Council shall assemble for a
meeting in the Herriman City Council Chambers, located at
5355 West Herriman Main Street, Herriman, Utah.

5:00 PM - WORK MEETING: (Fort Herriman Conference Room)
1. Mayor and Council Social
   1.1. The Mayor and Council will meet for informal discussion and dinner. No action will be taken on
        any items.

2. Council Business – 5:15 PM
   2.1. Review of this Evening’s Agenda
   2.2. Future Agenda Items

3. Administrative Reports
   3.1. City Manager Updates – Brett Wood, City Manager
   3.2. Camp Williams Report on Environmental Resources – Robert Rice, Environmental Resources
        Management Utah National Guard
   3.3. Mountain View Corridor Project Update – Joe Kammerer, UDOT MVC Project Director
   3.4. Salt Lake County Animal Services Contract Report – Carrie Sibert, Outreach Supervisor &
        Michelle Jones, Animal Control Officer
   3.5. 2018 Blackridge Proposal – Wendy Thomas, Director of Parks, Recreation and Events
   3.6. Report on the Hillside Study – Wendy Thomas, Director of Parks Recreation and Events
   3.7. Discussion only of the proposed Development for Anthem Utah, LLC (Adalynn project) located
        at approximately 6200 West 12200 South – Michael Maloy, City Planner
   3.8. Discussion only of the updated changes for Dansie Land, LLC located at or near 7300 West
        Herriman Highway – Michael Maloy, City Planner
   3.9. Discussion only regarding the Herriman Crossroads proposed development for approximately
        125 acres located at or near 16750 South Camp Williams Road (Redwood Road) – Michael
        Maloy, City Planner

4. Adjournment

7:10 PM - GENERAL MEETING:
1. Call to Order
   1.1. Invocation/Thought/Reading and Pledge of Allegiance
   1.2. Council Disclosure for Conflict of Interest
   1.3. Mayor/Council Comments and Recognitions
2. **Public Comment**  
   Audience members may bring any item to the Mayor and Council’s attention. Comments will be limited to two minutes. State Law prohibits the Council from acting on items that do not appear on the agenda.

3. **Mayor and Council Board and Committee Reports**

4. **Reports, Presentations and Appointments**
   4.1. Introduction of the Herriman Hills Trails Alliance Chair – Wendy Thomas, Director of Parks, Recreation and Events
   4.2. Presentation of the Branding Study – Heather Upshaw, Economic Development Manager
   4.3. Presentation of the Balanced Economy Study – Heather Upshaw, Economic Development Manager

5. **Consent Agenda**
   5.1. Approval of the Monthly Financial Summary
   5.2. Discussion and consideration of an ordinance authorizing a text change to Herriman City Code §1-7-3 regarding the appointment of the City Recorder and Treasurer to comply with Utah State Code – John Brems, City Attorney
   5.3. Ratification of the Appointment of Community Facilitators – Sandra Llewellyn, Community Development Coordinator

6. **Calendar**
   6.1. **Meetings**
      6.1.1. February 1 – Planning Commission Meeting 6:00 p.m.
      6.1.2. February 1 & 2 – 2018 Launch
   6.2. **Events**
      6.2.1. February 9 – Little Sweetheart Dance; City Hall 6:00 p.m.

7. **Closed Session**
   7.1. The Herriman City Council may temporarily recess the City Council meeting to convene in a closed session to discuss the purchase, exchange or lease of real property as provided by Utah Code Annotated §52-4-205

8. **Recommence to Work Meeting (If Needed)**

9. **Adjournment**

In accordance with the Americans with Disabilities Act, Herriman City will make reasonable accommodation for participation in the meeting. Request assistance by contacting Herriman City at (801) 446-5323 and provide at least 48 hours advance notice of the meeting.

**Electronic Participation:** Members of the City Council may participate electronically via telephone, Skype, or other electronic means during this meeting.

**Public Comment Policy and Procedure:** The purpose of public comment is to allow citizens to address items on the agenda. Citizens requesting to address the Council will be asked to complete a written comment form and present it to Jackie Nostrom, City Recorder. In general, the chair will allow an individual two minutes to address the Council. A spokesperson, recognized as representing a group in attendance, may be allowed up to five minutes. At the conclusion of the citizen comment time, the chair may direct staff to assist the citizen; direct the citizen to the proper administrative department(s); or take no action. This policy also applies to all public hearings. Citizens may also submit written requests (outlining their issue) for an item to be considered at a future council meeting. The chair may place the item on the agenda under citizen comments; direct staff to assist the citizen; direct the citizen to the proper administrative departments; or take no action.

I, Jackie Nostrom, certify the foregoing agenda was emailed to at least one newspaper of general circulation within the geographic jurisdiction of the public body, at the principal office of the public body, on the Utah State Public Notice website www.utah.gov/pmn/index.html and on Herriman City’s website at www.herriman.org

Posted and Dated this 18th day of January, 2018

Jackie Nostrom, MMC  
City Recorder
Work to identify and remove old munitions near Camp Williams under the Military Munitions Response Program (MMRP) was completed in May of 2017. Munitions cleanup began in April 2014 at the start of the Remedial Action phase of the MMRP at two Munitions Response Sites (MRSs).

Areas surrounding Camp Williams associated with past military training activities have been the subject of a comprehensive search for unexploded munitions that could pose a danger to people that may encounter them. Initially, six sites were identified as potential areas where munitions might be found. However, based on previous investigations, only two sites – the Wood Hollow Training Area (Wood Hollow) MRS and the Artillery Impact Area Buffer Zone (AIABZ) MRS – were identified as requiring a cleanup action. These two sites are located north of Camp Williams, outside the current installation boundary, adjacent to the communities of Bluffdale and Herriman and unincorporated areas of Salt Lake County.

Munitions cleanup work at the AIABZ MRS was completed during the spring and summer of 2014. Cleanup crews focused on 625 acres of the site that were not previously cleared of munitions.

As described in the approved Decision Document for this site, there is no evidence of buried munitions at the AIABZ MRS. Therefore, the munitions cleanup was completed when 100 percent of the ground surface at the site was searched and cleared of munitions found. As summarized in the previous newsletter, no potentially explosive Munitions and Explosives of Concern (MEC) were found during the cleanup at the AIABZ MRS. Only non-explosive munitions debris (MD) was found consisting mostly of fragments of large-caliber (155mm and 8-inch size) artillery rounds and pieces of expended illumination rounds. In all, 268.7 pounds of MD was found and removed from the site during the munitions cleanup at the AIABZ MRS.

Munitions cleanup work at the Wood Hollow MRS began in the spring of 2014 and was completed in the spring of 2017. This site is former military area presumably used as a target for artillery training in the years between World War I and World War II. Due to the presence of shallowly-buried MEC and MD found at the site, the approved Decision Document for the Wood Hollow MRS specified munitions clearance for both the ground surface and the subsurface to a depth of 2 feet below ground surface.

The primary munitions that were found at the Wood Hollow MRS are 75mm and 37mm artillery rounds. Most of the information known about the MRS comes from field investigations because there are no

Munitions Review

News of the MMRP project at Camp Williams, Utah

January 2018
records of the training activities that occurred. The lack of records made it impossible to know the exact boundary of the site, so the size of the MRS was expanded over time based on field data collected. The full 367-acre extent of the MRS was determined during the munitions cleanup, as described below.

**Progression of Wood Hollow Munitions Cleanup**

The Wood Hollow MRS was 241 acres in size at the start of the Remedial Action. The Decision Document for the Wood Hollow MRS specified that munitions cleanup be performed over 210 acres of the then 241-acre MRS because the remaining 31 acres were previously cleared of munitions during the 2011 Time-Critical Removal Action (TCRA). Thus, the initial phase of munitions cleanup that began in 2014 focused on 210 acres. Evaluation of the results from 2014 and further inspection of historical aerial photographs resulted in a 17-acre expansion of the MRS, increasing the size to 258 acres.

The technical approach used for clearing the TCRA area in 2011 followed industry standard practices at the time, including use of the EM61 Digital Geophysical Mapping (DGM) instrument to detect and map metallic objects on and below the ground. Following the completion of the TCRA, the Parsons Digital Mapper, Model 8 (PDM®) instrument was developed for the DGM planned during the Remedial Action at the Wood Hollow MRS. This new instrument proved to be more effective than the EM61 in locating buried metallic objects at the site. The Utah National Guard elected to clear the 31-acre TCRA area again in 2015 using the PDM8 to ensure that the latest and most appropriate technology was applied equally to all portions of the MRS. In addition to munitions clearance in the TCRA area, 2015 operations also included munitions cleanup over the 17 additional acres added to the MRS.
Recent Work at Wood Hollow

The final phase of the field operations at the Wood Hollow MRS was completed during 2016 and 2017. This phase of operations included munitions cleanup at the six new clearance areas added to the MRS.

The northernmost new clearance area added to the Wood Hollow MRS is located in a geographically separate location north of the remainder of the MRS. Lands to the north and east of this new clearance area were not included in the earlier transect investigations completed in 2015. Therefore, a supplemental transect investigation was completed during 2016 to address these previously-uninvestigated lands designated as the “Additional Transect Investigation Area.” Although minor amounts of scattered MD were recovered in this area, no MEC or concentrated areas of MD were found, demonstrating that the extent of the MRS is adequately defined here. This newly investigated transect area combined with the area beyond the MRS where transects were previously completed in 2015 encompass all of the land investigated outside the MRS. This combined area is 1,546 acres in size and is known as the “Transect Investigation Area.”

A munitions cleanup is not warranted for the Transect Investigation Area outside the MRS based on its large size, the low probability for significant MEC to be present, and the very low potential for future development for most of this land. As such no remediation of this area is currently planned. The Utah National Guard came to an agreement with the Utah Department of Environmental Quality that this non-remediated area be evaluated using a risk-based statistical approach. This approach was developed in consideration of future land use as identified in the Herriman City Future Land Use Plan (2013). During 2016, confirmatory transects were investigated in areas of future Residential/Commercial land use where additional data was needed to verify that conditions outside the MRS do not exceed threshold values established under the statistical approach. No MEC and only limited scattered MD were found along the 125.6 miles of confirmatory transects completed, and the established thresholds were not exceeded. Based on these results, no further confirmatory investigation was required in the unremediated land outside the MRS.

Although the area of the Wood Hollow MRS over which the munitions cleanup remedy specified in the Decision Document was applied increased to 367 acres, the action being performed under the remedy (munitions cleanup) did not fundamentally change. As required by law, this modification to the approved Decision Document increasing the size of the Wood Hollow MRS was documented in an Explanation of Significant Differences Report prepared for the site.

Summary of Wood Hollow Munitions Clearance

Surface and subsurface clearance of identified MEC to the specified depth of 2 feet below ground surface was completed throughout the 367-acre Wood Hollow MRS during the Remedial Action with the exception of 26.64 acres that were omitted due to prior disturbance from mining or highway construction or very steep terrain that prevented safe access.

A total of 81 MEC items and an estimated 18,835 pounds of MD and 5,409 pounds of civilian debris were found at the MRS. Civilian debris consists of items that are not associated with military operations such as trash and discarded metal objects. The 81 MEC items recovered from the MRS were destroyed, and thus, are no longer present at the site. An additional estimated 315 pounds of MD and 2,503 pounds of civilian debris were found in the Transect Investigation Area beyond the boundary of the MRS. No MEC was found outside the current boundary of the 367-acre Wood Hollow MRS. All of the MD found during the Remedial Action was removed and is no longer present onsite.

### SUMMARY OF ITEMS FOUND DURING THE REMEDIAL ACTION AT THE WOOD HOLLOW MRS

<table>
<thead>
<tr>
<th>Areas</th>
<th>Number</th>
<th>MEC Removed</th>
<th>MD Removed</th>
<th>Civilian Debris</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wood Hollow MRS</td>
<td>81 items</td>
<td>18,835 pounds</td>
<td>5,409 pounds</td>
<td></td>
</tr>
<tr>
<td>Transect Investigation Area</td>
<td>0 items</td>
<td>315 pounds</td>
<td>2,503 pounds</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>81 items</td>
<td><strong>19,150 pounds</strong></td>
<td><strong>7,912 pounds</strong></td>
<td></td>
</tr>
</tbody>
</table>

The Wood Hollow Munitions Response Area (MRA) was delineated to encompass all of the land investigated during the Remedial Action. The MRA is comprised of the 367-acre MRS, where MEC clearance was performed, and the adjacent unremediated Transect Investigation Area that includes all 1,546 acres of land investigated outside the MRS. No MEC and only limited scattered MD was found in the Transect Investigation Area outside the current boundary of the 367-acre Wood Hollow MRS. These results demonstrate that the extent of the MRS is adequately defined, and no further expansion of the MRS is required.
Results of Wood Hollow Removal Action.

What’s Next Now that Cleanup is Done?
As specified in the Decision Documents for the AIABZ and Wood Hollow MRSs, future actions at these sites include implementing a community education program to promote munitions safety in the event undiscovered MEC is encountered and periodic reviews conducted as needed to address any issues that may arise in the future.

Because the munitions cleanup is complete at the AIABZ and Wood Hollow MRSs, the Restoration Advisory Board (RAB) is planned to be adjourned in the near future contingent on concurrence from other RAB members and Utah Department of Environmental Quality approval of the Site Specific Final Report and Explanation of Significant Differences Report for the Wood Hollow MRS.

Public Information
Documents, newsletters, fact sheets, and other information are available for public review in the project repository established for the Camp Williams MMRP at the following locations:

Herriman City Library
5380 W Main Street
Herriman UT, 84096

Camp Williams Restoration Advisory Board Website
http://www.campwilliamsrab.org

Documents available in the repository include the Site Specific Final Report presenting the details of the munitions cleanup performed at the AIABZ MRS. The Site Specific Final Report and the Explanation of Significant Differences Report for the Wood Hollow MRS will be added to the repository once these documents are accepted by the Utah Department of Environmental Quality.
The Wood Hollow MRA is comprised of the Transect Investigation Area outlined in red and the Wood Hollow Training Area MRS outlined in blue/purple.

RESIDENTIAL/COMMERCIAL
- Low Density Residential (1.8-2.5 du/acre)
- Single Family Residential (2.6-4.5 du/acre)
- Medium Density Residential (4.6-8 du/acre)
- High Density (8-20 du/acre)

NON-RESIDENTIAL
- Mixed Use
- Commercial
- Public/Institutional/Schools
- Quasi-Public/Utilities
- Open Space
- Parks and Recreation
- Resort/Recreational

NOTES
- Future land use shown is from the Herriman City Future Land Use Plan (2013).
The Wood Hollow MRA is comprised of the Transect Investigation Area outlined in red and the Wood Hollow Training Area MRS outlined in blue/purple.

**SUMMARY OF RESULTS**

- **Total Number of Anomalies Investigated**: 159,123
- **Total Number of Pounds of Munitions Debris (MD)**: 19,150
- **Total Number of Munitions and Explosives of Concern (MEC) Items**: 81 Items

**Artillery-Related MD Found During RA per Acre**

- 0
- 0 - 30
- 30 - 75
- 75 - 135
- 135 - 180
- 180 - 250
- 250 - 315
- 315 - 420
- 420 - 640
- 640 - 2,440

**NOTES**

- MRA - Munitions Response Area
- MRS - Munitions Response Site
- RA - Remedial Action
DATE: January 17, 2018

TO: The Honorable Mayor and City Council

FROM: Blake Thomas, City Engineer

SUBJECT: Mountain View Corridor Project Update by UDOT

RECOMMENDATION:
None.

BACKGROUND:
UDOT is currently funded to construct Mountain View Corridor (MVC) from 4100 North to Highway 201. This section will be constructed as a freeway, whereas the section in Herriman was constructed as a frontage road with the freeway to come at some time in the future. UDOT is also designing a section of MVC that will run from 2100 North and Redwood Road (Lehi) southward to Pioneer Crossing in Saratoga Springs. Once these projects are complete they focus on the section of MVC from Porter Rockwell to 2100 North, including the portion located to the east of the NSA building which parallels Redwood Road.

DISCUSSION:
UDOT will present the tentative schedule for the road improvements, aspects of the environmental impact statement, transit requirements associated with MVC, and funding of the segments.
**INTRODUCTIONS**

- **Carrie Sibert**
  - Community Liaison Coordinator
  - Primary contact for shelter needs and questions.
  - Experience
    - 17 years experience
    - 12.5 yrs. with Animal Services and Tooele City Animal Control
    - 5 yrs. with Wildlife Rehabilitation

- **Contact Information**
  - Email: csibert@slco.org
  - Office # 385-468-6054

- **Michelle Jones & Melanie Bennett**
  - Animal Control Officer Liaisons
  - Additional Contact for shelter needs and questions.
  - Experience
    - Over 30 years of experience combined
  - Certifications include
    - Livestock Cruelty Investigation, NACHO Animal Cruelty Investigation, Vet Tech, Search & Seizure, etc

- **Contact Information**
  - Email: mbennett@slco.org, mjones@slco.org
  - Shelter # 385-468-7387
Snuggle with Adoptable Pets!

- Herriman City Hall
  - 2nd Friday of every month
  - 2pm-4pm
- 3-6 Adoptable pets onsite
  - Sterilized, microchipped, and vaccinated
- Licensing and microchipping available for current pets.
Programs and Resources

• Free training workshops
  - Topics vary each month
  - Facebook: Salt Lake County Animal Services Page
  - Website: adoptutahpets.com

• Southwest Region Licensing & Vaccination Clinic
  - Bluffdale Fire Station
    14350 S 2200 W, Bluffdale, UT 84065
  - Feb. 10th 2018 10am-2pm
TNR/Community Cat Program

Program Overview

- Follows the Utah State Code Community Cat Act enacted in 2011.
- Any free-roaming cat within our jurisdiction is trapped, sterilized, vaccinated, ear-tipped, and released back to its colony.
- Long Term Solution to control and stabilize the cat population.
  - Decreases and eliminates many offensive behaviors and health issues.
  - Sterilized colonies are easier to maintain as they regulates their own population. New cats can be sterilized as they arise.

Herriman City Statistics

<table>
<thead>
<tr>
<th>Cat Intake</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2014</td>
</tr>
<tr>
<td>All Jurisdictions</td>
<td>3,595</td>
</tr>
<tr>
<td>Herriman - Total</td>
<td>164</td>
</tr>
<tr>
<td>Herriman - Kittens</td>
<td>50</td>
</tr>
</tbody>
</table>

TNR/Community Cat Program

<table>
<thead>
<tr>
<th>Cat Intake</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2014</td>
</tr>
<tr>
<td>All Jurisdictions</td>
<td>1159</td>
</tr>
<tr>
<td>Herriman</td>
<td>52</td>
</tr>
</tbody>
</table>
Feral Cat Resources

Free-roaming cats in your area? We can help!

- For trapping assistance and questions contact our TNR Coordinator:
  - Officer Rebecca Lane
  - Work # 385-232-4176
  - Rlane@slco.org

- Feral Shelters/Cat Food Assistance
  - Best Friends, utahtnr@bestfriends.org

- Click the links below for solutions, cat deterrents, and tips to help residents:
  - For Basic TNR information and solutions –
    How to live with cats in your neighborhood brochure
  - Additional list of Cat Deterrents
Petapalooza

4th Annual Pet Adoption Festival
Adoptable Pets, Food trucks, Vendors, and Entertainment!

Event Details:
Viridian Event Center & Veteran’s Memorial Park
8030 S 1825 W, West Jordan, UT 84088
8/25/18  9am-4pm

Interested in becoming a vendor or sponsor?
Email us at csibert@slco.org
STAFF REPORT

DATE: 01/17/2018

TO: The Honorable Mayor and City Council

FROM: Wendy Thomas, Director Parks, Recreation and Events

SUBJECT: 2018 Blackridge Reservoir Proposal

RECOMMENDATION:

City Staff and Unified Police Department recommend the prohibition of swimming at Blackridge Reservoir and to continue the allowance of small, non-motorized watercraft at users own risk.

BACKGROUND:
Blackridge Reservoir has been an extremely popular amenity for Herriman residents and guests. Over the past two seasons, Algal blooms originating in Utah Lake and the Jordan River have had a significant impact on the functionality of the Reservoir for leisure purposes. On July 21, 2017, Blackridge Reservoir was closed to access following a Salt Lake Valley Health Department Advisory of the identification of “Anatoxin A” in the Jordan River. This is the second year Blackridge has experienced a mid-season shut down due to the bloom. Due to the sensitivity and risk of the closure, City Staff and Unified Police Department determined that the entire park and trailhead should be closed. On September 18, 2017, the gates were reopened to the park and trailhead, but swimming remained prohibited. Small, non-motorized watercraft were allowed after the re-opening at the users own risk.

DISCUSSION:
The Water Department and Salt Lake County Health Department ran a series of tests on the quality of the water following the bloom. Traces of Anatoxin-A and microsystins were identified in small amounts in test results taken in July.

Unified Police Department provides security at the Reservoir and Park through their secondary staffing pool. City staff have utilized this service during peak times where crowds are expected to be heavy, including weekends and holidays.

Part-time temporary staff are stationed at the reservoir to open and close the facility, assist visitors, keep up with restrooms and sell concessions.
ALTERNATIVES & POTENTIAL FISCAL IMPACT:

- Status Quo – allow swimming and small, non-motorized watercraft until a bloom advisory is put in place (if one is)
  - Continue all associated costs with keeping the amenity fully open and functional for the 2018 season
- Prohibit swimming, allow small, non-motorized watercraft
  - Recommendation of staff
  - Potential reduction in visitors
  - Possible elimination of current parking program
  - Reduces cost of UPD Secondary staffing
  - Reduction of chemicals to treat the water
- Prohibit all water activities
  - Significant reduction in visitors
  - Possible elimination of current parking program
  - Reduces cost of UPD Secondary staffing
  - Potential to eliminate City staffing need
  - Reduction of chemicals to treat water
- Completely close amenity, including beach, playground and trailhead
  - Not recommended by staff
  - Significant reduction in visitors
  - Elimination of current parking program
  - Eliminate City staffing need
  - Reduction of chemicals needed to treat water

Costs incurred in 2017:

- Chemical treatment of water (algaeicide) - $24,500
- Unified Police Department – Secondary Employment Staffing - $21,888
- Herriman City Staffing - $9,018
- Concession supplies - $2,250
- Park maintenance cost – approximately $18,164 per year – higher expense incurred April – October
- Parking permit program cost – approximately $500 for the permits, minimal staff time
News Release
July 21, 2017

Algae-related Toxin Detected in Jordan River

A low level of anatoxin-a means people and pets should stay out of the water itself, but recreational activities like boating should not present a threat to health

(Salt Lake County)—The Salt Lake County Health Department (SLCoHD) received test results late today that show a low level (0.1 micrograms per liter) of an algae-related toxin called anatoxin-a present in the Jordan River.

The EPA “action level” for this toxin is any detection of its presence, so health officials advise people to not enter the water itself, and to keep dogs from entering or drinking river water. Toxins present at this level have not been shown to present a health threat to people on the surface of the river, such as while kayaking or boating.

The samples that showed evidence of the toxin were taken from the Jordan Narrows, where the Jordan River enters Salt Lake County, but officials are advising caution for the entire river as algae and toxins can spread and change quickly.

SLCoHD will post warning signs at Wheeler Farm in Murray and Blackridge Reservoir in Herriman due to their popularity as recreational points, but no potentially affected water bodies in Salt Lake County are closed to access at this time.

SLCoHD will continue to monitor and sample the Jordan River and its related canals and will update advisories as necessary.

Although blue-green algae are a natural part of many freshwater ecosystems, under the right conditions they can expand rapidly. High levels of nutrients in the water, combined with warm temperatures, abundant sunlight, and calm water, can promote growth, resulting in blooms that consist of cyanobacteria (often referred to as blue-green algae), a type of bacteria that can create toxins that pose a risk to humans and animals.

Symptoms of exposure include headache, fever, diarrhea, abdominal pain, nausea and vomiting, and sometimes allergic-like reactions from skin contact.

For concerns about possible human exposure, call the Utah Poison Control Center at 800-222-1222 or contact your health care provider.

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STAFF REPORT

DATE: 01/17/2018

TO: The Honorable Mayor and City Council

FROM: Wendy Thomas, Director of Parks, Recreation and Events

SUBJECT: Herriman Hillside Master Plan Update

BACKGROUND:

Previous City Council approved the use of Park Impact Fees to conduct a study of the highest and best use of property purchased through the Army Compatible Use Buffer (ACUB) program. Project Engineering Consultants (PEC) was chosen out of four firms that submitted proposals to conduct the study.

Herriman City continues to purchase land through the ACUB program to provide a protective buffer between Herriman City and Camp Williams, preserve open space and provide outdoor recreational opportunities for residents and guests to enjoy. A rudimentary trail system currently exists in the open space and connects through privately owned land. Current use is for non-motorized trails. The City currently owns approximately 850 acres with another 650 (approximate) currently under contract or very close to being under contract. Additional parcels have been identified as compatible, but are not currently under contract. The City negotiates purchase contracts for priority areas as ACUB funds and property become available.

The Herriman City Parks Master Plan and the Salt Lake County East West Recreational Trails Master Plan have been completed and adopted. These plans identify preferred and alternative alignments for active transportation and trail users from a high level with minimal detail. This study will provide a detailed examination of the property located in the area identified as the Herriman Hillside of not only recreational trails, but other recreational amenities that could drive recreational tourism and provide additional leisure opportunities for residents, guests and businesses.

Staff will provide the Mayor and Council Members with an initial menu of opportunities, maps and information to review prior to the February 28th City Council meeting.
DATE: January 18, 2018

TO: The Honorable Mayor and City Council

FROM: Michael Maloy, City Planner

MEETING: City Council 01/24/2018

REQUEST: Proposed Rezone from A-1 to R-2-10, R-1-21, and C-2 and applying the Planned Development Overlay Zone

Applicant: Anthem Utah, LLC
Address: 6200 W 12200 S
Acres: 275
File Number: Z2017-28, Z2017-29

Summary

Anthem Utah, LLC is requesting to rezone property from A-1 to R-2-10, R-1-21, and C-2. They are leaving a portion of the property A-1. They are also requesting to rezone a portion of the property to add the Planned Development Overlay Zone. The Planning Commission recommended approval of the Planned Development Overlay zone with 4.0 units per acre to be in compliance with the 2017 General Plan. This would be a maximum of 900 units on the property.

Since the PC recommendation, the 2017 General Plan has been tolled due to a citizen referendum. The City is now operating under the previously adopted 2014 General Plan. The applicant has modified the proposed plan to reduce the number of units and the commercial acreage to be in compliance with the 2014 General Plan.

Site

The parcel is located at approximately 6200 W 12200 S and contains 275 acres.

Zoning

The site is currently zoned A-1.

Notices

Staff mailed notices to all property owners within 300 feet of the subject property. Notices were
mailed to 114 property owners on September 25, 2017. We received several emails concerned about the proposed development, including issues regarding traffic and density.

**Neighborhood Meeting**

A neighborhood meeting was held on September 26, 2017. Notices were mailed to 222 residents. There were 15 residents that attended the meeting. The minutes from that meeting are included in the packet.

The Planning Commission held a public hearing on October 5, 2017. There were several comments taken, including concerns regarding traffic on 6000 West, the density of the project, and the timing of the decision.

**General Plan**

Due to the successful referendum, we are now operating under the 2014 General Plan. The 2014 GP shows the property as Agricultural Residential, Single Family Residential, Medium Density Residential, and some Commercial.

The Planned Development Overlay zone allows density to be moved and clustered over the property. However, the average density of the PUD cannot exceed the density in the underlying zone, or exceed the density as shown in the General Plan. The density on the General Plan would allow between approximately 637 and 1,090 units on the property. This includes density for the open space property that is required for the PUD approval. The applicant has amended his plan to now have 820 units.

**Discussion**

The applicant has applied for the Planned Development Overlay Zone on the north half of the property. The property has to be rezoned with a “base” zone, and then the PUD overlay zone is applied over the base zone. The density is determined by the requirements of the base zone. However, the PUD overlay zone allows the density to be moved around and clustered within the development. A preliminary site plan has to be submitted and approved as part of the overlay zone. The plan shows 598 units in the PUD. The units can be moved within the PUD, between pods 2 and 3.

The south half of the property, south of Midas Creek, will not be part of the Planned Development Overlay zone. It will be rezoned to R-1-15 and developed as a straight subdivision of quarter to half acre lots. The plan shows 222 single family lots. The applicant is also proposing to leave part of the property in the A-1 zone and provide approximately 19 one acre agricultural lots. The future subdivision would be 1.9 units per acre.
The rezone to R-2-10 should be considered concurrently with the PUD overlay zone. The density needs to comply with the density in the underlying zone. The 129.6 acres zoned R-2-10 cannot exceed an average of 8.7 units per acre. The plan shows this property at 4.6 units per acre.

The ordinance requires a PUD to provide 20% open space. Open space that is unbuildable because of slope or flood drainage shall be counted at 25% of the acreage to satisfy open space requirements. The plan shows the 20% open space, and also the reduction of acreage in the slope/drainage areas. A Conditional Letter of Map Revision (CLOMR) was recently completed on Midas and Copper Creek.

The applicant has included an open space summary with their site plan. The open space is shown in approximate locations. The exact location of the open space will be determined when the pods come back for final site plan approval. The applicant has provided Design Guidelines to address architecture, landscaping, setback, fencing, minimum lot size, and other elements of the development. These will be approved as part of the PUD.

**Recommendation**

Staff recommends approval of the rezone to R-1-15, R-2-10, and C-2 and applying the Planning Development Overlay zone over the residential property north of Midas Creek. The site plan for the Planned Development Overlay zone should have the following requirements:

1. Receive and agree to the recommendations from other agencies.
2. The preliminary site plan for the Planned Development Overlay Zone is approved as attached with a maximum of 598 units. Overall density to be no greater than 4.6 units per acre.
3. When each pod comes in for final site plan approval, the applicant shall demonstrate how the proposal complies with the overall density of the project.
4. Design guidelines are approved as submitted, including setbacks, architectural requirements, and minimum lot sizes.
5. At least 20 percent of the planned unit development shall be preserved as permanent open space. At least one-half of the open space required shall be maintained in single contiguous lot, not including any unbuildable property, configured in a usable size and shape. Open space that is unbuildable because of, among other things, slope, wetlands, flood drainage, or contamination, shall be counted at 25 percent of the acreage required to satisfy applicable open space requirements. Detention basins may count as open space only if they provide recreational amenities, including, but not limited to, playgrounds, gazebos, exercise stations, or sports fields with parking lots. Park strips adjacent to a street shall not count as open space.
6. The developer shall incorporate the designated open space in each pod. With each phase submitted, the applicant shall submit an open space summary.
7. Trails shall provide connectivity throughout the development, to residential, schools, and commercial. Trails between lots shall be at least a 20 feet wide with an 8 foot hard surface trail and landscaping approved by the Parks Department.

8. Provide a 20 foot wide trail along the south side of Midas Creek. The trail shall be outside the top of bank. The trail should include an 8 foot paved trails and an 8 foot unpaved/aggregate trail.

9. Construct a 6 foot precast wall along 6000 West and 6400 West. The walls shall be installed when the adjacent pod is being constructed. Fencing on the interior of the project will be discussed with each phase.

10. Herriman Blvd and 6000 West shall be built adjacent to the phase being constructed. Roads shall be built curb to curb, with sidewalks, park strips, and street lights being installed along the phase being developed.

11. No residential driveways shall access onto 6400 W, 6000 W, Herriman Blvd, or 11800 South.

12. Infrastructure for each phase shall be reviewed and approved by Engineering to verify that adequate systems are in place for that pod. This shall include review of transportation, water, and storm drain systems.

13. If there is going to be regional storm water detention for the project, temporary retention/detention may be used in each pod as long as it is owned and maintained by the developer and has temporary storm water easements placed over the property as well as easements for any necessary conveyance.

14. All single family dwellings shall provide basements, excluding homes in pod 2 (Active Senior).

15. Comply with all recommendations from the Traffic Study, including additional right of way dedication for future traffic signals or turn lanes.

16. Comply with all off-street parking requirements for single family detached and attached dwellings.

17. The size, location, design, and nature of entry monument signs, and the intensity and direction of area floodlighting, shall be detailed in a separate site plan application.

18. Infrastructure improvements, including but not limited to utilities, street signs, street lighting, fencing, and other required improvements, shall be provided in accordance with city standards and specifications.

19. Install curb, gutter, sidewalk, park strip, and street lights along all public streets in accordance with city standards.

20. A development agreement for the entire project shall be reviewed and approved by the City Council prior to any pods receiving final site plan approval.

21. Each pod shall submit an application for approval of a site plan pursuant to Section 10-5-12 of the Land Development Code. The site plan for each pod shall include, but not be limited to, the following:
   a. Lot area and widths shall be shown on an approved site plan for each phase.
b. Traffic studies will be required for each pod in compliance with the Engineering Design Standards. Each study shall be done as an addendum to the master traffic study already completed.

c. Each pod that is adjacent to Midas Creek shall provide verification from Salt Lake County Flood Control that the top of bank line has been established and there is an additional 20 foot maintenance access outside the top of bank. This access should be dedicated to the City. No lots can be located within the top of bank or 20 foot access. The access can be combined with the trail.

d. A detailed grading and drainage plan shall be submitted as part of a site plan application.

e. Landscaping, fencing, and screening related to the uses within the site and as a means of integrating the proposed development into its surroundings shall be submitted as part of a site plan application.

f. Open space that is provided in each pod shall demonstrate any unbuildable area that counts as 25%. The overall open space acres required shall be adjusted accordingly.
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*Site, Landscape and Architectural Design Guidelines*

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<td></td>
<td></td>
<td>4.4 Iron Horse at Teton Ranch (Pod 3)</td>
</tr>
</tbody>
</table>
1.0 Introduction to Teton Ranch

Site, Landscape and Architectural Design Guidelines

1.1 Overview

Teton Ranch is a 275 acre area consisting of a collection of interconnected neighborhoods, each with its own identity. The community is built upon a walkable network of trails connecting neighborhoods to surrounding schools, churches, shopping, transit, and opportunities for fitness and recreation. This document focuses on the neighborhoods and amenities within Teton Ranch.

The Midas Creek Trail shown above connects residents to neighbors, schools, churches, shopping, transportation options, open space and recreation opportunities.
1.2 Vicinity Map

Teton Ranch is bounded on the north by 11800 S, east by 6000 W, south by 12600 S, and west by 6400 W. Midas Creek bisects the community from west to east.
1.3 Neighborhood Map

Represented by the adjacent graphic, Teton Ranch will offer a mix of residential products including: single family Estates (Pod 1), single family Homestead (Pod 2), and single family Iron Horse (Pod 3).

### SITE SUMMARY

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
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</thead>
<tbody>
<tr>
<td>Total Site Area</td>
<td>270.9 ac</td>
</tr>
<tr>
<td>Total Site Area (Excluding Commercial)</td>
<td>246 ac</td>
</tr>
<tr>
<td>Area of Site within PUD</td>
<td>129.6 ac</td>
</tr>
<tr>
<td>Area of Site within Subdivision</td>
<td>116.4 ac</td>
</tr>
<tr>
<td>Total Residential Units</td>
<td>820 units</td>
</tr>
<tr>
<td>Minimum PUD Open Space Area</td>
<td>20%</td>
</tr>
<tr>
<td>Gross Density</td>
<td>3.02</td>
</tr>
<tr>
<td>Net Density (Excludes Commercial)</td>
<td>3.33</td>
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</table>

### LAND USE SUMMARY

<table>
<thead>
<tr>
<th>POD #’S</th>
<th>LAND USE</th>
<th>ACRES</th>
<th>BASE</th>
<th>MAXIMUM</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Estates</td>
<td>129.6</td>
<td>222</td>
<td>222</td>
</tr>
<tr>
<td>2</td>
<td>Homestead</td>
<td>49.5</td>
<td>232</td>
<td>244</td>
</tr>
<tr>
<td>3</td>
<td>Iron Horse</td>
<td>66.9</td>
<td>366</td>
<td>384</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>246</td>
<td>820</td>
<td>*</td>
</tr>
</tbody>
</table>

* Total units may not exceed 820

NOTE: Pods 2 & 3 shall include a minimum of 20% open space. Open space shown in each pod is representative of the approximate open space total. Actual location and configuration are subject to change.
1.4 Project Objectives

The natural environment surrounding Teton Ranch will provide the inspiration for design within the community. The Herriman area has sweeping mountain views to the east, south and west that should be maintained. The natural drainages are to be used as the main artery of the trail network within Teton Ranch and will help to preserve the natural drainages and facilitate proper storm-water management.

The three main objectives, shown to the right, are meant to guide owners and developers in creating high quality developments that support the interconnected community of Teton Ranch and enhance the sense of place experienced by the residents.

A. The Architecture and site planning are to reinforce community identity and allow future development to reflect the time in which it is built. Each neighborhood pod will have its own palette of architectural elements that will help to identify the neighborhood in addition to reinforcing and unifying the community identity.

B. Trails and landscape designs should emphasize and reinforce the community-wide circulation system that links and interconnects neighborhoods within Teton Ranch as well as the outlying Herriman City area. Teton Ranch is designed as a pedestrian-friendly community with a vast trail network. All Residences at Teton Ranch, whether townhomes, single family detached lots, senior housing, etc. are to include design principles that connect, enhance and support this community-wide system of trails and paths, offering recreation, fitness, and gathering spaces while utilizing the unifying elements described within these design guidelines.

C. Unifying elements throughout Teton Ranch will strengthen community identity and are important to maintain as new developments are built within Teton Ranch. These elements are common throughout Teton Ranch, which are: lighting, monuments, fencing, and a common landscape theme.
2.0 Open Space & Trails

Site, Landscape and Architectural Design Guidelines

2.1 Open Space

Teton Ranch is united through a variety of parks, trails and open space.

NOTE: Pods 2 & 3 shall include a minimum of 20% open space. Open space shown in each pod is representative of the approximate open space total. Actual location and configuration are subject to change.
2.2 Midas Creek Trail Connections

One of the main elements that unites and connects Teton Ranch is Midas Creek. It functions as the primary corridor of a trail network where trails branch off to offer the community pedestrian links to recreational, commercial, and residential areas within Teton Ranch.

Midas creek is the spine that links community parks, schools, churches, trails, and other community elements. The trail will also link to the existing trail network within Herriman city.

The trail system will help preserve the natural storm-water drainage system as well as provide the residents of Teton Ranch access to nature and some of the most desired recreation opportunities and trails.
2.3 Trail Amenities

The Midas Creek trail system provides residents and travelers of the with a number of amenities including a fitness trail and linkages to surrounding neighborhoods and amenities.
3.0 Design Guidelines

Site, Landscape and Architectural Design Guidelines

3.1 Unifying Design Elements

The unifying elements identified to the right, will help to ensure that developments within Teton Ranch can be identified as part of the same community; providing visual links, landmarks, and these common elements will also ensure that the connectivity within Teton Ranch can continue through as the area is developed.

The idea is to create quality architecture and landscapes by requiring minimums of architectural and landscape elements demonstrated in examples within these design guidelines.

- **Entry Features.** A hierarchy of entrance features help with identifying and way-finding to streets, parks, trails, open space, neighborhoods, and retail centers; signage and monumentation and community directional signage.

- **Monuments.** Monuments will act as visual landmarks, helping residents and visitors find their way through Teton Ranch.

- **Streetscapes.** The streetscapes within Teton Ranch will promote walkability and provide a strong unifying visual element to the neighborhoods of Teton Ranch.

- **Street Lighting.** The street lighting is to be consistent throughout Teton Ranch, adding to its identity.

- **Fencing.** The fencing permitted within Teton Ranch will match the architectural style of the homes and tie into the neighborhood look.

- **Architectural Styles.** The architectural styles shown in this book, are to be used as inspiration for the design of Teton Ranch.
3.2 Community Entry Features

The identity of each neighborhood may differ slightly in architectural style and character, but they will be unified by a number of elements. The entrance specs listed below provide visual cues to visitors and residents when they are within Teton Ranch. The elements common to the Teton Ranch character include a consistent landscape palette, Midas Creek, lighting, fencing, monuments and entrance features.

Entrance Specifications:
- Monuments
- Monument Lighting
- Parkstrip ~ 7’ wide

Proposed Entry Feature Location
3.3 Wall Plan & Images

The map at right illustrates location of precast concrete walls around the development. Images below illustrate type of wall represented in locations shown.

WALL LEGEND

- 6’ Owell Precast Concrete Wall with 2’ Berm
- 6’ Owell Precast Concrete Wall
- 6’ Olympus Precast Concrete Wall
- 6’ Olympus Precast Concrete Wall with 2’ Berm (Installed on top of Berm)

6’ Olympus Precast Concrete Wall with 2’ Berm (Installed on top of Berm)

6’ Olympus Precast Concrete Wall
4.1 Overview

Design at Teton Ranch draws inspiration from Craftsman architecture, using common elements that help to unify a neighborhood; one example is demonstrated in the illustration below.

Architectural designs:

- Buildings should be oriented to face the street whenever possible.
- Front elevations will have a minimum of three architectural elements visible.
- Side and rear elevations will have a minimum of two architectural elements and colors visible.
- Permitted materials will consist of a mixture of Stone, Brick, Masonry Products, Stucco, and Wood.
- Vinyl Siding is prohibited.

Landscape designs:

- Street trees will be planted every 30’ on center.
- One deciduous and one evergreen tree per lot (excludes street trees).
- Six 5 gal. Shrubs per front yard.
- Twelve 1 gal. Shrubs per front yard.
4.2 The Estates at Teton Ranch (Pod 1)

The Estates at Teton Ranch offers lots that are spacious and range from .25 ac to 1.00 ac in size. Homes within the Estates will utilize current architectural styling with a flavor of country.

<table>
<thead>
<tr>
<th>LAND USE SUMMARY</th>
</tr>
</thead>
<tbody>
<tr>
<td>POD #</td>
</tr>
<tr>
<td>1</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LOT SIZE BREAKDOWN</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lots 43,560 sf (1 ac) or greater</td>
</tr>
<tr>
<td>Lots 20,000 sf to 43,560 sf</td>
</tr>
<tr>
<td>Lots 12,000 sf to 20,000 sf</td>
</tr>
</tbody>
</table>
4.2 The Estates at Teton Ranch (Pod 1)

The sample images to the right illustrate a few of the architectural design principles used in the Estates area.

<table>
<thead>
<tr>
<th>SETBACKS (R-1-10)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard</td>
<td>25’</td>
</tr>
<tr>
<td>Side Yard - Standard</td>
<td>8’/10’</td>
</tr>
<tr>
<td>Side Yard - Corner Lot Street Side</td>
<td>20’</td>
</tr>
<tr>
<td>Rear Yard</td>
<td>25’</td>
</tr>
<tr>
<td>Deck/Covered Patio</td>
<td>15’</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SETBACKS (A-1)</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard</td>
<td>25’</td>
</tr>
<tr>
<td>Side Yard - Standard</td>
<td>10’</td>
</tr>
<tr>
<td>Side Yard - Corner Lot Street Side</td>
<td>20’</td>
</tr>
<tr>
<td>Rear Yard</td>
<td>25’</td>
</tr>
<tr>
<td>Deck/Covered Patio</td>
<td>15’</td>
</tr>
</tbody>
</table>

**DESIGN ELEMENTS**

**Roof Pitch**
- 75% of roof surfaces 4/12 or steeper

**Facade Treatment**
- Minimum 3 design elements on front including a minimum of 40% brick and/or stone
- Minimum 2 design elements on side and rear

**Minimum Home Size**
- 3,600 SF
- 3 car garage

**Prohibited Items**
- Vinyl Siding

*Images shown are only intended to represent design elements that may be utilized and do not necessarily represent the specific products that will be used in the community.
The Homestead at Teton Ranch is an active senior living neighborhood that specifically caters to those 55+. Homes within the neighborhood are situated on lots ranging from .09 ac to .12 ac in size.

<table>
<thead>
<tr>
<th>LAND USE SUMMARY</th>
</tr>
</thead>
<tbody>
<tr>
<td>POD #</td>
</tr>
<tr>
<td>-------</td>
</tr>
<tr>
<td>2</td>
</tr>
</tbody>
</table>

ZONE R:2-10
POD 2 (PUD)
4.7-5.0 DU/AC
.09 ac to .12 ac lots
4.3 The Homestead at Teton Ranch (Pod 2)

The sample images to the right illustrate a few of the architectural design principles used in the Homestead at Teton Ranch.

<table>
<thead>
<tr>
<th>SETBACKS</th>
<th>Front Loaded</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard</td>
<td>15’</td>
</tr>
<tr>
<td>Driveway</td>
<td>22’</td>
</tr>
<tr>
<td>Side Yard (Standard)*</td>
<td>5’</td>
</tr>
<tr>
<td>Side Yard (Corner Lot Street Side)*</td>
<td>15’</td>
</tr>
<tr>
<td>Rear Yard/Deck</td>
<td>10’</td>
</tr>
</tbody>
</table>

* Porch may extend into side yard

**DESIGN ELEMENTS**

**Roof Pitch**
-75% of roof surfaces 4/12 or steeper

**Facade Treatment**
-Minimum 3 design elements on front including a minimum of 40% brick and/or stone
-Minimum 2 design elements on side and rear

**Minimum Home Size**
-1,200 SF
-2 car garage

**Prohibited Items**
-Vinyl Siding

*Images shown are only intended to represent design elements that may be utilized and do not necessarily represent the specific products that will be used in the community*
4.3 The Homestead at Teton Ranch (Pod 2)

In addition to the Herriman City’s typical roadway cross section, it is anticipated that the following cross sections will be used with in the Homestead portion of the development.
4.4 Iron Horse at Teton Ranch (Pod 3)

Iron Horse lots provide introductory housing with lots ranging between .09 ac and .12 ac. Architectural elements are inspired by the Craftsman style.

<table>
<thead>
<tr>
<th>POD #</th>
<th>LAND USE</th>
<th>ACRES</th>
<th>BASE</th>
<th>MAXIMUM</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Single Family</td>
<td>66.9</td>
<td>366</td>
<td>384</td>
</tr>
</tbody>
</table>

ZONE R-2.10
POD 3 (PUD)
5.4-5.7 DU/AC
.09 ac to .12 ac lots
4.4 Iron Horse at Teton Ranch (Pod 3)

The sample images to the right illustrate a few of the architectural design principles used in the Iron Horse area.

<table>
<thead>
<tr>
<th>SETBACKS</th>
<th>Front Loaded</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Yard</td>
<td>15’</td>
</tr>
<tr>
<td>Driveway</td>
<td>22’</td>
</tr>
<tr>
<td>Side Yard - Standard*</td>
<td>6’</td>
</tr>
<tr>
<td>Side Yard - Corner Lot Street Side*</td>
<td>12’</td>
</tr>
<tr>
<td>Rear Yard/Deck</td>
<td>10’</td>
</tr>
</tbody>
</table>

* Porch may extend into side yard

**DESIGN ELEMENTS**

**Roof Pitch**
-75% of roof surfaces 4/12 or steeper

**Facade Treatment**
-Minimum 3 design elements on front including a minimum of 40% brick and/or stone
-Minimum 2 design elements on side and rear

**Minimum Requirements**
-2,000 SF
-2 car garage

**Prohibited Items**
-Vinyl Siding

*Images shown are only intended to represent design elements that may be utilized and do not necessarily represent the specific products that will be used in the community*
4.4 Iron Horse at Teton Ranch (Pod 3)

In addition to the Herriman City’s typical roadway cross section, it is anticipated that the following cross sections will be used within the Iron Horse portion of the development.
INTERNAL DRAFT
REDLINED 01 13 18

MASTER DEVELOPMENT AGREEMENT
FOR
TETON RANCH

February __, 2018
MASTER DEVELOPMENT AGREEMENT
FOR
TETON RANCH

THIS MASTER DEVELOPMENT AGREEMENT is made and entered as of the 8th day of February, 2018, by and between Herriman City, a Utah municipality and Teton Ranch, LLC, a Utah limited liability company and The Last Holdout, L.L.C., a Utah limited liability company.

RECITALS

A. The capitalized terms used in this MDA and in these Recitals are defined in Section 1.2, below.

B. Owner owns the Property.

C. Master Developer is under a contract with Owner to develop the Property.

D. Owner, Master Developer and the City desire that the Property be developed in a unified and consistent fashion pursuant to the General Plan and the Preliminary PUD.

E. The Parties acknowledge that development of the Property pursuant to this MDA will result in significant planning and economic benefits to the City and its residents by, among other things requiring orderly development of the Property as a master planned community and increasing property tax and other revenues to the City based on improvements to be constructed on the Property.

F. The Parties desire to enter into this MDA to specify the rights and responsibilities of Owner and the Master Developer to develop the Property as expressed in this MDA and the rights
and responsibilities of the City to allow and regulate such development pursuant to the requirements of this MDA.

G. The Parties understand and intend that this MDA is a “development agreement” within the meaning of, and entered into pursuant to the terms of Utah Code Ann. §10-9a-101 (2017) et seq.

H. On February __, 2018 the City zoned the Property as shown on the Zoning Map.

I. On February __, 2018 the City approved a Master Plan for the Project.

J. On February __, 2018 the City approved a Preliminary PUD for portions of the Project.

K. The City finds that this MDA, the Master Plan and the Preliminary PUD conforms with the intent of the City’s General Plan adopted July 10, 2014.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City, Owner and Master Developer hereby agree to the following:

TERMS

1. Incorporation of Recitals and Exhibits/Definitions.

1.1. Incorporation. The foregoing Recitals and Exhibits “A” - “E” are hereby incorporated into this MDA.

1.2. Definitions. As used in this MDA, the words and phrases specified below shall have the following meanings:

1.2.2. **Addendum No. 1** means the attachment hereto that contain the terms of this MDA that are unique to the Project.

1.2.3. **Administrator** means the person designated by the City as the Administrator of this MDA.

1.2.4. **Applicant** means a person or entity submitting a Development Application.

1.2.5. **Buildout** means the completion of all of the development on the entire Project in accordance with the approved plans.

1.2.6. **City** means the Herriman City, a Utah municipality.

1.2.7. **City Consultants** means those outside consultants employed by the City in various specialized disciplines such as traffic, hydrology or drainage for reviewing certain aspects of the development of the Project.

1.2.8. **City’s Future Laws** means the ordinances, policies, standards, and procedures which may be in effect as of a particular time in the future when a Development Application is submitted for a part of the Project and which may or may not be applicable to the Development Application depending upon the provisions of this MDA.

1.2.9. **City’s Vested Laws** means the ordinances, policies, standards and procedures of the City in effect as of the date of this MDA, a digital copy of which is attached as Exhibit “C”.

1.2.10. **Council** means the elected City Council of the City.

1.2.11. **Default** means a material breach of this MDA as specified herein.
1.2.12. **Denied** means a formal denial issued by the final decision-making body of the City for a particular type of Development Application but does not include review comments or “redlines” by City staff.

1.2.13. **Development** means the development of a portion of the Property pursuant to an approved Development Application.

1.2.14. **Development Application** means an application to the City for development of a portion of the Project including a Final PUD, Subdivision or any other permit, certificate or other authorization from the City required for development of the Project.

1.2.15. **Development Report** means a report containing the information specified in Sections 3.5 or 3.6 submitted to the City by Master Developer for a Development by Master Developer or for the sale of any Parcel to a Subdeveloper or the submittal of a Development Application by a Subdeveloper pursuant to an assignment from Master Developer.

1.2.16. **Final Plat** means the recordable map or other graphical representation of land prepared in accordance with Utah Code Ann. § 10-9a-603, or any successor provision, and approved by the City, effectuating a Subdivision of any portion of the Project.

1.2.17. **Master Developer** means Teton Ranch, LLC, and its assignees or transferees as permitted by this MDA.

1.2.18. **Master Developer** means the Master Plan for the entire Project to be developed on the Property as shown on Exhibit “B”.

1.2.19. **Maximum Residential Units** means the
development on the Property of eight hundred twenty (820) Residential Dwelling Units

1.2.20. MDA means this Master Development Agreement including all of its Exhibits and Addendum No. 1.

1.2.21. Notice means any notice to or from any Party to this MDA that is either required or permitted to be given to another party.

1.2.22. Open Space shall have the meaning specified in Section 10-20-6.J of the City’s Vested Laws.

1.2.23. Outsourcing means the process of the City contracting with City Consultants or paying overtime to City employees to provide technical support in the review and approval of the various aspects of a Development Application as is more fully set out in this MDA.

1.2.24. Owner means The Last Holdout, L.L.C., a Utah limited liability company.

1.2.25. Parcel means a portion of the Property that is created by the Owner and Master Developer to be sold to a Subdeveloper as a Subdivision that is not an individually developable lot as specified in Section 6.9.

1.2.26. Party/Parties means, in the singular, either Owner, Master Developer or the City; in the plural all of Owner, Master Developer and the City.

1.2.27. Planning Commission means the City’s Planning Commission.

1.2.28. Pod means an area of the Project as generally illustrated on the Preliminary PUD intended for a certain number of Residential Dwelling Units.

1.2.29. Preliminary PUD means that plan for the development of the Project attached as Exhibit “C”.
1.2.30. **Project** means the total development to be constructed on the Property pursuant to this MDA with the associated public and private facilities, and all of the other aspects approved as part of this MDA.

1.2.31. **Property** means the real property owned by Owner and to be developed by Master Developer more fully described in Exhibit "A".

1.2.32. **Public Infrastructure** means those elements of infrastructure that are planned to be dedicated to the City as a condition of the approval of a Development Application.

1.2.33. **Residential Dwelling Unit** means a structure or portion thereof designed and intended for use as a single-family residence.

1.2.34. **Subdeveloper** means a person or an entity not “related” (as defined by Section 165 of the Internal Revenue Code) to Owner and Master Developer which purchases a Parcel for development.

1.2.35. **Subdivision** means the division of any portion of the Project into developable lots pursuant to State Law and/or the Zoning Ordinance.

1.2.36. **Subdivision Application** means the application to create a Subdivision.

1.2.37. **Zoning Map** means that map adopted by the City on February __, 2018 specifying the zoning for the Property as shown on Exhibit “D”.

1.2.38. **Zoning Ordinance** means the City’s Land Use and Development Ordinance adopted pursuant to the Act that was in effect as of the date of this MDA as a part of the City’s Vested Laws.

2. **Development of the Project.**

2.1. **Compliance with the Preliminary PUD and this MDA.** Development of the
Project shall be in accordance with the City’s Vested Laws, the City’s Future Laws (to the extent that these are applicable as otherwise specified in this MDA), the Preliminary PUD, the Zoning Map and this MDA.

2.2. **Maximum Residential Units.** At Buildout of the Project, Owner and Master Developer shall be entitled to have developed the Maximum Residential Units as specified in and pursuant to this MDA.

2.3. **Limits on Transfer of Residential Dwelling Units Between Pods.** The Parties acknowledge that the exact configuration of the final layout of the Project may vary from that shown in the Preliminary PUD due to final road locations, market forces and other factors that are unforeseeable. Master Developer may transfer the location of Residential Dwelling Units between and among Pods 2 and 3 only so long as (i) neither Pod exceeds the Maximum Residential Dwelling Units for that Pod as specified in the Preliminary PUD, (ii) no transfer shall allow the Project to exceed the Maximum Residential Dwelling Units, or (iii) all lots for that Pod satisfies the minimum lot size requirement as specified in the Preliminary PUD.

2.4. **Accounting for Residential Units for Parcels Sold to Subdevelopers.** Any Parcel sold by Owner or Master Developer to a Subdeveloper shall include the transfer of a specified portion of the Maximum Residential Units sold with the Parcel. At the recordation of a Final Plat or other document of conveyance for any Parcel sold to a Subdeveloper, Master Developer shall provide the City a Sub-Development Report showing the ownership of the Parcel(s) sold, the portion of the Maximum Residential Units and/or other type of use transferred with the Parcel(s), the amount of the Maximum Residential Units remaining with Master Developer and any material effects of the sale
on the Preliminary PUD.

3. **Zoning and Vested Rights.**

3.1. **Zoning.** The City has zoned the Property as shown on the Zoning Map.

3.2. **Vested Rights Granted by Approval of this MDA.** To the maximum extent permissible under the laws of Utah and the United States and at equity, the Parties intend that this MDA grants Owner and Master Developer all rights to develop the Project in fulfillment of this MDA, the City’s Vested Laws, the Zoning Map and the Preliminary PUD except as specifically provided herein. The Parties specifically intend that this MDA grant to Owner and Master Developer “vested rights” as that term is construed in Utah’s common law and pursuant to Utah Code Ann. § 10-9a-509.

3.3. **Exceptions.** The restrictions on the applicability of the City’s Future Laws to the Project as specified in Section 3.2 are subject to only the following exceptions:

3.3.1. **Master Developer Agreement.** City’s Future Laws that Master Developer agrees in writing to the application thereof to the Project;

3.3.2. **State and Federal Compliance.** City’s Future Laws which are generally applicable to all properties in the City and which are required to comply with State and Federal laws and regulations affecting the Project;

3.3.3. **Codes.** Herriman City Development Standards, Engineering Requirements and Supplemental Specifications for Public Works (Sixth Edition, 2011) and any new editions or replacement thereof and any City’s Future Laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the
Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare;

3.3.4. **Taxes.** Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons and entities similarly situated; or,

3.3.5. **Fees.** Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law.

3.3.6. **Impact Fees.** Impact Fees or modifications thereto which are lawfully adopted, and imposed by the City. Owner, Master Developer and Subdeveloper agree that the impact fees imposed on the Owner and Master Developer by the City meet all requirements of the U. S. Constitution, Utah Constitution, law and applicable statutes, including but not limited to Utah Code Ann. Section 11-36a-101 (2017) *et seq.*

3.3.7. **Planning and Zoning Modification.** Changes by the City to its planning principles and design standards such as architectural or design requirements, setbacks or similar items so long as such changes do not work to reduce the Maximum Residential Units, are generally applicable across the entire City to the respective Zones within the Project and do not materially and unreasonably increase the costs of any Development.

3.3.8. **Compelling, Countervailing Interest.** Laws, rules or regulations that the City’s...
land use authority finds, on the record, are necessary to avoid jeopardizing a compelling, countervailing public interest pursuant to Utah Code Ann. § 10-9a-509(1)(a)(i) (2017).

4. **Term of Agreement.** The term of this MDA shall be until December 31, 2037. This MDA shall also terminate automatically at Buildout.

5. **Processing of Development Applications.**

5.1. **Outsourcing of Processing of Development Applications.** Within fifteen (15) business days after receipt of a Development Application and upon the request of Master Developer the City and Master Developer will confer to determine whether the City desires to Outsource the review of any aspect of the Development Application to ensure that it is processed on a timely basis. If the City determines that Outsourcing is appropriate then the City shall promptly estimate the reasonably anticipated differential cost of Outsourcing in the manner selected by the Master Developer or Subdeveloper in good faith consultation with the Master Developer or Subdeveloper (either overtime to City employees or the hiring of a City Consultant). If the Master Developer or a Subdeveloper notifies the City that it desires to proceed with the Outsourcing based on the City’s estimate of costs then the Master Developer or Subdeveloper shall deposit in advance with the City the estimated differential cost and the City shall then promptly proceed with having the work Outsourced. Upon completion of the Outsourcing services and the provision by the City of an invoice (with such reasonable supporting documentation as may be requested by Master Developer or Subdeveloper) for the actual differential cost (whether by way of paying a City Consultant or paying overtime to City employees) of Outsourcing, Master Developer or the Subdeveloper shall, within ten (10)
business days pay or receive credit (as the case may be) for any difference between the estimated differential cost deposited for the Outsourcing and the actual cost differential.

5.2. **Acceptance of Certifications Required for Development Applications.** Any Development Application requiring the signature, endorsement, or certification and/or stamping by a person holding a license or professional certification required by the State of Utah in a particular discipline shall be so signed, endorsed, certified or stamped signifying that the contents of the Development Application comply with the applicable regulatory standards of the City. The City should endeavor to make all of its redlines, comments or suggestions at the time of the first review of the Development Application unless any changes to the Development Application raise new issues that need to be addressed.

5.3. **Independent Technical Analyses for Development Applications.** If the City needs technical expertise beyond the City’s internal resources to determine impacts of a Development Application such as for structures, bridges, water tanks, and other similar matters which are not required by the City’s Vested Laws to be certified by such experts as part of a Development Application, the City may engage such experts as City Consultants with the actual and reasonable costs being the responsibility of Applicant. The City Consultant undertaking any review by the City required or permitted by this MDA shall be selected from a list generated by the City for each such City review pursuant to a “request for proposal” process or as otherwise allowed by City ordinances or regulations. Applicant may, in its sole discretion, strike from the list of qualified proposers any of such proposed consultants so long as at least three (3) qualified proposers remain for selection. The anticipated cost and
timeliness of such review may be a factor in choosing the expert. The actual and reasonable costs being the responsibility of Applicant.

5.4. City Denial of a Development Application. If the City denies a Development Application the City shall provide a written determination advising the Applicant of the reasons for denial including specifying the reasons the City believes that the Development Application is not consistent with this MDA, and/or the City’s Vested Laws (or, if applicable, the City’s Future Laws).

5.5. Meet and Confer regarding Development Application Denials. The City and Applicant shall meet within fifteen (15) business days of any Denial to resolve the issues specified in the Denial of a Development Application.

5.6. City Denials of Development Applications Based on Denials from Non-City Agencies. If the City’s denial of a Development Application is based on the denial of the Development Application by a Non-City Agency, Applicant shall appeal any such denial through the appropriate procedures for such a decision and not through the processes specified below.

5.7. Mediation of Development Application Denials.

5.7.1. Issues Subject to Mediation. Issues resulting from the City’s Denial of a Development Application that the parties are not able to resolve by “Meet and Confer” shall be mediated and include the following:

(i) the location of On-Site Infrastructure, including utility lines and stub outs to adjacent developments,

(ii) right-of-way modifications that do not involve the altering or vacating of a previously dedicated public right-of-way,
(iii) interpretations, minor technical edits or inconsistencies necessary to clarify or modify documents consistent with their intended purpose of the Development Standards, and
(iv) the issuance of building permits.

5.7.2. Mediation Process. If the City and Applicant are unable to resolve a disagreement subject to mediation, the parties shall attempt within ten (10) business days to appoint a mutually acceptable mediator with knowledge of the legal issue in dispute. If the City and Applicant are unable to agree on a single acceptable mediator they shall each, within ten (10) business days, appoint their own representative. These two representatives shall, between them, choose the single mediator. Applicant shall pay the fees of the chosen mediator. The chosen mediator shall within fifteen (15) business days, review the positions of the parties regarding the mediation issue and promptly attempt to mediate the issue between the parties. If the parties are unable to reach agreement, the mediator shall notify the parties in writing of the resolution that the mediator deems appropriate. The mediator's opinion shall not be binding on the parties.


5.8.1. Issues Subject to Arbitration. Issues regarding the City’s Denial of a Development Application that are subject to resolution by scientific or technical experts such as traffic impacts, water quality impacts, pollution impacts, etc. are subject to arbitration.

5.8.2. Mediation Required Before Arbitration. Prior to any arbitration the parties shall first attempt mediation as specified in Section 5.7.
5.8.3. **Arbitration Process.** If the City and Applicant are unable to resolve an issue through mediation, the parties shall attempt within ten (10) business days to appoint a mutually acceptable expert in the professional discipline(s) of the issue in question. If the parties are unable to agree on a single acceptable arbitrator they shall each, within ten (10) business days, appoint their own individual appropriate expert. These two experts shall, between them, choose the single arbitrator. Applicant shall pay the fees of the chosen arbitrator. The chosen arbitrator shall within fifteen (15) business days, review the positions of the parties regarding the arbitration issue and render a decision. The arbitrator shall ask the prevailing party to draft a proposed order for consideration and objection by the other side. Upon adoption by the arbitrator, and consideration of such objections, the arbitrator's decision shall be final and binding upon both parties. If the arbitrator determines as a part of the decision that the City’s or Applicant’s position was not only incorrect but was also maintained unreasonably and not in good faith then the arbitrator may order the City or Applicant to pay the arbitrator’s fees.

5.9. **Parcel Sales.** The City acknowledges that the precise location and details of the public improvements, lot layout and design and any other similar item regarding the development of a particular Parcel may not be known at the time of the creation of or sale of a Parcel. Master Developer may obtain approval of a Subdivision as is provided in [Utah Code Ann.](#) Section 10-9a-103(57)(c)(v) (2017) that does not create any individually developable lots in the Parcel without being subject to any requirement in the City’s Vested Laws to complete or provide security for any Public Infrastructure at the time of such subdivision. The responsibility for completing and providing security
for completion of any Public Infrastructure in the Parcel shall be that of the Master Developer or a Subdeveloper upon a subsequent re-Subdivision of the Parcel that creates individually developable lots. However, construction of improvements shall not be allowed until the Master Developer or Subdeveloper complies with the City’s Vested Laws.

6. **Addendum No. 1.** Addendum No. 1 contains the provisions of this MDA that are unique to the development of the Project.

7. **Application Under City’s Future Laws.** Without waiving any rights granted by this MDA, Master Developer may at any time, choose to submit a Development Application for all of the Project under the City’s Future Laws in effect at the time of the Development Application so long as Master Developer is not in current breach of this Agreement.

8. **Public Infrastructure.**

   8.1. **Construction by and Master Developer.** Master Developer shall have the right and the obligation to construct or cause to be constructed and installed all Public Infrastructure reasonably and lawfully required as a condition of approval of the Development Application.

   8.2. **Bonding.** If and to the extent required by the City's Vested Laws, unless otherwise provided by Chapter 10-9a of the Utah Code as amended, security for any Public Infrastructure is required by the City Applicant shall provide it in a form acceptable to the City as specified in the City's Vested Laws. Partial releases of any such required security shall be made as work progresses based on the City's Vested Laws.

9. **Upsizing/Reimbursements to Master Developer.**
9.1. "Upsizing". The City shall not require Master Developer to “upsize” any future Public Infrastructure (i.e., to construct the infrastructure to a size larger than required to service the Project) unless financial arrangements reasonably acceptable to Master Developer are made to compensate Master Developer for the incremental or additive costs of such upsizing. For example, if an upsizing to a water pipe size increases costs by 10% but adds 50% more capacity, the City shall only be responsible to compensate Master Developer for the 10% cost increase. An acceptable financial arrangement for upsizing of improvements means reimbursement agreements, payback agreements, and impact fee credits and reimbursements.

10. Default.

10.1. Notice. If Owner, Master Developer or a Subdeveloper or the City fails to perform their respective obligations hereunder or to comply with the terms hereof, the Party believing that a Default has occurred shall provide Notice to the other Party. If the City believes that the Default has been committed by a Subdeveloper then the City shall also provide a courtesy copy of the Notice to Owner and Master Developer.

10.2. Contents of the Notice of Default. The Notice of Default shall:

10.2.1. Specific Claim. Specify the claimed event of Default;

10.2.2. Applicable Provisions. Identify with particularity the provisions of any applicable law, rule, regulation or provision of this MDA that is claimed to be in Default;

10.2.3. Materiality. Identify why the Default is claimed to be material; and

10.2.4. Optional Cure. If the City chooses, in its discretion, it may propose a method and time for curing the Default which shall be of no less than thirty (30) days
duration.

10.3. **Meet and Confer, Mediation, Arbitration.** Upon the issuance of a Notice of Default the Parties shall engage in the “Meet and Confer” and “Mediation” processes specified in Sections 5.6 and 5.7. If the claimed Default is subject to Arbitration as provided in Section 5.8 then the parties shall follow such processes.

10.4. **Remedies.** If the parties are not able to resolve the Default by “Meet and Confer” or by Mediation, and if the Default is not subject to arbitration then the Parties may have the following remedies, except as specifically limited in 10.9:

10.4.1. **Law and Equity.** All rights and remedies available at law and in equity, including, but not limited to, injunctive relief and/or specific performance.

10.4.2. **Security.** The right to draw on any security posted or provided in connection with the Project and relating to remedying of the particular Default.

10.4.3. **Future Approvals.** The right to withhold all further reviews, approvals, licenses, building permits and/or other permits for development of the Project in the case of a default by Master Developer, or in the case of a default by a Subdeveloper, development of those Parcels owned by the Subdeveloper until the Default has been cured.

10.5. **Public Meeting.** Before any remedy in Section 10.4 may be imposed by the City the party allegedly in Default shall be afforded the right to attend a public meeting before the City Council and address the City Council regarding the claimed Default.

10.6. **Emergency Defaults.** Anything in this MDA notwithstanding, if the City Council finds on the record that a default materially impairs a compelling, countervailing interest of the City and that any delays in imposing such a default would also impair a
compelling, countervailing interest of the City then the City may impose the remedies of Section 10.4 without the requirements of Sections 10.5. The City shall give Notice to Master Developer and/or any applicable Subdeveloper of any public meeting at which an emergency default is to be considered and the Developer and/or any applicable Subdeveloper shall be allowed to address the City Council at that meeting regarding the claimed emergency Default.

10.7. **Extended Cure Period.** If any Default cannot be reasonably cured within thirty (30) days then such cure period shall be extended so long as the defaulting party is pursuing a cure with reasonable diligence.

10.8. **Default of Assignee.** A default of any obligations assumed by an assignee shall not be deemed a default of Owner or Master Developer.

10.9. **Limitation on Recovery for Default – No Damages.** Anything in this MDA notwithstanding no Party shall be entitled to any claim for any monetary damages as a result of any breach of this MDA and each Party waives any claims thereto. The sole remedy available to Owner, Master Developer or any Subdeveloper shall be that of specific performance.

11. **Notices.** All notices required or permitted under this MDA shall, in addition to any other means of transmission, be given in writing by certified mail and regular mail to the following address:

**To the Master Developer:**

Teton Ranch, LLC  
6150 South Redwood Road, Suite 150  
Taylorsville, UT  84123  
doug@projectutah.com

**With a Copy to:**
11.1. **Effectiveness of Notice.** Except as otherwise provided in this MDA, each Notice shall be effective and shall be deemed delivered on the earlier of:

11.1.1. **Hand Delivery.** Its actual receipt, if delivered personally or by courier service

11.1.2. **Electronic Delivery.** Its actual receipt if delivered electronically by email provided that a copy of the email is printed out in physical form and mailed or personally delivered as set forth herein on the same day and the sending party has an electronic receipt of the delivery of the Notice. If the copy is not sent on the same
day, then notice shall be deemed effective the date that the mailing or personal
delivery occurs.

11.1.3. **Mailing.** On the day the Notice is postmarked for mailing, postage prepaid,
by First Class or Certified United States Mail and actually deposited in or delivered to
the United States Mail. Any party may change its address for Notice under this MDA
by giving written Notice to the other party in accordance with the provisions of this
Section.

12. **Headings.** The captions used in this MDA are for convenience only and a not intended
to be substantive provisions or evidences of intent.

13. **No Third-Party Rights/No Joint Venture.** This MDA does not create a joint venture
relationship, partnership or agency relationship between the City, Owner or Master Developer.
Further, the parties do not intend this MDA to create any third-party beneficiary rights. The
Parties acknowledge that this MDA refers to a private development and that the City has no
interest in, responsibility for or duty to any third parties concerning any improvements to the
Property or unless the City has accepted the dedication of such improvements at which time all
rights and responsibilities—except for warranty bond requirements under City’s Vested Laws
and as allowed by state law—for the dedicated public improvement shall be the City’s.

14. **Assignability.** The rights and responsibilities of Owner and Master Developer under this
MDA may be assigned in whole or in part, respectively, by Owner and Master Developer with
the consent of the City as provided herein.

14.1. **Sale of Lots.** Owner or Master Developer’s selling or conveying lots in any
approved Subdivision or Parcels to builders, users, or Subdevelopers, shall not be deemed
to be an “assignment” subject to the above-referenced approval by the City unless
specifically designated as such an assignment by the Owner or Master Developer.

14.2. **Related Entity.** Master Developer’s or Owner’s transfer of all or any part of the Property to any entity “related” to Owner or Master Developer (as defined by regulations of the Internal Revenue Service in Section 165), Master Developer’s entry into a joint venture for the development of the Project or Master Developer’s pledging of part or all of the Project as security for financing shall also not be deemed to be an “assignment” subject to the above-referenced approval by the City unless specifically designated as such an assignment by the Master Developer. Master Developer shall give the City Notice of any event specified in this sub-section within ten (10) days after the event has occurred. Such Notice shall include providing the City with all necessary contact information for the newly responsible party.

14.3. **Notice.** Owner or Master Developer shall give Notice to the City of any proposed assignment and provide such information regarding the proposed assignee that the City may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the City with all necessary contact information for the proposed assignee.

14.4. **Time for Objection.** Unless the City objects in writing within twenty (20) business days of notice, the City shall be deemed to have approved of and consented to the assignment.

14.5. **Partial Assignment.** If any proposed assignment is for less than all of Master Developer’s rights and responsibilities then the assignee shall be responsible for the performance of each of the obligations contained in this MDA to which the assignee succeeds. Upon any such approved partial assignment Owner and Master Developer
shall not be released from any future obligations as to those obligations which are
assigned but shall remain responsible for the performance of any obligations herein.

14.6. Denial. The City may only withhold its consent if the City is not reasonably
satisfied of the assignee’s financial ability to perform the obligations of Owner or Master
Developer proposed to be assigned or there is an existing breach of a development
obligation owed to the City by the assignee or related entity that has not either been cured
or in the process of being cured in a manner acceptable to the City. Any refusal of the
City to accept an assignment shall be subject to the “Meet and Confer” and “Mediation”
processes specified in Sections 5.6 and 5.7. If the refusal is subject to Arbitration as
provided in Section 5.8 then the Parties shall follow such processes.

14.7. Assignees Bound by MDA. Any assignee shall consent in writing to be bound by
the assigned terms and conditions of this MDA as a condition precedent to the
effectiveness of the assignment.

15. Binding Effect. If Master Developer or Owner sells or conveys Parcels of lands to
Subdevelopers or related parties, the lands so sold and conveyed shall bear the same rights,
privileges, configurations, and number of Residential Dwelling Units as applicable to such Parcel
and be subject to the same limitations and rights of the City when owned by Owner or Master
Developer and as set forth in this MDA without any required approval, review, or consent by the
City except as otherwise provided herein.

16. No Waiver. Failure of any Party hereto to exercise any right hereunder shall not be
deemed a waiver of any such right and shall not affect the right of such party to exercise at some
future date any such right or any other right it may have.

17. Severability. If any provision of this MDA is held by a court of competent jurisdiction
to be invalid for any reason, the Parties consider and intend that this MDA shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this MDA shall remain in full force and effect.

18. **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay or stoppage.

19. **Time is of the Essence.** Time is of the essence to this MDA and every right or responsibility shall be performed within the times specified.

20. **Appointment of Representatives.** To further the commitment of the Parties to cooperate in the implementation of this MDA, the City, Owner and Master Developer each shall designate and appoint a representative to act as a liaison between the City and its various departments and the Master Developer. The initial representative for the City shall be the City Manager. The initial representative for Master Developer shall be Doug Young. The initial representative for Owner shall be Jacob Anderson. The Parties may change their designated representatives by Notice. The representatives shall be available at all reasonable times to discuss and review the performance of the Parties to this MDA and the development of the Project.

21. **Applicable Law.** This MDA is entered into in Salt Lake County in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah’s choice.
of law rules.

22. **Venue.** Any action to enforce this MDA shall be brought only in the Third District Court for the State of Utah, Salt Lake City Division.

23. **Entire Agreement.** This MDA, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all Parties.

24. **Mutual Drafting.** Each Party has participated in negotiating and drafting this MDA and therefore no provision of this MDA shall be construed for or against any Party based on which Party drafted any particular portion of this MDA.

25. **Recordation and Running with the Land.** This MDA shall be recorded in the chain of title for the Project. This MDA shall be deemed to run with the land. The data disk of the City’s Vested Laws, Exhibit “E”, shall not be recorded in the chain of title. A secure copy of Exhibit “E” shall be filed with the City Recorder and each party shall also have an identical copy.

26. **Authority.** The Parties to this MDA each warrant that they have all of the necessary authority to execute this MDA. Specifically, on behalf of the City, the signature of the City Manager of the City is affixed to this MDA lawfully binding the City pursuant to Resolution No. ___ adopted by the City on February __, 2018.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first herein above written.

MASTER DEVELOPER                 CITY
Teton Ranch, LLC                  Herriman City

_______________________      ___________________
By: ________________            By: ___________,
Its: _________________          Its: City Manager
Approved as to form and legality: Attest:

__________________  __________________
City Attorney        City Recorder

OWNER
The Last Holdout, L.L.C.

By: _______________
Its: Manager

CITY ACKNOWLEDGMENT

STATE OF UTAH )
: ss.
COUNTY OF SALT LAKE )

On the _____ day of February, 2018 personally appeared before me ___________ who being by me duly sworn, did say that he is the City Manager of Herriman City, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the City by authority of its City Council and said City Manager acknowledged to me that the City executed the same.

__________________________________
NOTARY PUBLIC

My Commission Expires: ________________

Residing at: _________________________
MASTER DEVELOPER ACKNOWLEDGMENT

STATE OF UTAH )
    :ss.
COUNTY OF SALT LAKE )

On the _____ day of February, 2018, personally appeared before me ______________, who being by me duly sworn, did say that he is the Manager of Adalynn, a Utah limited liability company and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

____________________________
NOTARY PUBLIC

My Commission Expires: ________________

Residing at: _________________________

OWNER ACKNOWLEDGMENT

STATE OF UTAH )
    :ss.
COUNTY OF SALT LAKE )

On the _____ day of February, 2018, personally appeared before me ______________, who being by me duly sworn, did say that she is the Manager of The Last Holdout, L.L.C., a Utah limited liability company and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

____________________________
NOTARY PUBLIC

My Commission Expires: ________________

Residing at: _________________________
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<tr>
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ADDITIONAL NO.1

TERMS

1. **Definitions.**

1.1. **Incorporation.** The capitalized terms used in this Addendum No. 1 shall have the meanings set forth in the MDA unless otherwise specified herein.

1.2. **Additional Definitions.** As used in this MDA, the words and phrases specified below shall have the following meanings:

1.2.1. **6400 West Strip** means that parcel of land on 6400 West that is approximately 40’ wide that is required to be dedicated to the City as a condition of the development of property west of 6400 West.

1.2.2. **CC&R’s** means the Conditions, Covenants and Restrictions regarding certain aspects of design and construction on the Property to be recorded in the chain of title on the Property.

1.2.3. **Design Guidelines** means Exhibit “F” which are a set of guidelines approved by the City as a part of the approval of this MDA controlling certain aspects of the design and construction of the development of Property including setbacks, building sizes, height limitations, parking and signage; and, the design and construction standards for buildings, roadways and infrastructure.
1.2.4. **Homeowner Association(s) (or “HOA(s)”)** means one or more associations formed pursuant to Utah law to perform the functions of an association of property owners.

1.2.5. **Landscaped Buffers** means those areas located along 11800 South, 12600 South, 6000 West and 6400 West designated as OS-B, -C, -D and -E, as shown on Exhibit “F”.

1.2.6. **Midas Creek Park** means that park as illustrated on the Master Plan and PUD consisting of OS-G, -H, -I, -J and -K, as shown on Exhibit “F”.

1.2.7. **Neighborhood Project Park** means a park that is planned and designed as an amenity to serve and is necessary for the use and convenience of a particular Subdivision.

1.2.8. **Pod** means any of the areas designated on the Master Plan for development of a particular type and number of Residential Dwelling Units.

1.2.9. **Senior Housing** means Residential Dwelling Units that are compliant with the Housing for Older Persons Act of 1995, 42 USC, §3601.

1.2.10. **Teton Park** means that park as illustrated on Exhibit “F” as OS-A.

1.2.11. **White Barn Park** means that park of approximately 2.5 acres as illustrated on Exhibit “F” as OS-F.

2. **Limits on Development of Pod 2.** Pod 2 shall be developed only for Senior Housing.

3. **Parks, Trails and Open Space.**
3.1. **PUD Compliance Regarding Parks, Trails and Open Space.** The PUD will comply with the City’s Vested Laws regarding parks, trails and open space, including, but not limited to, having total open space of twenty percent (20%) of the gross area of the PUD which shall include useable, contiguous open space of at least ten percent (10%) of the gross area of the PUD.

3.2. **Phased Dedication and Improvement.** The Master Plan and PUD both provide for the dedication and improvement of Teton Park, White Barn Park and the Midas Creek Park. Teton Park, the White Barn Park and the Midas Creek Park shall be dedicated and improved pursuant to the following schedule.

3.3. **Pro Rata Open Space Dedication.** Master Developer shall maintain a pro rata relationship between the amount of Open Space dedicated with any approved Development Application and that total amount required by the PUD. Open Space shall include Neighborhood Project Parks and the Landscaped Buffers. Generally, as more fully described below, Master Developer shall dedicate Open Space with the recordation of any Subdivision plat. Any shortfall in the required pro rata dedications from any Subdivision shall be made up for by a dedication of the required amount of Open Space in Teton Park as specified in Section 3.3.3.

3.3.1. **White Barn Park.**

3.3.1.1. **Improvement.** White Barn Park shall be constructed by Master Developer if the City adopts an amendment to its current Parks Impact Fee (or establishes that the existing Parks Impact Fee will allow it) providing
that White Barn Park is included as being reimbursable with impact fees. Construction of the improvements to White Barn Park shall begin upon the issuance of the 50th building permit in Pod 1 and shall be completed to the level provided in the Impact Fee plan before the issuance of the 151st building permit in Pod 1.

3.3.1.2. **Dedication.** White Barn Park shall be dedicated to the City at the time of its completion as specified in Section 3.3.1.2.

3.3.2. **Midas Creek Park.**

3.3.2.1. **Southern Trail.** OS -G shall be dedicated to the City along with the recordation of the first plat in Pod 2. The trail shall be improved by Master Developer as a part of the Public Improvements for the third plat in Pod 2 and shall be dedicated to the City at the recordation of the third subdivision plat in Pod 2. The City acknowledges that this dedication and improvement is not within the Preliminary PUD but that the dedication and improvements shall be credited against the requirements of the Preliminary PUD.

3.3.2.2. **Northern Trail - East.** OS-H shall be dedicated to the City in portions together with the recordation of any subdivision in Pod 2 which is adjacent thereto or, at the latest, together with the recordation of the second plat in Pod 2. The trail on OS-H shall be improved by Master Developer as a part of the Public Improvements for the third plat in Pod 2 and shall be
dedicated to the City at the recordation of the third subdivision plat in Pod 2.

3.3.2.3.  *Northern Trail - West.* OS-I shall be dedicated to the City in portions together with the recordation of any subdivision in Pod 3 which is adjacent thereto or, at the latest, together with the recordation of the second plat in Pod 3. The trail on OS-I shall be improved by Master Developer as a part of the Public Improvements for the third plat in Pod 3 and shall be dedicated to the City at the recordation of the third subdivision plat in Pod 3.

3.3.2.4.  *Midas Creek Park – East Core.* OS-J shall be dedicated to the City with the recordation of the final plat for Pod 2.

3.3.2.5.  *Midas Creek Park – West Core.* OS-K shall be dedicated to the City with the recordation of the final plat for Pod 2.

3.3.2.6.  *Midas Creek Park – Core Easements.* Master Developer shall grant to the City an easement over OS-J and -K at the execution of the MDA for the maintenance of Midas Creek and any trails that may be dedicated pursuant to this Addendum #1.

3.3.3.  *Teton Park.* If the dedication of Open Space in any residential Plat is insufficient to meet the required Open Space for that Plan then Owner and Master Developer shall dedicate such make-up amount from Teton Park. The location of that make-up dedication shall be agreed to between the Parties and
shall pay due attention to Owner’s intended farming use on Teton Park until its
dedication is completed. Upon the issuance of recordation of any Subdivision
plat for a Residential Dwelling Unit representing 75% of the total number of
Residential Dwelling Units in the Project any remaining portion of Teton Park
described on the Master Plan and PUD as “OS-A” shall be dedicated to the
City. The City, at its sole cost and expense, may develop Teton Park when and
how the City chooses.

3.4. Dispute Resolution. Any dispute about the Open Space dedication pursuant to this
Section shall be subject to the dispute resolution provisions of the MDA including
“meet and confer”, mediation and arbitration in Sections 5.5, 5.7 and 5.8.

3.5. Clear Title/Deed Restrictions. All dedications of any park to the City shall be
without any financial encumbrance or other encumbrance (including easements)
which unreasonably interferes with the use of the property for a park. Any such
deed of dedication or dedication by plat shall contain language restricting the use
of the property for public parks and Open Space.

3.6. Teton Park/Water. The City shall provide the secondary water rights for Teton
Park, the water meters and the ongoing water service.

3.7. Neighborhood Project Parks. Master Developer shall transfer ownership of the
Neighborhood Project Parks as they are constructed to an HOA. Maintenance of
any Neighborhood Project Parks in a manner reasonably acceptable to the City shall
be the responsibility of the HOA to which ownership has been transferred. Any
Neighborhood Park that exceeds 2.5 acres in size shall be dedicated to the City which shall be responsible for any secondary water rights, meters and on-going service.

3.8. **Public/Quasi-Public Purposes.** Master Developer shall not lose any density from the Maximum Residential Dwelling Units if any portion of the Property, not already designated as such in the Master Plan, is conveyed without consideration to be used for open space, Neighborhood Project Parks, trails or used for a public use. Instead, the density allocated to such property shall be used in any other portion of the Project pursuant to the PUD and the terms of this MDA.

3.9. **Tax Benefits.** The City acknowledges that Owner, Master Developer and/or a Subdeveloper may seek and qualify for certain tax benefits by reason of conveying, dedicating, gifting, granting or transferring open space, parks and/or trails to the City or to a charitable organization. Owner, Master Developer and/or a Subdeveloper shall have the sole responsibility to claim and qualify for any tax benefits sought by reason of the foregoing. The City shall reasonably cooperate with Owner, Master Developer and/or a Subdeveloper to the maximum extent allowable under law to allow Owner, Master Developer and/or a Subdeveloper to take advantage of any such tax benefits.

3.10. **Maintenance and Operation.** After the dedication, final inspection and acceptance by the City of the property or improvements to any of the parks or Landscaped Buffers referenced herein (except for Neighborhood Project Parks) the
City shall be responsible for the maintenance and operation of such improvements and/or property. The City shall also be responsible for providing the water rights for the Landscaped Buffers and all parks that have been dedicated to the City.

3.10.1. **Landscaped Buffers.** Master Developer shall install the Landscape Buffers along with the Subdivision to which they may be adjacent and shall dedicate the Landscaped Buffers to the City. After any Landscaped Buffer has been accepted by the City the City shall be solely responsible for all of the costs of maintaining the Landscaped Buffer.

3.11. **Secondary Water.** Prior to the construction of any improvements for any portion of Teton Park Master Developer shall construct the secondary water lines necessary to serve that portion.

4. **Construction Prior to Completion of Infrastructure.** Anything in the Zoning Ordinance notwithstanding, Master Developer may obtain building permits and/or temporary Certificates of Occupancy for model homes, homes shows, sales offices, construction trailers or similar temporary uses prior to the installation of all Project Infrastructure or Backbone Improvements required to be eventually completed so long as such installation is secured pursuant to the City’s Vested Laws.

5. **CC&R’s.** The Homeowners Association(s) will be responsible for the implementation and enforcement of the CC&R’s and the Design Guidelines. The CC&R’s may be amended by the processes specified in the CC&R’s without any requirement of approval of such amendments by the City. Prior to the issuance of any building permits
(excluding infrastructure) the architectural control subcommittee established by the CC&R’s shall certify to the City that the proposed permit complies with the Design Guidelines and the CC&R’s.

6. **6400 West Strip.** If and when the City acquires title to the 6400 West Strip the City shall deed the 6400 West Strip to Owner in recognition of the excess Open Space that is being provided by the development of the Project. The Project shall not be entitled to any increase in the Maximum Residential Units allowed pursuant to the MDA as a result of the deeding of the 6400 West Strip to Owner.
DATE: January 18, 2018

TO: The Honorable Mayor and City Council

FROM: Michael Maloy, City Planner

MEETING: City Council Agenda 1/24/2018

REQUEST: Proposed Rezone to R-1-15 and R-1-21 and apply the Planned Development Overlay Zone

Applicant: Dansie Land LLC
Address: 7300 W Herriman Highway
Acres: 372.97
File Number: 15Z17, Z2017-30

Summary
Dansie Land LLC is requesting to rezone from A-1 to R-1-15 and R-1-21. They are also requesting the Planned Development Overlay Zone be applied to the subject property.

The Planning Commission recommended approval of the rezone and Planned Development Overlay zone with 1,021 units, with no additional units being allocated for the proposed school sites. However, since the PC recommendation the 2017 General Plan has been tolled due to a citizen referendum. The City is now operating under the 2014 General Plan. The applicant has modified the proposed site plan to be more in line with the 2014 General Plan. The Council needs to determine if the proposed rezone and plan complies with the 2014 General Plan.

Site
The parcel is located at approximately 7300 W Herriman Hwy and contains 370.91 acres.

Zoning
The site is currently zoned A-1.

General Plan
Due to the successful referendum, we are now operating under the 2014 General Plan. The 2014 General Plan designation on the property is Agricultural Residential (1.8 – 3.0 units per acre) and Single Family Residential (2.6 – 4.5 units per acre). The General Plan also shows parks, open space, and schools located on this property. The ordinance states that uses must meet the “intent” of the General Plan.

The Planned Development Overlay zone allows density to be moved and clustered over the
property. However, the average density of the PUD cannot exceed the density in the underlying zone, or exceed the density as shown in the General Plan. The density on the 2014 General Plan would allow between approximately 655 and 1,096 units on the property. This includes density for the open space property that is required for the PUD approval. The applicant is requesting a maximum of 1,021 units.

**Notices**

Staff mailed notices to all property owners within 300 feet of the subject property. Notices were mailed to 72 property owners on September 25, 2017. Several emails were received regarding the proposal. Most of them were concerned with traffic, infrastructure, density, and schools.

**Neighborhood Meeting**

A neighborhood meeting was held on September 25, 2017. Notices were mailed to 101 residents. There were 26 residents that attended the meeting. The minutes from that meeting are included in the packet.

**Process**

The Planned Development Overlay Zone is a legislative decision. The Planning Commission holds a public hearing and makes a recommendation to the City Council. The recommendation shall include a preliminary site plan for the development. The City Council will then hold a public meeting and make a decision.

The Planning Commission held a public hearing on October 5, 2017. There were several comments regarding traffic concerns, crowding of schools, and the density of the development. The City Council can now make the final decision on the rezone.

**Discussion**

The applicant has applied for the Planned Development Overlay Zone. This is the new process that creates the PUD as an overlay zone, and no longer a conditional use. The property has to be rezoned with a “base” zone, and then the PUD overlay zone is applied over the base zone. The density is determined by the requirements of the base zone. However, the PUD overlay zone allows the density to be moved around and clustered within the development. A preliminary site plan has to be submitted and approved as part of the overlay zone.

The applicant is also requesting to rezone the property from A-1 (Agricultural, 1 acre minimum) to R-1-15. The plan also has approximately 67.28 acres of the property being zoned R-1-21. This would allow agricultural uses such as horses and family food production.
A preliminary site plan is approved as part of the PUD overlay zone. The applicant has submitted a modified site plan with 1,021 units. This includes units that may be allocated for the schools in the event that the school district doesn’t purchase the property. This is based on the recommendation from the Planning Commission that the total units be 1,021 units, including the school property. If the school district purchases the property, then the total number of units in the project would be 854, which is 2.57 units per acre.

The plan shows a minimum and maximum number of units in each pod. This will allow for some flexibility as the final site plans are laid out with the actual lots and road alignments. In no case can the number of units exceed the amount allocated for the pod. There is also a minimum lot size established for each pod. This allows them to cluster and adjust the units, but none of the lots can go below the approved minimum lot size for that pod.

The rezone to R-1-15 and R-1-21 and the PUD overlay zone should be considered concurrently. The density needs to comply with the density in the underlying zone. The portion of the property (67.28 acres) zoned R-1-21 could not exceed 2 units per acre. The 305.67 acres zoned R-1-15 could not exceed an average of 2.9 units per acre.

The ordinance requires a PUD to provide 20% open space. Open space that is unbuildable because of slope, flood drainage, or contaminated soils shall be counted at 25% of the acreage to satisfy open space requirements. The plan shows 20.79% open space. There are two school sites proposed on the plan, but they do not count towards the open space requirement.

A Conditional Letter of Map Revision (CLOMR) will need to be completed on Butterfield Creek prior to final approval being granted on any of the pods adjacent to the creek. The historical location of the channel shall be established through coordination with Salt Lake County. The CLOMR will need to be based on the final relocated channel location. Development on these pods could move forward if there are no lots proposed to be located in the FEMA flood plain and density is reduced for the portions of the pod that remain in the flood plain.

There is some contaminated soil on the property. The applicant will need to have a remediation plan completed prior to final engineering approval on any of the pods containing contamination.

The applicant will meet the design standards for Single Family Attached or Detached dwellings, as found in the ordinance. The criteria include architectural features, minimum home size, garage requirements, and minimum driveway length. The development will also meet the parking standards required by ordinance. The applicant has submitted a table of setbacks to be used for the various lot sizes.
Recommendation

Staff recommends approval of the rezone to R-2-15 and R-1-21 and the Planned Development overlay zone with the preliminary site plan and the following requirements:

1. Receive and agree to the recommendations from other agencies.
2. The preliminary site plan of 372.97 acres is approved as attached with a maximum of 1,021 units, to be in compliance with the 2014 General Plan.
3. When each pod comes in for final site plan approval, the applicant shall demonstrate how the proposal complies with the overall density of the project.
4. Prior to submitting any pods adjacent to Butterfield Creek for final approval either (i) receive a Conditional Letter of Map Revision (CLOMR) or (ii) the application (a) does not provide for any residential units being located in the FEMA floodplain and (b) reflects a loss of density attributable to the portions of the pod that remain within the FEMA floodplain. All of the channel improvements are subject to approval from Salt Lake County to the extent required by law, as well as any other agencies that may be required by law.
5. All pods containing contamination shall have a remediation plan approved as part of their engineering plan approval. The remediation shall be completed and verified by the City prior to any construction beginning on the site.
6. All residential units shall meet the Single Family Attached or Detached dwelling standards, as found in the Land Development Code.
7. All single family dwellings shall provide basements, excluding homes that may be designated as senior housing.
8. Setbacks are approved as submitted.
9. Minimum lot sizes are approved as shown on each pod of the preliminary site plan.
10. At least 20 percent of the planned unit development shall be preserved as permanent open space. At least one-half of the open space required shall be maintained in single contiguous lot, not including any unbuildable property, configured in a usable size and shape. Open space that is unbuildable because of, among other things, slope, wetlands, flood drainage, or contamination, shall be counted at 25 percent of the acreage required to satisfy applicable open space requirements. Detention basins may count as open space only if they provide recreational amenities, including, but not limited to, playgrounds, gazebos, exercise stations, or sports fields with parking lots. Park strips adjacent to a street shall not count as open space.

11. Each phase shall incorporate the open space as designated on the preliminary site plan. With each phase submitted, the applicant shall submit an open space summary.
12. Trails shall provide connectivity throughout the development, to residential, schools, and commercial. Trails between lots shall be at least a 20 feet wide with an 8 foot hard surface trail and landscaping approved by the Parks Department.
13. Provide a 20 foot wide trail along the south side of Butterfield Creek. The trail shall be outside the top of bank. The trail should include an 8 foot paved trail and an 8 foot unpaved/aggregate trail.

14. Construct a 6 foot precast or masonry wall along Main Street, 13400 South, 6900 West, and 12900 South. The walls shall be installed when the adjacent pod is being constructed. Fencing on the interior of the project will be discussed with each phase.

15. Main Street, 7300 West, 13400 South, and 6900 West shall be built adjacent to the phase being constructed. Roads shall be built curb to curb, with sidewalks, park strip landscaping, and street lights being installed along the phase being developed.

16. No residential driveways shall access onto Main Street, 13400 South, 6900 West, 7300 West, 12900 South, or 7900 West north of Herriman Highway.

17. Infrastructure for each phase shall be reviewed and approved by Engineering to verify that adequate systems are in place for that pod. This shall include review of transportation, water, and storm drain systems.

18. Road connections shall be reviewed with each phase to ensure adequate connections are being provided to adjacent parcels. This may require road stubs be provided to adjacent parcels.

19. If there is going to be regional storm water detention for the project, temporary retention/detention may be used in each pod as long as it is owned and maintained by the developer and has temporary storm water easements placed over the property as well as easements for any necessary conveyance.

20. Comply with all off-street parking requirements for single family detached and attached dwellings.

21. The size, location, design, and nature of entry monument signs, and the intensity and direction of area floodlighting, shall be detailed in a separate site plan application.

22. Infrastructure improvements, including but not limited to utilities, street signs, street lighting, fencing, and other required improvements, shall be provided in accordance with city standards and specifications.

23. Install curb, gutter, sidewalk, park strip, and street lights along all streets in accordance with city standards.

24. A master development agreement for the entire project shall be reviewed and approved by the City Council prior to any pods receiving final site plan approval.

25. Each pod shall submit an application for approval of a site plan pursuant to chapter 30 of this title. The site plan for each pod shall include, but not be limited to, the following:
   
   a. Lot area and widths shall be shown on an approved site plan for each phase. Lot sizes cannot go below the minimum approved with the preliminary site plan.
   b. Traffic studies will be required for each pod in compliance with the Engineering Design Standards. Each study shall be done as an addendum to the master traffic study already completed. In addition to the standards, the study shall include a specific review of Main Street and 13400 South. If these streets and intersections
are found to have diminished to less than a level of service D, improvements will be required to improve all roadway and intersections up to Main Street and 13400 South to bring level of service up to acceptable levels prior to any additional construction on each phase or pod.

c. Each pod that is adjacent to Butterfield Creek shall provide verification from Salt Lake County Flood Control that the top of bank line has been established and there is an additional 20 foot maintenance access outside the top of bank. This access should be dedicated to the City. No lots can be located within the top of bank or 20 foot access. The access can be combined with the trail.

d. A detailed grading and drainage plan shall be submitted as part of a site plan application.

e. Landscaping, fencing, and screening related to the uses within the site and as a means of integrating the proposed development into its surroundings shall be submitted as part of a site plan application.

f. Open space that is provided in each pod shall demonstrate that any unbuildable area only counts at 25%. The overall open space acres required shall be adjusted as necessary to comply with the City’s 20% open space requirement.
WHEN RECORDED, RETURN TO:

LOYAL C. HULME
KIRTON McCONKIE
50 E. SOUTH TEMPLE
SALT LAKE CITY, UT 84111

APNS: 26-33-426-001; 26-34-300-009; 26-34-300-002; 26-34-300-003; 26-33-326-002

MASTER DEVELOPMENT AGREEMENT
FOR
HIDDEN OAKS

February __, 2018
MASTER DEVELOPMENT AGREEMENT
FOR
HIDDEN OAKS

THIS MASTER DEVELOPMENT AGREEMENT is made and entered as of the ___ day of February, 2018, by and between Herriman City, a Utah municipality and Dansie Land, LLC, a Utah limited liability company ("Master Developer") (collectively the “Parties”).

RECITALS

A. Unless otherwise defined in the body of this MDA, the capitalized terms used in this MDA and in these Recitals are defined in Section 1.2, below.

B. On or about October 28, 2015, the Property was annexed into the City pursuant to ordinance 2015-39.

C. On or about October 27, 2016, a complaint was filed in the Third District Court (case number 160906708) alleging, among other things, that the annexation of the Property into the City was improper (the “Annexation Lawsuit”).

D. The Parties desire to enter into the Stay Agreement and to enter into this MDA.

E. The City modified the General Plan in July 10, 2014. This MDA conforms with the intent of the General Plan.

F. Master Developer is under contract to acquire the property from the current owners of the Property.

G. Master Developer and the City desire that the Property be developed in a unified and consistent fashion pursuant to the General Plan and the Preliminary PUD.

H. The Parties acknowledge that development of the Property pursuant to this MDA will result in significant planning and economic benefits to the City and its residents by, among other things requiring orderly development of the Property as a master planned community and increasing property tax and other revenues to the City based on improvements to be constructed on the Property.

I. Development of the Property pursuant to this MDA will also result in significant benefits to Master Developer by providing assurances to Master Developer that it will have the ability to develop the Property in accordance with this MDA and to the City through orderly development, the creation of regional attraction and the generation of tax revenues.

J. The Parties desire to enter into this MDA to specify the rights and responsibilities of the Master Developer to develop the Property as expressed in this MDA and the rights and
responsibilities of the City to allow and regulate such development pursuant to the requirements of this MDA.

K. The Parties understand and intend that this MDA is a “development agreement” within the meaning of, and entered into pursuant to the terms of Utah Code Ann. §10-9a-101 et seq..

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Master Developer hereby agree to the following:

TERMS

1. **Incorporation of Recitals and Exhibits/Definitions.**

   1.1. **Incorporation.** The foregoing Recitals and Exhibits “A” - “J” are hereby incorporated into this MDA.

   1.2. **Definitions.** As used in this MDA, the words and phrases specified below shall have the following meanings:

      1.2.1. **Act** means the Municipal Land Use, Development, and Management Act, Utah Code Ann. § 10-9a-101, et seq.

      1.2.2. **Administrative Action** means and includes the actions related to either (i) Development Applications that may be approved by the Administrator as provided in Section 5.2.1 and (ii) any amendment, modification, or supplement to this MDA that may be approved by the Administrator pursuant to the terms of Section 5.16.1.

      1.2.3. **Administrator** means the person designated by the City as the Administrator of this MDA.

      1.2.4. **Applicable Fees** means fees that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law, all such fees to be reasonably and rationally related to the type and scope of services to be rendered in connection with such fees.

      1.2.5. **Applicant** means a person or entity submitting a Development Application, a Modification Application or a request for Administrative Action.

      1.2.6. **Building Permit** means a permit issued by the City to allow construction, erection or structural alteration of any building or structure on any portion of the Project.

      1.2.7. **Buildout** means the completion of all of the development on the entire Project in accordance with the approved plans.

      1.2.8. **Capital Improvement Road(s)** means each of the rights-of-way identified on Exhibit “B”.

4813-8166-4080.v143
1.2.9. **City** means Herriman City, a Utah municipality.

1.2.10. **City Consultants** means those outside consultants employed by the City in various specialized disciplines such as traffic, hydrology or drainage for reviewing certain aspects of the development of the Project.

1.2.11. **City’s Future Laws** means the ordinances, policies, standards, and procedures of the City which may be in effect as of a particular time in the future when a Development Application is submitted for a part of the Project and which may or may not be applicable to the Development Application depending upon the provisions of this MDA.

1.2.12. **City’s Vested Laws** means the ordinances, policies, standards and procedures of the City in effect as of the date of this MDA, a copy of which is attached as Exhibit “C”.

1.2.13. **Code** means the municipal code of the City existing as of the date of this MDA.

1.2.14. **Council** means the elected City Council of the City.

1.2.15. **Council Modification** means and includes any amendment, modification, or supplement to this MDA that may be approved by the Council pursuant to the terms of Section 5.16.3.

1.2.16. **Culinary Water System Improvements** mean all pipe, fittings, valves, services, fire hydrants, blow off assemblies, air vacuum release valves, isolation valves, sampling stations, pressure reducing valves, backflow prevention devices, vaults, meters, and other structures required in the project that convey drinking water consistent with the Development Standards.

1.2.17. **Default** means a material breach of this MDA as specified herein.

1.2.18. **Denied** means a formal denial issued by the final decision-making body of the City for a particular type of Development Application but does not include review comments or “redlines” by City staff.

1.2.19. **Density** means the number of Residential Dwelling Units allowed per acre.

1.2.20. **Development** means the development of a portion of the Property pursuant to an approved Development Application.

1.2.21. **Development Application** means an application to the City for development of a portion of the Project including a Subdivision, a Building Permit, a Land Disturbance Permit, final PUD, or any other permit, certificate or other authorization from the City required for development of the Project.
1.2.22. **Development Report** means a report containing the information specified in Section 2.4 submitted to the City by Master Developer for a Development by Master Developer of any Parcel or for the sale of any Parcel to a Subdeveloper or the submittal of a Development Application by a Subdeveloper pursuant to an assignment from Master Developer.

1.2.23. **Development Standards** means the Herriman City Development Standards, Engineering Requirements and Supplemental Specifications for Public Works Projects (6th Edition) 2011, or any new edition or replacement thereof that is applicable City-wide and that is materially consistent with the then current recommended APWA specifications or, if more stringent than such APWA specifications, the standards of the existing 2011 Development Standards described above.

1.2.24. **Effective Date** means the date that the Zoning Ordinance and this MDA of the Property becomes effective.

1.2.25. **Final Plat** means the recordable map or other graphical representation of land prepared in accordance with Utah Code Ann. § 10-9a-603, or any successor provision, and approved by the City, effectuating a Subdivision of any portion of the Project.

1.2.26. **General Plan** means a General Plan Amendment adopted by the City in July 2014, a copy of the general map of which is attached hereto and incorporated herein as Exhibit “D”.

1.2.27. **Hard Costs** means the actual reasonable cost associated with the installation and construction of the System Improvements located on the Property, including the costs of materials, contractor’s insurance, and contractor’s overhead.

1.2.28. **Impact Fee Facility Plan (or “IFFP”)** means a plan adopted or to be adopted by the City to substantiate the collection of Impact Fees as required by State law, and which shall satisfy the requirements of an impact fee analysis pursuant to Utah Code Ann. §11-36a-304, as each such plan may be amended as required herein.

1.2.29. **Impact Fees** means those fees, assessments, exactions or payments of money imposed by the City as a condition of development activity as specified in Utah Code Ann. §§ 11-36a-101, et seq., (2008).

1.2.30. **Interest Rate** means the interest rate of eight percent (8%) per annum.

1.2.31. **JVWCD** means the Jordan Valley Water Conservancy District.

1.2.32. **Land Disturbance Permit** means a permit issued by the City to allow for excavation, grading, stockpiling, site development, material storage, fill or other similar activities on any portion of the Project.

1.2.33. **Master Developer** means Dansie Land, LLC, a Utah limited liability company, and its assignees or transferees as permitted by this MDA.
1.2.34. **Maximum Residential Units** means the development on the Property of: (a) 854 Residential Dwelling Units if the School Properties are developed as schools; and (b) 1021 Residential Dwelling Units if the School Properties are not developed as schools.

1.2.35. **MDA** means this Master Development Agreement including all of its Exhibits.

1.2.36. **MDA Ordinance** means an ordinance whereby this MDA has been approved and adopted by the City as provided in Section 29 of this MDA, a copy of which is attached hereto as Exhibit “E”.

1.2.37. **Modification Application** means an application to amend, modify, or supplement this MDA (but not including those changes which may be made by Administrative Action).

1.2.38. **Non-City Agency** means a governmental or quasi-governmental entity, other than those of the City, which has jurisdiction over the approval of any aspect of the Project.

1.2.39. **Notice** means any notice to or from any party to this MDA that is either required or permitted to be given to another party.

1.2.40. **Off-Parcel Infrastructure** means any items of public or private infrastructure necessary for development of a Parcel such as roads and utilities that are not on the site of any portion of the Property that is the subject of a Development Application.

1.2.41. **Off-Site Capital Improvement Road(s)** means (i) Herriman Highway/Herriman Main Street extending from the western-most edge of the Property on the west to the eastern-most edge of the Property to the east, but only to the extent not located on the Property, (ii) 7300 West from its existing terminus located south of the Property extending north to the southern edge of the Property, (iii) 13400 South extending to the east of the Property, and/or (iv) any other right-of-way or potential right-of-way that would connect a Capital Improvement Road to a then-existing public right-of-way.

1.2.42. **On-Parcel Infrastructure** means those items of public or private infrastructure as a condition of the approval of a Development Application that are necessary for development of a Parcel such as roads or utilities and that are located on that portion of the Property which is subject to a Development Application, excluding any System Improvements located on the Property or any Off-Parcel Infrastructure.

1.2.43. **Open Space** shall have the meaning specified in Section 10-20-9 of the City’s Vested Laws, and shall include, without limitation, those areas identified as Open Space on Exhibit “F”, as such areas may be more particularly described in any Subdivision or final PUD in accordance with the terms of this MDA.

1.2.44. **Ordinances** means the MDA Ordinance, the Preliminary PUD, and the Zone Change Ordinance.
1.2.45. **Outsourcing** means the process of the City contracting with City Consultants to provide technical support in the review and approval of the various aspects of a Development Application as is more fully set out in this MDA.

1.2.46. **Parcel** means a portion of the Property that is created by the Master Developer to be sold to a Subdeveloper as a Subdivision that is not an individually developable lot as specified in Section 5.15.

1.2.47. **Planning Commission** means the City’s Planning Commission.

1.2.48. **Planning Commission Modification** means and includes any amendment, modification, or supplement to the design guidelines applicable to the Project that may be approved by the Planning Commission pursuant to the terms of Section 5.16.2.

1.2.49. **Pod** means an area of the Project as generally illustrated on the Preliminary PUD intended for a certain number of Residential Dwelling Units.

1.2.50. **Preliminary PUD** means that preliminary Planned Unit Development of the Project as approved by the Planning Commission on November 2, 2017, a copy of which is attached as Exhibit “F”.

1.2.51. **Project** means the total development to be constructed on the Property pursuant to this MDA with the associated public and private facilities, and all of the other aspects approved as part of this MDA.

1.2.52. **Property** means the Three Hundred Seventy-Two and Ninety-Seven One-Hundredths (371.97) acres of real property either owned or controlled by Master Developer and more fully described in Exhibit "A".

1.2.53. **Public Infrastructure** means those elements of infrastructure that are planned to be dedicated to the City as a condition of the approval of a Development Application.

1.2.54. **Residential Dwelling Unit** means a structure or portion thereof designed and intended for use as a single-family residence; one single-family residential dwelling and each separate unit in a multi-family dwelling equals one Residential Dwelling Unit.

1.2.55. **School Properties** means the portions of the Property as generally illustrated on the Preliminary PUD as having an intended use as an elementary school (Pod 9) or middle school (Pod 8).

1.2.56. **Soft Costs** means the actual reasonable costs and expenses associated with the design, layout, complete construction documents by an engineer, any engineering or architectural fees or costs, design review fees or costs, legal fees and costs, financing costs, costs of bonds or security, insurance, and the costs of permits and fees associated with the System Improvements located on the Property.
1.2.57. **Stay Agreement** means that certain Stipulated Motion to Stay entered into with respect to the Annexation Lawsuit on or about the date hereof whereby the Annexation Lawsuit will be stayed for a period of one year from the Effective Date.

1.2.58. **Street System Improvements** mean all earth work, rough grading, final grading, road base, curb and gutter, waterways, asphalt, survey monuments, collars, and associated improvements, which shall comply with the Development Standards, as amended from time to time, including installation of energy saving lighting.

1.2.59. **Subdeveloper** means a person or an entity not “related” (as defined by Section 165 of the Internal Revenue Code) to Master Developer which purchases or acquires a Parcel for development.

1.2.60. **Subdivision** means the division of any portion of the Project into a subdivision pursuant to State Law and/or the City’s Vested Laws.

1.2.61. **Subdivision Application** means the application to create a Subdivision.

1.2.62. **System Improvement** means those elements of infrastructure that are defined as System Improvements pursuant to Utah Code Ann. §11-36a-102(21) (2008), including, without limitation those improvements shown and/or described on Exhibit “G” to the extent same are infrastructure improvements of a comprehensive scale that are a part of the overall development of the Property and not merely a part of the development of any particular Subdivision.

1.2.63. **Zone Change Ordinance** means an Ordinance assigning the land use zones of R-1-15 and R-1-21 to the Property as described on the Zoning Map.

1.2.64. **Zoning Map** means Exhibit “H” which is a map of the locations of the various zones applied to the Property by the Zone Change Ordinance.

1.2.65. **Zoning Ordinance** means the City’s Land Use and Development Ordinance adopted pursuant to the Act that was in effect as of the date of this MDA as a part of the City’s Vested Laws.

2. **Development of the Project.**

2.1. **Compliance with the Preliminary PUD and this MDA.** Development of the Project shall be in accordance with the City’s Vested Laws, the City’s Future Laws (to the extent that these are applicable as otherwise specified in this MDA), the Preliminary PUD and this MDA. The City acknowledges and agrees that the Preliminary PUD approval and any associated conditional use application shall not expire until the expiration of the term of this MDA. The City agrees that no fees shall be charged or assessed against Master Developer related to the Preliminary PUD approval other than the initial fee paid prior to the execution of this MDA. Other than the initial fee, any additional fees payable related to the PUD shall be paid upon submittal by Master Developer or a Subdeveloper for final Subdivision and final PUD approval, which fees shall only be based upon the number of units contained in the proposed final Subdivision and final PUD approval, and which shall not exceed the Applicable Fees. In accordance with Section 10-15C-5
of the Code, including, without limitation, clause H(2) thereof, the City hereby agrees that: (a) Master Developer may subdivide portions of the Property into Parcels and sell Parcels to various Subdevelopers or other parties; (b) the Subdevelopers or other parties owning Parcels within the Property may further subdivide Parcels into smaller Parcels, (c) each Subdeveloper or other parties owning Parcels within the Property will submit separate applications for final Subdivision and final PUD approval for each Parcel within the Preliminary PUD, (d) each final Subdivision and final PUD plan application shall be independently reviewed; provided that the Open Space and density shall be considered based upon the preliminary PUD and the Property as a whole and not to any specific final Subdivision or final PUD application, (e) applications for final PUD approval shall satisfy the requirements set forth in Chapter 20 of the Code, whereby specific plans and designs related to, including, but not limited to, the following: grading, drainage, landscaping, fencing, screening, signage, floodlighting, site plans, and building plans solely pertaining to the Parcel seeking final PUD approval shall be required as part of the final PUD approval process, and (f) any conditions related to the final Subdivision and final PUD will be solely applied toward the Parcel governed by such final Subdivision and final PUD approval. Upon issuance of the conditional use permit or final site plan approval for planned unit development, as applicable, with respect to any final Subdivision and final PUD approval, the conditional use permit or final site plan approval for planned unit development, as applicable, shall thereafter continue in perpetuity, unless it is revoked due to a violation of such permit or plan approval, as applicable. In evaluating the application for final Subdivision and final PUD approval, the City/planning commission may not impose any conditions or requirements on Master Developer or any Subdeveloper that are inconsistent with the Preliminary PUD and/or the terms and conditions of this MDA.

2.2. **Maximum Residential Units.** At Buildout of the Project, Master Developer shall be entitled to have developed the Maximum Residential Units as specified in and pursuant to this MDA.

2.3. **School Sites.** The City acknowledges that the Master Developer currently intends to sell the School Properties to Jordan School District for use as a middle school and elementary school, as applicable; provided that, in the event Jordan School District makes a final determination that the School Sites are not to be developed for such intended use and/or the School Properties are conveyed to a third party that is not a charter school or other legally authorized private or public school provider, the School Properties shall, at the option of Master Developer and/or any Subdeveloper of the School Properties, be for Residential Dwelling Units consistent with the Preliminary PUD and the terms of this MDA. Master Developer acknowledges and agrees that upon the sale of the School Properties to Jordan School District, the density attached to the School Properties on the Preliminary PUD shall be transferred with the School Sites and shall not be available to Master Developer or any Subdeveloper for purposes of Section 2.4 of this MDA or otherwise unless and until Master Developer and/or any Subdeveloper exercises the option to use the School Sites for Residential Dwelling Units as provided in this Section. The City and Master Developer each acknowledge and agree that upon the sale of the School Properties to Jordan School District, a charter school, or other legally authorized public or private school provider, the terms of this MDA shall no longer apply to the School Properties unless and until Master Developer and/or any Subdeveloper exercises the option to use the School Sites for Residential Dwelling Units as provided in this Section, whereupon the provisions of this MDA shall be reinstated as to the School Properties.
2.4. Limits on Transfer of Residential Dwelling Units Between Pods; Use of Density. The Parties acknowledge that the exact configuration of the final layout of the Project may vary from that shown in the Preliminary PUD due to final road locations, market forces and other factors that are unforeseeable. Master Developer may transfer the location of Residential Dwelling Units between and among Pods so long as (a) no transfer of the location of Residential Dwelling Units between and among Pods allows the Project as a whole to exceed the Maximum Residential Dwelling Units for the Project as a whole; (b) no individual Pod exceeds the Maximum Residential Dwelling Units allocable to that Pod as specified in the Preliminary PUD and (c) the lot size for any individual residential lot in any Pod is no smaller than the minimum lot size applicable to such Pod as specified on the Preliminary PUD. Except as provided in Section 7.1 and subject in all respects to the limitations on transfer set forth above in this Section, the entire Open Space located within the Property may be allocated or used for density clustering of Residential Dwelling Units within the entire Property and each Subdivision within the Property is not required to independently satisfy any Open Space requirements so long as the development, at full build-out, meets the Open Space requirements. Under no condition shall the City deny a Development Application if the applicant Subdeveloper is not currently in default under this MDA and its Development Application (i) does not exceed the Maximum Density that is available for the entire Property or any individual Pod, (ii) the plan is consistent with the Preliminary PUD, (iii) the plan is consistent with sound land use planning practices as certified by the land planner for the Master Developer and/or Subdeveloper provided such land use planner is reasonably acceptable to the City, (iv) the plan does not contain aspects that are detrimental to the health, safety or general welfare of persons residing in the vicinity, or injurious to property or improvements in the vicinity as reasonably determined by the City, and (v) the Master Developer or Subdeveloper complies with the City’s Vested Laws and any other applicable state, county, or district code, or ordinance.

2.5. Accounting for Residential Units for Parcels Sold to Subdevelopers. Any Parcel sold by Master Developer to a Subdeveloper shall include the transfer of a specified portion of the Maximum Residential Units sold with the Parcel. At the recordation of a Final Plat or other document of conveyance for any Parcel sold to a Subdeveloper, Master Developer shall provide the City a Sub-Development Report showing the ownership of the Parcel(s) sold, the portion of the Maximum Residential Units and/or other type of use transferred with the Parcel(s), the amount of the Maximum Residential Units remaining with Master Developer and any material effects of the sale on the Preliminary PUD.

2.5.1. Return of Unused Density. If any portion of the Maximum Residential Units transferred to a Subdeveloper are unused by the Subdeveloper, the unused portion of the transferred Maximum Residential Units shall automatically revert back to Master Developer. Master Developer shall then have the right to reallocate the Maximum Residential Units to other Pods within the Property as provided herein, subject to the applicable limitations thereon.


3.1. Zoning. The City has zoned the Property as R-1-15 and R-1-21 as set forth on the Zoning Map.
3.2. **Vested Rights Granted by Approval of this MDA.** To the maximum extent permissible under the laws of Utah and the United States and at equity, the City and Master Developer intend that this MDA grants Master Developer all rights to develop the Project in fulfillment of this MDA, the City’s Vested Laws and the Preliminary PUD except as specifically provided herein. The Parties specifically intend that this MDA and the Preliminary PUD grants to Master Developer “vested rights” as that term is construed in Utah’s common law and pursuant to Utah Code Ann. § 10-9a-509 (2008). The rules, regulations and official policies applicable to and governing the development of the Property shall be the City’s Vested Laws. Unless otherwise provided in, or amended by, this MDA, the City’s Future Laws shall not be applicable to or govern the development of the Property except as provided in Section 3.3 below.

3.3. **Exceptions.** The restrictions on the applicability of the City’s Future Laws to the Project as specified in Section 3.2 are subject to only the following exceptions:

3.3.1. **Election to Use City’s Future Laws.** City’s Future Laws that Master Developer and/or any Subdeveloper agrees in writing to the application thereof to the Project or any particular Pod thereof, provided, however, that said decision to apply the City’s Future Laws must be to apply all of the City’s Future Laws and not portions thereof to the Project or such particular Pod, as applicable;

3.3.2. **State and Federal Compliance.** City’s Future Laws which are generally applicable to all properties in the City and to the extent such modifications are required to comply with State and Federal laws and regulations affecting the Project;

3.3.3. **Codes.** City’s Future Laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction, fire or safety related codes, such as the International Building Code, the APWA Specifications, AASHTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare and are imposed on a City-wide basis;

3.3.4. **Taxes.** Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons and entities similarly situated; or,

3.3.5. **Fees.** Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law, but not exceeding the Applicable Fees.

3.3.6. **Impact Fees.** Impact Fees or modifications thereto which are lawfully adopted, imposed and collected by the City, subject to this Section 3.3.6 and Sections 8.4 and 8.5 of this MDA. Any Impact Fee imposed upon Master Developer or any Subdeveloper will not exceed the uniformly assessed individual Impact Fee applied toward all developments within the service area where the Property is located. If Master Developer or any Subdeveloper submits a study of the Impact Fees charged to Master Developer or such Subdeveloper and such study shows
that the proposed Impact Fee is disproportional or should be lower in accordance with applicable law, Master Developer and/or Subdeveloper shall pay the lower impact fee based upon the impact fee study in accordance with applicable law.

3.3.7. Compelling, Countervailing Interest. Laws, rules or regulations that the City’s land use authority finds, on the record, are necessary to avoid jeopardizing a compelling, countervailing public interest pursuant to Utah Code Ann. § 10-9a-509(1)(a)(i) (2016).

3.4. Universal Fairness. In all events, the City shall not impose upon the Property any regulations or fees that are more expensive, restrictive, burdensome, or onerous than those imposed generally on all real property throughout the City or in violation of the terms of this MDA.

3.5. Legislative Action. Concurrently with this MDA, and as material consideration for Master Developer agreeing to the terms hereof, the City and Council has complied with any and all requirements under this MDA and has taken all actions required or advisable to adopt (a) the Zone Change Ordinance; (b) the Preliminary PUD; and (c) the MDA Ordinance.

If the City fails to adopt any of the Ordinances upon terms and conditions acceptable to Master Developer, Master Developer may elect to cause the termination of the Stay Agreement or, to the extent applicable, refile a complaint objecting to the annexation of the Property as described in the recitals to this MDA.

The City acknowledges and agrees that the Ordinances and the terms and conditions of this MDA represent material consideration for Master Developer to settle its dispute regarding the annexation of the Property into the City. In the event any Ordinance or any term or condition of this MDA is illegal, unconstitutional, invalid, or not enforceable, the Parties shall cooperate to amend the MDA to resolve the issue in a mutually agreeable manner that is consistent with the terms and intent of this MDA. If after reasonable efforts have been made by both Parties to resolve these issues and they remain unresolved, Master Developer shall have the right to be released from the Stay Agreement, refile the Annexation Lawsuit (if released pursuant to the terms hereof and if such refiling is permissible under applicable state law), or otherwise pursue de-annexation of the Property from the City, as applicable. Provided that (i) the City is not then in default of its obligations under this MDA, and (ii) Master Developer has not terminated or otherwise been released from the Stay Agreement in accordance with its rights under this MDA or in the Stay Agreement, Master Developer agrees to release the Annexation Lawsuit without prejudice upon the expiration of the term of the Stay Agreement.

4. Term of Agreement. The term of this MDA shall be until the date that is thirty (30) years after the Effective Date. This MDA shall also terminate automatically at Buildout. Notwithstanding anything to the contrary contained herein, the provisions contained herein that, by their terms, are intended to survive the expiration of this MDA shall remain in full force and effect following any such expiration or termination of the term hereof.

5. Approval Processes and Modification of MDA.

5.1. Approval Processes for Development Applications.
5.1.1. Phasing: Safeguarding the Orderly Development of Infrastructure. The City acknowledges that Master Developer, assignees of Master Developer, and/or Subdevelopers who have purchased Parcels of the Property may submit a single or multiple Development Applications from time to time to develop and/or construct all or portions of the Project in one or multiple phases. Any phase of the Project may be developed independently of other phases. The City shall not require any sequencing of phases within the Project. In order to ensure the orderly development of the Property, in the event that, notwithstanding Master Developer’s commercially reasonable efforts to prevent such behavior, any Subdeveloper withholds consent to or otherwise unreasonably impedes the orderly construction of the System Improvements located on the Property or any other infrastructure necessary for the orderly development of the Property (including local roads) by any other Subdeveloper, upon request from Master Developer, the City agrees to use all reasonable efforts to orderly complete the System Improvements located on the Property, provided that the City may require that Master Developer or the applicable Subdeveloper pay the reasonable and actual costs incurred by the City in connection therewith.

5.1.2. Processing Under City’s Vested Laws. Approval processes for Development Applications shall be as provided in the City’s Vested Laws, except as otherwise provided in this MDA. Development Applications shall be approved by the City if they comply with the City’s Vested Laws and conform to this MDA and the Preliminary PUD.

5.1.3. City’s Cooperation in Processing Development Applications. The City shall cooperate reasonably in promptly and fairly processing Development Applications.

5.1.4. Applicability of State and Federal Law. Notwithstanding anything to the contrary contained herein and for the avoidance of doubt, all development within the Property will comply with all federal, state and county laws, rules and regulations applicable thereto.

5.2. Administrative Actions.

5.2.1. Administrative Actions Defined. Aspects of a Development Application may be approved by an Administrative Action. An Administrative Action involves approval of aspects of a Development Application by the City staff and/or the Administrator. Administrative Actions with regard to Development Applications means the following, which shall be subject only to the approval process more fully set forth below in this Section 5.1:

(i) the location of On-Parcel Infrastructure, including utility lines and stub outs to adjacent developments,

(ii) right-of-way modifications (excluding System Improvements) that do not involve the altering or vacating of a previously dedicated public right-of-way,

(iii) minor technical edits or inconsistencies necessary to clarify or modify documents consistent with their intended purpose (including, without limitation, the Development Standards) and interpretation of the Development Standards, and

(iv) the issuance of Building Permits and/or Land Disturbance Permits.

5.2.2. Administrator Review. Administrative Actions shall require only the
approval of the Administrator (with the review of the City’s staff as requested by the Administrator), and the Administrator shall not seek or condition the Administrator’s approval upon: (i) approval of the Council, (ii) approval of the Planning Commission, (iii) approval of the City Manager, or (iv) notice of or participation in any public meeting, hearing or forum. Upon approval by the Administrator, any Administrative Action shall be deemed and considered fully approved in all respects.

5.2.3. **Development Standards.** The Development Standards outlines the general approval procedure for different activities along with the general requirements and standards that may be applicable to certain improvements and types of developments. Pursuant to Section 1 of the Development Standards, steps related to the City’s approval procedure as outlined in the Development Standards may be combined, added, replaced or eliminated as deemed necessary by the City. This MDA is a contract between Master Developer and the City that will inure to the benefit of the Property and the owners thereof whereby the City agrees that any approval procedures and processes contained in this MDA shall supersede and replace the Development Standards. The City hereby agrees as follows:

(a) As part of the Preliminary PUD approval process (including application for the Preliminary PUD and the conditional use permit), Master Developer shall not be obligated to provide any improvement plans as required in Sections 2.01.01 and 2.01.04 (or their equivalents) of the Development Standards. Inasmuch as the Property may be developed in phases, when Master Developer or Subdeveloper seeks final Subdivision and final PUD approval for a phase of the Property, Master Developer or Subdeveloper will submit the improvement plans for that phase of the Property. Improvement plans will not be required for the entire Property or for any portion of the Property not included within the phase of the Property that is the subject of the application.

(b) Any references to “developer” in the Development Standards shall mean Master Developer, its assigns, or the Subdeveloper that actually develops a Subdivision within the Property and submits a Development Application. If a Subdeveloper submits a Development Application and develops a Subdivision, the Master Developer shall not be deemed the “developer” related to that Subdivision.

(c) **City Approval or Denial of a Development Application.** Development Applications subject only to Administrative Action shall be unconditionally approved by the Administrator if (i) such Development Application substantially complies with the terms of this MDA and the Development Approvals to the extent related to terms or conditions set forth in this MDA, or (ii) such Development Application substantially complies with the City’s Vested Laws. The Administrator’s review of all Development Applications subject to approval by Administrative Actions shall be limited to material differences and/or inconsistencies between the information and/or documentation submitted and the materials, and information and/or documentation described in subsections (i) and (ii) of the preceding sentence. If the Administrator denies a Development Application subject only to Administrative Action, the Administrator shall provide a written determination advising the Applicant of detailed reasons for Denial, including all specific items of non-compliance with subsections (i) and (ii) above.

5.2.4. **Re-submittal of Development Applications.** If the Administrator has
previously denied a Development Application subject only to Administrative Action, then the Administrator shall promptly complete its review of any re-submittal (which may include redlines) of a Development Application. No additional fees will be required from the Applicant in connection with any re-submittal or redlines. To the extent Applicant has changed the Development Application to (a) substantially comply with this MDA or the City’s Vested Laws or (b) substantially conform to the Development Standards, then the re-submittal or redline shall be approved by the Administrator. Developer shall only be required to re-submit, and the Administrator shall only review, the portions of the Development Application which related to the Denial by the Administrator as set forth in the Administrator’s written response described in Section 5.2.5 above. All other portions of the Development Application that were not addressed specifically in such written response by the Administrator shall be deemed and considered previously approved. If the City again denies the re-submitted Development Application or redline subject only to Administrative Action, then the City shall meet with the Applicant as promptly as possible to discuss same. Applicant shall have the right to treat such Denial as a “final action of the City” and immediately appeal as appropriate.

5.3. Material Actions.

5.3.1. Material Actions Defined. Except with respect to the listed Administrative Actions described in Section 5.2.1 above, all other reviews, actions, approvals, and/or consents with respect to a Development Application concerning a portion of the Property shall be deemed and considered Material Actions and shall be processed in accordance with the City’s Vested Laws, this MDA and the Development Standards.

5.3.2. Information Contained in a Development Application Requiring Material Action. Except to the extent not required by any other terms of this MDA, any Development Application requiring Material Action shall contain (i) the information required in the Development Standards for the specific approval, consent, and/or permit requested in the applicable Development Application, or (ii) in the event the Development Standards do not address such specific approval, consent, and/or permit requested in the applicable Development Application, the information normally required by the City under the City’s Vested Laws for the issuance of such specific approval, consent, and/or permit requested.

5.4. General Provisions Regarding All Development Applications and Approvals.

5.4.1. Application Fees. Due to the City’s understanding of the Property, the City has agreed (i) to allow Master Developer and/or Subdevelopers to obtain approvals for development of the Project in accordance with the processes and procedures set forth in Section 5, (ii) to deem satisfied certain requirements for the Master Developer and/or Subdevelopers to provide certain information and/or documentation to the City under the City’s Vested Laws, and (iii) to grant Master Developer’s and/or Subdeveloper’s requested reviews and approvals of all Development Applications without the imposition of any charges or fees to Master Developer and/or Subdevelopers in addition to those provided generally for review under the City’s fee schedule in effect at the time of the application while recognizing that (except as otherwise specifically provided herein) a complete application will still be required for all Development Applications.
5.4.2. **Standard Review Fees.** Master Developer or the applicable Subdeveloper shall only have the obligation to pay the standard fees applicable with respect to any submittal of a Development Application under the City’s fee schedule in effect at the time of the application.

5.4.3. **Processing of Development Applications.** The City shall cooperate reasonably and in good faith in promptly and fairly processing and reviewing all Development Applications. During each application process, the City shall keep the Applicant informed of the status of the applicable Development Application. The City agrees to exercise good faith efforts to follow the General Review Processes and meet all timelines set forth therein. If Master Developer and/or Subdeveloper determines the City has not met all of the processes and timelines set forth in the General Review Processes, then, among other remedies, Master Developer and/or Subdeveloper shall have the right to request a decision under Utah Code Ann. Section 10-9a-509.5.

As more fully set forth in Section 7.1 below, Master Developer intends to apply for a CLOMR/LOMR for certain portions of the Property. The City agrees that, following issuance of a CLOMR but prior to the issuance of the LOMR related thereto, Master Developer and/or a Subdeveloper shall have the right to submit a Development Application for any portion of the Property that would be subject to a FEMA map revision pursuant to such CLOMR and to have such Development Application reviewed and approved pursuant to the terms of this MDA and the City’s Vested Laws and/or City’s Future Laws, as applicable, notwithstanding that the related LOMR has not yet been issued, provided that in no event shall any construction that would be prohibited by applicable law within a FEMA floodplain and/or that would be reasonably expected to invalidate or otherwise materially impair the City’s participation in the National Flood Insurance Program (or any successor thereto) be permitted except and until a LOMR for such portion of the Property that is consistent with the subject Development Application is issued by FEMA.

5.4.4. **Additional Terms, Provisions and Conditions Related to Development Applications.** Notwithstanding any language to the contrary herein or in the City’s Vested Laws and/or City’s Future Laws, the Parties hereby agree that the following terms, provisions and conditions shall apply with respect to Development Application submissions and reviews:

(i) After receipt of any preliminary plat approval, no Final Plat approval shall be Denied or delayed if the Development Application for such Final Plat substantially complies in all respects with the conditions of the approved Preliminary Plat;

(ii) If a development is proposed to be completed in phases, filing of a Final Plat for one phase shall extend the then existing expiration date of the preliminary plat approval for all additional phases for an additional period of two years from the existing expiration date or longer if provided for in the City’s Vested Laws or City’s Future Laws.

5.5. **Outsourcing of Processing of Development Applications.** Within fifteen (15) business days after receipt of a Development Application and upon the request of either the City or Master Developer or Subdeveloper, the City and Master Developer or such Subdeveloper will confer to determine whether the City and/or Master Developer or such Subdeveloper desires the City to Outsource the review of any aspect of the Development Application to insure that it is processed on a timely basis. If either party determines that Outsourcing is appropriate then the City shall promptly estimate the reasonably anticipated cost of Outsourcing in the manner selected
by the City in good faith consultation with the Master Developer or such Subdeveloper (either
to City employees or the hiring of a City Consultant). If Master Developer or such
Subdeveloper notifies the City that it desires to proceed with the Outsourcing based on the City’s
estimate of costs then the Master Developer or such Subdeveloper shall deposit in advance with
the City the estimated cost and the City shall then promptly proceed with having the work
outsourced. Upon completion of the Outsourcing services and the provision by the City of an
invoice (with such reasonable supporting documentation as may be requested by Master Developer
or such Subdeveloper) for the actual cost (or, in the case of paying overtime to City employees,
the differential cost) of Outsourcing, Master Developer or the Subdeveloper shall, within ten (10)
business days pay or receive credit (as the case may be) for any difference between the estimated
cost deposited for the Outsourcing and the actual cost as provided herein.

5.6. Non-City Agency Reviews. If any aspect or a portion of a Development
Application is governed exclusively by a Non-City Agency, an approval for these aspects does not
need to be submitted by Applicant for review by any body or agency of the City. The Applicant
shall timely notify the City of any such submittals and promptly provide the City with a copy of
the requested submissions. The City may only grant final approval for any Development
Application subject to compliance by Applicant with any conditions required for such Non-City
Agency’s approval.

5.7. Acceptance of Certifications Required for Development Applications. Any
Development Application requiring the signature, endorsement, or certification and/or stamping
by a person holding a license or professional certification required by the State of Utah in a
particular discipline shall be so signed, endorsed, certified or stamped signifying that the contents
of the Development Application comply with the applicable regulatory standards of the City. A
Development Application so signed, endorsed, certified or stamped shall be deemed to meet the
specific standards which are the subject of the opinion or certification without further objection or
required review by the City or any other agency of the City. It is not the intent of this Section to
preclude the normal process of the City’s “redlining”, commenting on or suggesting alternatives
to the proposed designs or specifications in the Development Application. Generally, the City
should endeavor to make all of its redlines, comments or suggestions at the time of the first review
of the Development Application unless any changes to the Development Application raise new
issues that need to be addressed. The City may not impose any duties, obligations, or
responsibilities on Master Developer and/or Subdeveloper inconsistent with the terms and
conditions of the City’s Vested Laws and this MDA.

5.8. Expert Review of Certifications Required for Development Applications. If
the City, notwithstanding such a certification by Applicant’s experts, subjects the Development
Application to a review by City Consultants, the City shall bear the costs of such review if the City
Consultants determine that the Applicant’s expert certification was materially correct. If the City
Consultants determine that the certification in the Development Application was materially
incorrect, then Applicant will pay the actual costs of the City Consultants’ that would otherwise
have been incurred by the City to review the certification contained in the Development
Application.

5.8.1. Selection of City Consultants for Review of Certifications Required for
Development Applications. The City Consultant undertaking any review by the City required or permitted by this MDA or the City’s Vested Laws shall be selected from a list generated by the City for each such City review pursuant to a “request for proposal” process or as otherwise allowed by City ordinances or regulations. Applicant may, in its sole discretion, strike from the list of qualified proposers any of such proposed consultants. The anticipated cost and timeliness of such review may be a factor in choosing the expert.

5.9. Independent Technical Analyses for Development Applications. If the City needs technical expertise beyond the City’s internal resources to determine impacts of a Development Application such as for structures, bridges, water tanks, and other similar matters which are required by the City’s Vested Laws to be certified by such experts as part of a Development Application, the City may engage such experts as City Consultants under the processes specified in Section 6.1 with the actual and reasonable costs being the responsibility of Applicant. If the City needs any other technical expertise other than as specified above, under extraordinary circumstances specified in writing by the City, the City may engage such experts as City Consultants under the processes in Section 6.1 with the actual and reasonable costs being the responsibility of Applicant. If the City requires any review that is not required by the City’s Vested Laws, the City shall be responsible for the cost of such reviews.

5.10. City Denial of a Development Application. The City cannot use the Development Application process to impose upon the Master Developer and/or Subdeveloper greater obligations than agreed to in this MDA or to avoid the City’s responsibilities, obligations, or costs as set forth in this MDA, and the City cannot Deny or condition approval of a Development Application to impose upon Master Developer or Subdeveloper any obligation or cost assumed by the City in this MDA. If the City denies a Development Application the City shall provide a written determination advising the Applicant of the reasons for denial including specifying the reasons the City believes that the Development Application is not consistent with this MDA, the Preliminary PUD and/or the City’s Vested Laws (or, if applicable, the City’s Future Laws).

5.11. Meet and Confer regarding Development Application Denials. The City and Applicant shall meet within fifteen (15) business days of any Denial to resolve the issues specified in the Denial of a Development Application.

5.12. City Denials of Development Applications Based on Denials from Non-City Agencies. If the City’s denial of a Development Application is based on the denial of the Development Application by a Non-City Agency, Master Developer shall appeal any such denial through the appropriate procedures for such a decision and not through the processes specified below.


5.13.1. Issues Subject to Mediation. All issues resulting from the City’s Denial of a Development Application that are not subject to arbitration as provided in Section 5.14.1 shall be mediated.

5.13.2. Mediation Process. If the City and Applicant are unable to resolve a disagreement subject to mediation, the Parties shall attempt within ten (10) business days to
appoint a mutually acceptable mediator with knowledge of the issue in dispute. If the Parties are unable to agree on a single acceptable mediator they shall each, within ten (10) business days, appoint their own representative. These two representatives shall, between them, choose the single mediator. Applicant and the City shall equally share the fees of the chosen mediator. Within ten (10) business days after the selection of the chosen mediator, each party shall provide to the chosen mediator and the other party a position paper setting forth their position, along with any relevant fact and circumstances. The chosen mediator shall within fifteen (15) business days, review the positions of the Parties regarding the mediation issue and promptly attempt to mediate the issue between the Parties. If the Parties are unable to reach agreement, the mediator shall notify the Parties in writing that the mediator deems appropriate. The mediator's opinion shall not be binding on the Parties. The Parties agree to act in good faith and participate in the mediation process in order to reach a resolution of the dispute.

5.14. **Arbitration of Development Application Objections.**

5.14.1. **Issues Subject to Arbitration.** Issues regarding the City’s Denial of a Development Application that are subject to resolution by scientific or technical experts such as traffic impacts, water quality impacts, pollution impacts, etc. are subject to arbitration. The failure of a Development Application to comply with an applicable Federal, State or City Vested Law (or, if applicable, a City Future Law) is not an issue subject to arbitration. In such an event, and notwithstanding anything herein to the contrary, Master Developer and/or any Subdeveloper or Applicant shall have all rights and remedies available under applicable law to appeal such decision to district court.

5.14.2. **Mediation Required Before Arbitration.** Prior to any arbitration the Parties shall first attempt mediation as specified in Section 5.13.

5.14.3. **Arbitration Process.** In connection with all issues described in Section 5.14.1, and issues not resolved through mediation, the Parties shall within ten (10) business days appoint a mutually acceptable expert in the professional discipline(s) of the issue in question. If the Parties are unable to agree on a single acceptable arbitrator they shall each, within ten (10) business days, appoint their own individual appropriate expert. These two experts shall, between them, choose the single arbitrator, which shall be an expert in the professional discipline of the issue in question. Applicant and the City shall equally share the fees of the chosen arbitrator. The arbitration shall be performed in accordance with the most recently enacted American Arbitration Association Commercial Arbitration Rules and Procedures provided that within thirty (30) days after selection of the arbitrator the Parties shall submit to the arbitrator a statement of their respective positions. Upon mutual agreement of the Parties, they may modify the rules and procedures pertaining to the arbitration. The chosen arbitrator shall within fifteen (15) business days after receipt of the position statements, review the positions of the Parties regarding the arbitration issue and render a decision. The arbitrator shall ask the prevailing party to draft a proposed order for consideration and objection by the other side. Upon adoption by the arbitrator, and consideration of such objections, the arbitrator's decision shall be final. If the arbitrator determines as a part of the decision that the City’s or Applicant’s position was not only incorrect but was also maintained unreasonably and not in good faith then the arbitrator shall order the offending party to pay the arbitrator’s fees. The Arbitrator’s decision shall not be binding on either
Party but shall give good faith guidance to each once a final decision has been rendered, either Party may seek redress in district court. The Parties agree that they will faithfully observe this MDA and the arbitration rules, that they will abide by and perform any decision rendered by the arbitrator, and that a judgment of any court having jurisdiction may be entered on the decision.

5.15. **Parcel Sales.** The City acknowledges that the precise location and details of the public improvements, lot layout and design and any other similar item regarding the development of a particular Parcel may not be known at the time of the creation of or sale of a Parcel. Master Developer may obtain approval of a Subdivision that does not create any individually developable lots in the Parcel without being subject to any requirement in the City’s Vested Laws to be subject to a condition of such Subdivision approval requiring Master Developer to: (i) apply for final PUD approval, (ii) install any On-Parcel Infrastructure or Off-Parcel Infrastructure improvements, (iii) provide detailed development information, including, without limitation, site plans, building elevations, and Development Applications; or (iv) complete or provide security for any Public Infrastructure, On-Parcel Infrastructure or Off-Parcel Infrastructure at the time of such subdivision. The responsibility for completing and providing any Development Application and the obligation for completion (including providing any security associated therewith) of any Public Infrastructure, On-Parcel Infrastructure or Off-Parcel Infrastructure in the Parcel shall be that of the Master Developer or a Subdeveloper, as applicable, upon a subsequent re-Subdivision of the Parcel that creates individually developable lots or upon submittal of a Development Application. However, construction of improvements shall not be allowed until the Developer or Subdeveloper complies with the terms of this MDA with respect thereto.

5.16. **Modifications to this MDA.** Any amendment, modification, or supplement to this MDA must be in writing and approved by the City and Master Developer and its assigns as provided herein. Only Master Developer or an assignee that succeeds to all of the rights and obligations of Master Developer under this MDA (and not including a Subdeveloper) may submit an application to modify the MDA. If a Subdeveloper desires to modify the MDA as part of a Development Application, the Subdeveloper must obtain the Master Developer’s approval to such modification. Notwithstanding the foregoing, the Parties (not the Subdeveloper unless specifically authorized) may mutually determine to waive one or more provisions hereof as such provisions relate to a particular Development Application, without formally amending the MDA.

5.16.1. **Administrative Modifications.** The Administrator may approve without approval by the Council any non-material modifications of any part of the System Improvements located on the Property that do not materially change the functionality of such System Improvements and so long as the modifications are based upon sound engineering. Applications for Administrative Action with respect to the MDA shall be filed with the Administrator. If the Administrator reasonably determines that it would be inappropriate for the Administrator to determine any such proposed Administrative Action, the Administrator may require such requested Administrative Action to be processed as a Planning Commission Modification or a Council Modification. The Administrator shall consider and decide upon such requested Administrative Action within a reasonable time, which shall in no case be longer than fourteen (14) calendar days. If the Administrator approves any requested Administrative Action, such Administrative Action by the Administrator shall be conclusively deemed binding on the City. If the Administrator denies any proposed Administrative Action as provided in this Section, the
Master Developer may process the proposed Administrative Action as a Planning Commission Modification or a Council Modification, as applicable.

5.16.2. Planning Commission Modifications. The Planning Commission may approve without approval by the Council any modifications of design guidelines applicable to the Project (including, without limitation, lot widths, setbacks, building heights, exterior building materials, landscape, and street layouts). Applications for Planning Commission Modifications shall be filed with the Planning Commission. If the Planning Commission determines for any reason that it would be inappropriate for the Planning Commission to determine any proposed Planning Commission Modification, the Planning Commission may require the Planning Commission Modification to be processed as a Council Modification. The Planning Commission shall consider and decide upon the Planning Commission Modification within a reasonable time after the filing of the request for the Planning Commission Modification. If the Planning Commission approves any Planning Commission Modification, the Planning Commission Modification shall be conclusively deemed binding on the City. If the Planning Commission denies any proposed Planning Commission Modification, Master Developer may process the proposed Planning Commission Amendment as a Council Modification.

5.16.3. Council Modifications. The Council may approve any amendments, modifications, or supplements to this MDA that are not Administrative Modifications or Planning Commission Modifications. Applications for Council Modifications shall be filed with the City staff. The Council shall consider and decide upon the Council Modification within a reasonable time after the filing of the request for the Council Modification. If the Council objects to the Modification Application, the Council shall provide a written determination advising the Applicant of the reasons for denial including specifying the reasons the City believes that the Modification Application is not consistent with the intent of this MDA, the Preliminary PUD and/or the City’s Vested Laws (or, if applicable, the City’s Future Laws).

5.16.4. Contents of Modification Applications. All Modification Applications shall:

(a) Identify the property or properties affected by the Modification Application.
(b) Describe the effect of the Modification Application on the affected portions of the Project.
(c) Identify any Non-City Agencies potentially having jurisdiction over the Modification Application.
(d) Provide a map of any affected property and all property within three hundred feet (300’) showing the present or intended use and Density of all such properties.
(e) Be accompanied by a fee in an amount reasonably estimated by the City to cover the costs of processing the Modification Application.

5.16.5. Resolution of Objections/Denial of Modification Applications. The City shall reasonably cooperate in promptly and fairly processing any Modification Applications. The Council and Master Developer and/or Subdeveloper shall meet within ten (10) calendar days of any objection to resolve the issues presented by a Modification Application and any of the
Council’s objections. If the Council and Master Developer are unable to resolve a dispute regarding a Modification Application the matter shall be mediated and/or arbitrated pursuant to the terms of this Sections 5.13 and 5.14 of this MDA.

6. **Application Under City’s Future Laws.** Master Developer or any Subdeveloper may at any time, choose to submit a Development Application for all of the Project or any portion thereof under the City’s Future Laws in effect at the time of the Development Application, subject, in each case, to the terms of Section 3.3.1.

7. **Open Space.**

   7.1. **Creation of Additional Open Space.** Master Developer and/or a Subdeveloper shall dedicate the Open Space as provided on the Preliminary PUD, subject to the right to make modifications to the Preliminary PUD as provided herein, but in any case not less than the amount of Open Space that is required by the City’s Vested Laws (i.e., 20% of the area within the PUD). Master Developer acknowledges and agrees that the Open Space on the Preliminary PUD is based on the assumption that the Federal Emergency Management Agency will revise the FEMA flood map for the Project in such a manner as to cause the calculation of the Open Space as provided on the Preliminary PUD to satisfy the Open Space that is required by the City’s Vested Laws. Master Developer shall evidence such FEMA flood map revision by providing both a conditional letter of map revision (CLOMR) and a final letter of map revision (LOMR) from FEMA to the City. For the avoidance of doubt, in the absence of obtaining a LOMR consistent with the Preliminary PUD, Master Developer will be required to dedicate such additional portions of the Property as Open Space as is required to satisfy the City’s Vested Laws (i.e., 20% of the area within the PUD) and the Maximum Residential Units shall be reduced in an amount equal to the product of (i) the average density of the Project as a whole multiplied by (ii) the total additional acreage required to be dedicated as Open Space above and beyond total acreage of Open Space reflected on the Preliminary PUD. Master Developer and the City acknowledge and agree that it is the intent to have Butterfield Creek remain a surface-level creek that is not piped and that the initial application for the CLOMR/LOMR will be consistent with such intent; provided, however, that if a CLOMR consistent with the Preliminary PUD is not obtained based on such initial submission, Master Developer may, in its sole and absolute discretion, (a) revise the plans for Butterfield Creek to cause portions thereof to be piped to the extent necessary to obtain a CLOMR/LOMR that is consistent with the Preliminary PUD and (b) resubmit the CLOMR/LOMR application based on such revised plans. The parties intend that the creation of Open Space will generally maintain a pro rata relationship between the amount of land being developed with a Development Application and the total acreage designated for Open Space. The City acknowledges that it may not be in the interest of either the City, Master Developer, assignees of Master Developer or Subdevelopers to always dedicate Open Space on such a basis that may result in constructing and/or designating incremental, small, unusable parcels of land. Therefore, each Development Application approval shall provide for the designation of Open Space in such amounts as are determined to be appropriate considering the factors specified below. Any Denial by the City based on the amount or location of Open Space shall be subject to the mediation and arbitration provisions of Sections 5.13 and 5.14. The factors to be evaluated are: (a) the amounts and types of Open Space provided on the portions of the Project previously developed; (b) the amounts and types of Open Space remaining to be designated and/or constructed on the portions of the Project remaining to be
developed; and (c) the amount and nature of the land and the types land uses proposed by the Development Application. Upon approval of a Development Application containing a designation of Open Space, Master Developer and/or Subdeveloper at any time thereafter may dedicate the designated area comprising such additional Open Space to the City.

7.2. Dedication/Conveyance of Open Space. Master Developer and/or a Subdeveloper shall dedicate to the City any parks and other portions of Open Space to be dedicated to the City as generally illustrated on the Preliminary PUD by Special Warranty Deed; provided, however, that title will be conveyed free and clear of any (a) financial encumbrance or (b) other encumbrance (including easements) that materially and adversely interferes with the use of the property so conveyed as Open Space, active Open Space, and/or improved park space. The dedication of any Open Space located within a Subdivision shall occur immediately following the recordation of the Subdivision plat. To the extent practicable, the Open Space will be designed whereby utilities and easements will be located on the periphery of the Open Space. To the extent that Master Developer and/or Subdeveloper believes it is not practicable to locate an easement or utility on the periphery of the Open Space, Master Developer and/or Subdeveloper may reserve unto itself an easement over the Open Space for such easement(s) in a location mutually agreed upon by the Master Developer and/or Subdeveloper and the City. Upon mutual agreement as to the location of an easement, Master Developer and/or Subdeveloper may record a document indicating the location of such easement.

7.3. Improvement of Open Space. Neither Master Developer nor any Subdeveloper shall be obligated to make any park-related System Improvements to the Open Space in any manner that causes the cost of such System Improvements to exceed the Impact Fees available therefor that are generated from the Property unless and until the City provides other sources of financing the excess cost thereof.

7.4. Maintenance of Open Space, Parks and Trails. The City shall be responsible for maintaining the Open Space and parks to be dedicated to the City as generally illustrated on the Preliminary PUD after final inspection and acceptance of the improvements by the City, such maintenance to be consistent with City-wide standards.

7.5. Tax Benefits. The City acknowledges that Master Developer and/or a Subdeveloper may seek and qualify for certain tax benefits by reason of conveying, dedicating, gifting, granting or transferring Open Space and/or Trails to the City or to a charitable organization. Master Developer and/or Subdeveloper shall have the sole responsibility to claim and qualify for any tax benefits sought by Master Developer and/or Subdeveloper by reason of the foregoing. The City shall reasonably cooperate with Master Developer and/or Subdeveloper to the maximum extent allowable under law to allow Master Developer and/or Subdeveloper to take advantage of any such tax benefits. The City does not offer tax advice and the Master Developer and Subdeveloper shall rely on its own independent review and analysis of tax issues.

8. Public Infrastructure.

8.1. Acquisition of Rights-of-Way. The City agrees that, to the extent a road currently exists, the centerline of any Capital Improvement Road and the right-of-way associated therewith will be the centerline of such existing road. As a material covenant in this MDA, the City agrees
to use good faith and diligent efforts to obtain funds from the Wasatch Front Regional Council (or any successor thereto) for the acquisition/purchase of the land and improvements constituting (A) the Capital Improvement Roads, and (B) the Off-Site Capital Improvement Roads, but only as to Herriman Highway/Herriman Main Street and 7300 West as described in Section 1.2.43. In the event the City requires that the alignment for any Capital Improvement Road deviate from the alignment shown on the Preliminary PUD and in System Improvements exhibit attached to this MDA whereby more of the Property is required to be used for any Capital Improvement Road that would have been required if such alignment was consistent with the Preliminary PUD, the City shall compensate the Master Developer for the differential between the amount of the Property projected to be used for such Capital Improvement Road on the Preliminary PUD and the amount of the Property required by the newly required alignment of such Capital Improvement Road.

8.2. Water.

8.2.1. General Provisions. Except for the portions of the Property currently located in the area designated as pressure zone 5, there is sufficient water rights, water storage capacity, adequate water pressure, flow and capacity to serve the Property for the Maximum Residential Units for both indoor and outdoor water use and fire protection. To the extent that Master Developer and/or a Subdeveloper desires to develop a portion of the Property located in pressure zone 5, Master Developer and/or Subdeveloper shall have the option to (i) lower the grade of such portion of the Property, (ii) engineer the water delivery system on the Property in such a manner that sufficient water rights, water storage capacity, adequate water pressure, flow and capacity is available to serve such portion of the Property for both indoor and outdoor water use and fire protection, provided that such engineering complies with the Development Standards or is otherwise reasonably acceptable to the City, or (iii) delay such development until such time as the City in its discretion installs the required infrastructure to provide sufficient water rights, water storage capacity, adequate water pressure, flow and capacity to such portion of the Property for both indoor and outdoor water use and fire protection; provided that any change in grade, engineered water delivery system or other water delivery plan to such portions of the Property shall be required to meet the requirements of Utah Admin. Code R309-100, et seq. Master Developer and any Subdevelopers shall not be required to dedicate or convey any water to the City or to pay any fee, charge or assessment related to acquiring or providing such water so long as they pay the water right impact fees and appropriate water charges assessed for the use of such water, which charges shall be consistent with the City’s then current water fee schedule. Inasmuch as Master Developer and/or Subdeveloper will pay a water right impact fee to the city, in the event JVWCD desires to assess Master Developer, a Subdeveloper, or the Property any fee or cost associated with the acquisition of water or in lieu of the dedication of water to JVWCD, the City agrees to use good faith and diligent efforts to cause JVWCD to waive such requirement of Master Developer and/or Subdeveloper. If the water infrastructure is insufficient to serve the Property, the City shall cause the water infrastructure to be upgraded to provide sufficient water capacity, pressure, and flow to the Property as it may be developed. Notwithstanding the above and without waiving or releasing any of the obligations set forth above, Master Developer and/or Subdeveloper may provide its/their own water to the Property to augment the water provided by the City, so long as same complies with the applicable state, county and local laws, ordinance and rules and regulations applicable thereto. Without waiving any rights or remedies against the City, if the City’s representations are not accurate or if the City allows other developments to use water that
diminish the water available to the Property that results in a decrease the quantity, flow, or pressure
of water for culinary or fire protection services, and if Master Developer and/or Subdeveloper
provide its/their own water to the Project or otherwise incur costs to augment the water service or
infrastructure, the City shall reimburse the Master Developer and/or Subdeveloper for the costs
incurred associated therewith (including Soft Costs and Hard Costs) within ten (10) days after
written demand. If the City fails to reimburse the Master Developer and/or Subdeveloper within
such ten (10) day period, the amount due shall accrue interest at the Interest Rate. Notwithstanding
the foregoing, if any amount owed by the City to the Master Developer and/or the Subdeveloper
is not paid within ninety (90) days after such amount is due, Master Developer and/or the
Subdeveloper shall have the right to exercise any remedies available under this MDA, at law or in
equity against the City.

8.2.2. Secondary Water. The City acknowledges and agrees that it will be solely
responsible to provide wet secondary water to the Property. The City represents that at the present
time the City lacks sufficient capacity to provide wet secondary water to the Property. The City
will use good faith efforts to provide the capacity and infrastructure so that the Property can
be served by wet secondary water as soon as reasonably practicable. As such, there shall be no
obligation on the Master Developer and/or any Subdeveloper to provide wet secondary water to or
within the Property. Notwithstanding the forgoing, Master Developer acknowledges and agrees
that each Development Application will require the installation by Master Developer or the
applicable Subdeveloper of dry secondary water lines sufficient to service the Parcel or Pod that
is subject to such Development Application.

8.3. Construction of Certain System Improvements.

8.3.1. Off-Site Capital Improvement Roads. Based upon the Traffic Study
attached hereto as Exhibit “I”, which the City agrees is reasonable, the City agrees that in no event
shall Master Developer or any Subdeveloper be required to construct any Off-Site Capital
Improvement Road nor shall the construction of any such Off-Site Capital Improvement Road be
a condition to any Development Application for so long as the updated traffic study submitted in
connection with such Development Application determines that the existing infrastructure supplies
a level of service equal to or greater than “D” level service when taking into account the effect of
the development proposed in such Development Application. If such updated traffic study
determines the level of service would be less than “D” level service and therefore the proposed
Development Application would be denied, Master Developer and/or such Applicant shall have
the option to improve any Off-Site Capital Improvement Road to cause the level of service to be
equal to or greater than “D” level service and the Development Application shall thereafter shall
not be denied based on the traffic level of service. The City agrees that the term “updated traffic
study” as used herein shall mean the Traffic Study attached hereto as updated with respect to the
TIS data for the Pod/Parcel subject to the subject Development Application and shall not require
the submission of a complete new traffic study. If Master Developer and/or such Applicant elects
to so improve any Off-Site Capital Improvement Road, the City agrees to (i) use all reasonable
efforts to obtain any rights-of-way required in order for Master Developer and/or such Applicant
to improve such Off-Site Capital Improvement Road and (ii) reimburse Master Developer pursuant
to a reimbursement agreement entered into concurrently herewith by and between the City and
Master Developer with respect to the Project, except that the source of the reimbursement funds
shall come from future impact fees from developments benefiting from such Off-Site Capital Improvement Roads or, in Master Developer’s discretion, from Impact Fees generated from the Project to the extent such costs are reimbursable by impact fees pursuant to applicable law.

8.3.2. Modifications of Location of System Improvements Located on the Property. The City acknowledges that the development of certain portions of the Property is influenced by the location of certain elements of the System Improvements located on the Property. Changes in the precise locations of elements of the System Improvements located on the Property may render the development of certain portions of the Property impractical (e.g., a proposed road is moved or designed in a way so that it leaves a portion of property no longer economically or developmentally practical for a certain type of use). The City agrees that it shall not materially modify the alignment of any roads or otherwise change the design of any of the System Improvements located on the Property unless mutually agreed upon by the City and the Master Developer, such agreement not be unreasonably withheld or delayed by either party.

8.3.3. Financing. Other than the Applicable Fees that may be assessed by the City and ad valorem property taxes and/or assessments levied against the real property within the City as a whole, under no conditions shall the City finance the System Improvements located on the Property through a special service district, bond, or similar mechanism whereby the costs of the System Improvements located on the Property will be paid by the Master Developer, unless requested by the Master Developer, any Subdeveloper or the owners of any portion of the Property.

8.4. Storm Drain. Notwithstanding anything to the contrary contained in the City’s Vested Laws, the City’s Future Laws or the Development Standards to the contrary, the design and construction of the storm drainage system on the Property shall be subject to the provisions outlined on Exhibit “J”.

8.5. Bonding. If and to the extent required by the City's Vested Laws, unless otherwise provided by Chapter 10-9a of the Utah Code as amended, security for any Public or private Infrastructure is required by the City it shall provide in a form acceptable to the City as specified in the City's Vested Laws. Partial releases of any such required security shall be made as work progresses based on the City's Vested Laws.

8.6. Infrastructure Built by Master Developer. Subject to the terms of this MDA, Master Developer or Subdevelopers may, from time to time, install and construct portions of the System Improvements located on the Property. The City shall ensure that Master Developer and/or Subdevelopers are reimbursed pursuant to a reimbursement agreement entered into concurrently herewith by and between the City and Master Developer with respect to the Project.

9. Cable TV/Fiber Optic/Data/Communications Service. To the extent conduits are not provided as part of the System Improvements located on the Property, subject to all applicable Federal and State laws, Master Developer and/or a Subdeveloper may install or cause to be installed underground all conduits and cable service/fiber optic lines within the Project and underneath any public streets at no expense to the City. In such an event, the City agrees not to charge Master Developer and/or Subdeveloper any fees or costs associated with the installation of such conduits and cable, including any fees associated with permits or the City’s approval. Any and all conduits, cable, lines, connections and lateral connections (except for conduit installed for
public utilities, such as power, natural gas, culinary water, and sanitary sewer, that are installed as part of the System Improvements located on the Property, which will be owned by the City) shall remain the sole and exclusive property of Master Developer or cable/fiber optic provider even though the roadways in which the cable/fiber optic lines, conduits, connections and laterals are installed may be dedicated to the City, and Master Developer hereby reserves an easement on, through, over, across, and under such publically dedicated right-of-way for such conduits and cables. Master Developer or any Subdeveloper may contract with any data/communications/cable TV/fiber optic provider of its own choice and grant an exclusive access and/or easement to such provider to furnish cable TV/fiber optic services for those dwelling units or other uses on the Project, so long as the property is private and not dedicated to the public. The City may charge and collect all taxes and/or fees with respect to such cable service and fiber optic lines as allowed under State Law. Master Developer acknowledges that the City has entered into certain franchise agreements with certain cable TV, fiber optic, data and/or communications service providers and that such providers services on the Project will be subject to such agreements; provided that in no event shall the existence of such agreements exclude or otherwise limit the ability of Master Developer or a Subdeveloper from installing conduits, cable, lines, connections and other infrastructure necessary for other providers to provide service on the Project as provided in this Section.

10. **Upsizing/Reimbursements to Master Developer; Amendments to IFFPs.**

10.1. "Upsizing". The City shall not require Master Developer to “upsize” any public infrastructure (i.e., to construct the infrastructure to a size larger than required to service the Project) unless financial arrangements reasonably acceptable to Master Developer are made to compensate Master Developer for the incremental or additive costs of such upsizing. For example, if an upsizing to a water pipe size increases costs by 10% but adds 50% more capacity, the City shall only be responsible to compensate Master Developer for the 10% cost increase. An acceptable financial arrangement for upsizing of improvements means a reimbursement agreement entered into concurrently herewith by and between the City and Master Developer with respect to the Project.

10.2. **Amendments to Impact Fee Facility Plans.** To the extent that any Impact Fee Facility Plan is currently inconsistent with the Preliminary PUD and the System Improvements exhibit attached to this MDA, the City shall promptly commence and use good faith efforts to diligently pursue to completion an amendment to each such Impact Fee Facility Plan such that each such plan will be consistent with the Preliminary PUD and any other plan for the Property set forth in this MDA and use good faith efforts to cause each such plan to be so amended within twelve (12) months of the date hereof. Such amendments shall include, without limitation, (a) amending the City’s transportation master plan and any related transportation capital facilities plan to reflect the inclusion of each Capital Improvement Road with the alignment of such road consistent with the Preliminary PUD and the System Improvements exhibit attached to this MDA, (b) including the Open Space to be developed pursuant to the Preliminary PUD within the applicable parks Impact Fee Facility Plan, which will assume that the Open Space located within the Property will be improved with parks that qualify for reimbursement under such plan, (c) amending the water IFFP to include the requirements for water as set forth in the System Improvements exhibit attached to this MDA and otherwise herein; (d) amending the storm sewer
IFFP to include the requirements for storm sewer as set forth in the System Improvements exhibit attached to this MDA and otherwise herein and (e) including any other portion of the improvements contemplated on the Preliminary PUD or in the System Improvements exhibit attached to this MDA that are legally permissible to include in an IFFP, including any “system improvements”, within the applicable Impact Fee Facility Plan. If the City fails to so amend any of the IFFP plans as provided above, Master Developer may elect to cause the termination of the Stay Agreement or, to the extent applicable, file a complaint objecting to the annexation of the Property as described in the recitals to this MDA. The System Improvements located on the Property shall be designed and constructed in accordance with the Transportation Master Plan, the Water Master Plan and the Storm Drainage Master Plan (each as updated as required herein) to accommodate the Maximum Residential Units as shown on the Preliminary PUD that can be developed within the Property, along with the development and use of other adjacent property that may use the infrastructure improvements.

10.3. **Limitations on Impact Fee Use.** The City acknowledges and agrees that the Impact Fees generated from the Project are to be used first to fund any system improvements located or to be located on the Project. To the extent that, as reasonably determined by the City and Master Developer, the Impact Fees collected or to be collected from the Project exceed the cost of the system improvements located or to be located on the Project, such excess Impact Fees may be used by the City to fund off-Project costs to the extent permitted by applicable law.

11. **Default.**

11.1. **Notice.** If Master Developer or a Subdeveloper or the City fails to perform their respective obligations hereunder or to comply with the terms hereof, the party believing that a Default has occurred shall provide Notice to the other party. If the City believes that the Default has been committed by a Subdeveloper then the City shall also provide a courtesy copy of the Notice to Master Developer.

11.2. **Contents of the Notice of Default.** The Notice of Default shall:

11.2.1. **Specific Claim.** Specify the claimed event of Default;

11.2.2. **Applicable Provisions.** Identify with particularity the provisions of any applicable law, rule, regulation or provision of this MDA that is claimed to be in Default;

11.2.3. **Materiality.** Identify why the Default is claimed to be material; and

11.2.4. **Optional Cure.** If the City chooses, in its discretion, it may propose a method and time for curing the Default which shall be of no less than sixty (60) days duration.

11.3. **Meet and Confer, Mediation, Arbitration.** Upon the issuance of a Notice of Default the Parties shall engage in the “Meet and Confer” and “Mediation” processes specified in Sections 5.11 and 5.13. If the claimed Default is subject to Arbitration as provided in Section 5.14 then the Parties shall follow such processes.

11.4. ** Remedies.** If the Parties are not able to resolve the Default by “Meet and Confer”
or by Mediation, and if the Default is not subject to Arbitration, or Arbitrator does not yield a desired result, then the Parties may have the following remedies:

11.4.1. **Law and Equity.** All rights and remedies available at law and in equity, including, but not limited to, injunctive relief, specific performance and/or damages; provided, however, Master Developer and/or Subdeveloper shall not pursue an action for monetary damages, except under the following circumstances: (a) any default by the City for non-payment of funds by the City, (b) any default arising from fraud, bad faith, or gross negligence by the City, (c) any default arising from the failure of the City to timely initiate and thereafter prosecute any acquisition of any portion of the rights-of-way and easements necessary for the System Improvements as required by this MDA, and/or (d) any default arising from the City where specific performance is unavailable as a remedy, provided that any claim under this clause (d) shall be capped at the amount of available insurance then maintained by the City.

11.4.2. **Self-help.** In the event of a default by the City, to the extent possible, Master Developer and/or Subdeveloper shall perform the City’s obligations. In such an event, the City shall reimburse the Master Developer and/or Subdeveloper for the costs incurred associated with the performance of the City’s obligations within ten (10) days after written demand. If the City fails to reimburse the Master Developer and/or Subdeveloper within such ten (10) day period, the amount due shall accrue interest at the Interest Rate. Notwithstanding the foregoing, if any amount owed by the City to the Master Developer and/or the Subdeveloper is not paid within ninety (90) days after such amount is due, Master Developer and/or the Subdeveloper shall have the right to exercise any remedies available under this MDA, at law or in equity against the City.

11.4.3. **Security.** The right to draw on any security posted or provided in connection with the Project and relating to remedying of the particular Default.

11.4.4. **Future Approvals.** The right to withhold all further reviews, approvals, licenses, building permits and/or other permits for development of (i) the Project in the case of a default by Master Developer, or (ii) those Parcels/Pods owned by the applicable Subdeveloper in the case of a default by such Subdeveloper, in each case until the applicable Default has been cured.

11.5. **Public Meeting.** Before any remedy in Section 11.4.3 may be imposed by the City, the party allegedly in Default shall be afforded the right to attend a public meeting before the Council and address the Council regarding the claimed Default.

11.6. **Emergency Defaults.** Anything in this MDA notwithstanding, if the Council finds on the record that a default materially impairs and creates a compelling, countervailing interest of the City and that any delays in imposing such a default would also result in a compelling, countervailing interest of the City then the City may impose the remedies of Section 11.4.3 and 11.4.4 without the requirements of Sections 11.3. The City shall give Notice to Master Developer and/or any applicable Subdeveloper of any public meeting at which an emergency default is to be considered and the Developer and/or any applicable Subdeveloper shall be allowed to address the City Council at that meeting regarding the claimed emergency Default.
11.7. **Extended Cure Period.** If any Default cannot be reasonably cured within sixty (60) days, then such cure period shall be extended so long as the defaulting party is pursuing a cure with reasonable diligence, but in no case longer than one-hundred twenty (120) days.

11.8. **Cumulative Rights.** The rights and remedies set forth herein shall be cumulative.

11.9. **Default of Assignee.** A default of any obligations assumed by an assignee shall not be deemed a default of Master Developer.

12. **Notices.** All notices required or permitted under this MDA shall, in addition to any other means of transmission, be given in writing by certified mail and regular mail to the following address:

**To the Master Developer:**

Dansie Land, LLC  
Attn: Richard P. Dansie  
7070 West 13090 South (Herriman Highway)  
Herriman, Utah 84096

**With a copy (which shall not be considered notice) to:**

Loyal C. Hulme, Esq.  
Kirton McConkie  
50 East South Temple  
Salt Lake City, Utah 84111

**To the City:**

Herriman City  
Attn: City Manager  
5355 Main Street  
Herriman, UT 84096

Herriman City  
Attn: City Attorney  
5355 Main Street  
Herriman, UT 84096

12.1. **Effectiveness of Notice.** Except as otherwise provided in this MDA, each Notice shall be effective and shall be deemed delivered on the earlier of:

12.1.1. **Hand Delivery.** Its actual receipt, if delivered personally, by courier service, or by facsimile provided that a copy of the facsimile Notice is mailed or personally delivered as set forth herein on the same day and the sending party has confirmation of
transmission receipt of the Notice). If the copy is not sent on the same day, then notice shall be deemed effective the date that the mailing or personal delivery occurs.

12.1.2. **Electronic Delivery.** Its actual receipt if delivered electronically by email provided that a copy of the email is printed out in physical form and mailed or personally delivered as set forth herein on the same day and the sending party has an electronic receipt of the delivery of the Notice. If the copy is not sent on the same day, then notice shall be deemed effective the date that the mailing or personal delivery occurs.

12.1.3. **Mailing.** On the day the Notice is postmarked for mailing, postage prepaid, by First Class or Certified United States Mail and actually deposited in or delivered to the United States Mail. Any party may change its address for Notice under this MDA by giving written Notice to the other party in accordance with the provisions of this Section.

13. **Estoppel Certificate.** Upon ten (10) calendar days prior written request by Master Developer or a Subdeveloper, the City will execute an estoppel certificate to any third party certifying that Master Developer or a Subdeveloper, as the case may be, at that time is not in default of the terms of this MDA.

14. **Attorneys’ Fees.** In addition to any other relief, the prevailing party in any action, whether at law, in equity or by arbitration, to enforce any provision of this MDA shall be entitled to its costs of action including a reasonable attorneys’ fee.

15. **Headings.** The captions used in this MDA are for convenience only and a not intended to be substantive provisions or evidences of intent.

16. **No Third Party Rights/No Joint Venture.** This MDA does not create a joint venture relationship, partnership or agency relationship between the City and Master Developer. Further, the Parties do not intend this MDA to create any third-party beneficiary rights. The Parties acknowledge that this MDA refers to a private development and that the City has no interest in, responsibility for or duty to any third parties concerning any improvements to the Property or unless the City has accepted the dedication of such improvements at which time all rights and responsibilities—except for warranty bond requirements under City’s Vested Laws and as allowed by state law—for the dedicated public improvement shall be the City's.

17. **Assignability.** The rights, responsibilities, benefits, obligations, and burdens of Master Developer under this MDA may be assigned in whole or in part by Master Developer with the consent of the City as provided herein; provided that no such consent shall be required to so assign to any Subdeveloper; provided further that Master Developer shall remain liable for the performance by any such assignee Subdeveloper except as otherwise provided herein, including, without limitation, Section 17.5.

17.1. **Sale of Lots.** Master Developer’s selling or conveying lots in any approved Subdivision or Parcels to builders, users, or Subdevelopers, shall not be deemed to be an “assignment” subject to the above-referenced approval by the City unless specifically designated as such an assignment by the Master Developer.
17.2. **Related Entity.** Master Developer’s transfer of all or any part of the Property to any entity “related” to Master Developer (as defined by regulations of the Internal Revenue Service), Master Developer’s entry into a joint venture for the development of the Project or Master Developer’s pledging of part or all of the Project as security for financing shall also not be deemed to be an “assignment” subject to the above-referenced approval by the City unless specifically designated as such an assignment by the Master Developer. Master Developer shall give the City Notice of any event specified in this sub-section within ten (10) days after the event has occurred. Such Notice shall include providing the City with all necessary contact information for the newly responsible party.

17.3. **Notice.** Master Developer shall give Notice to the City of any proposed assignment and provide such information regarding the proposed assignee that the City may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the City with all necessary contact information for the proposed assignee.

17.4. **Time for Objection.** To the extent City has consent rights to an assignment, unless the City objects in writing within twenty (20) business days of notice, the City shall be deemed to have approved of and consented to the assignment.

17.5. **Partial Assignment.** If any proposed assignment is for less than all of Master Developer’s rights and responsibilities then the assignee shall be responsible for the performance of each of the obligations contained in this MDA to which the assignee succeeds. Upon any such partial assignment, Master Developer shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned, provided that Master Developer shall not be so released upon any such partial assignment unless such Subdeveloper has (i) a net worth in excess of $10,000,000.00 at the time of such assignment; or (ii) acquires or is otherwise under contract to acquire all or substantially all of one or more Pods in connection with such assignment, whether such acquisition occurs (or is intended to occur) in a single transaction or a series of transactions; or (iii) if clauses (i) or (ii) do not apply, the Subdeveloper is otherwise reasonably acceptable to the City.

17.6. **Assignees Bound by MDA.** Any assignee shall consent in writing to be bound by the assigned terms and conditions of this MDA as a condition precedent to the effectiveness of the assignment.

17.7. **Release of Master Developer.** Master Developer represents and the City acknowledges that the Master Developer plans to sell portions of the Property and does not plan to develop any portion of the Property itself. Instead the Property will be developed by one or more Subdevelopers. As such, in the event Master Developer sells or conveys any portion of the Property, such sale shall be deemed a partial assignment and Sections 17.5 and 17.7 shall apply, and Master Developer shall be fully and completely released from any obligations whatsoever related to the portion of the Property sold, and the City shall look solely to the Subdeveloper for performance hereunder relating to the Parties of the Property sold.

18. **Binding Effect.** If Master Developer sells or conveys Parcels of lands to Subdevelopers or related parties, the lands so sold and conveyed shall bear the same rights, privileges, configurations, and Density as applicable to such Parcel and be subject to the same limitations and
rights of the City when owned by Master Developer and as set forth in this MDA without any required approval, review, or consent by the City except as otherwise provided herein. The City agrees that this MDA is a contract and contains contractual obligations of the City, and is fully enforceable and binding upon the City.

19. **No Waiver.** Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

20. **Severability.** If any provision of this MDA is held by a court of competent jurisdiction to be invalid for any reason, the Parties consider and intend that this MDA shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this MDA shall remain in full force and affect; provided, however, if any of the City’s representations, covenants, agreements, or obligations are invalidated, Master Developer shall have the right, in its sole and absolute discretion, to terminate this MDA and/or pursue any remedies available under this MDA.

21. **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this MDA which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

22. **Time is of the Essence.** Time is of the essence to this MDA and every right or responsibility shall be performed within the times specified.

23. **Appointment of Representatives.** To further the commitment of the Parties to cooperate in the implementation of this MDA, the City and Master Developer each shall designate and appoint a representative to act as a liaison between the City and its various departments and the Master Developer. The initial representative for the City shall be the City Manager and the initial representative for Master Developer shall be Loyal Hulme of Kirton McConkie, P.C. The Parties may change their designated representatives by Notice. The representatives shall be available at all reasonable times to discuss and review the performance of the Parties to this MDA and the development of the Project.

24. **Mutual Drafting.** Each party has participated in negotiating this MDA and therefore no provision of this MDA shall be construed for or against either party based on which party drafted any particular portion of this MDA.

25. **Applicable Law.** This MDA is entered into in Salt Lake County in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah’s choice of law rules.

26. **Venue.** Any action to enforce this MDA shall be brought only in the Third District Court for the State of Utah, Salt Lake County.
27. **Entire Agreement.** This MDA, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all Parties.

28. **Recordation and Running with the Land.** This MDA shall be recorded in the chain of title for the Project. This MDA shall be deemed to run with the land. The data disk of the City’s Vested Laws, Exhibit “C”, shall not be recorded in the chain of title. A secure copy of Exhibit “C” shall be filed with the City Recorder and each party shall also have an identical copy.

29. **Authority.** The Parties to this MDA each warrant that they have all of the necessary authority to execute this MDA. Specifically, on behalf of the City, the signature of the Mayor of the City is affixed to this MDA lawfully binding the City pursuant to Ordinance No. ___ adopted by the City on November __, 2017.

IN WITNESS WHEREOF, the Parties hereto have executed this MDA by and through their respective, duly authorized representatives as of the day and year first herein above written.

MASTER DEVELOPER
Dansie Land, LLC

CITY
Herriman City

By: Richard P. Dansie
Its: Manager

By: Brent Wood,
Its: City Manager

Approved as to form and legality:  Attest:

City Attorney

City Recorder
CITY ACKNOWLEDGMENT

STATE OF UTAH )
    :ss.
COUNTY OF UTAH )

On the _____ day of ______, personally appeared before me __________ who being by me duly sworn, did say that he is the City Manager of Herriman City, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the City by authority of its City Council and said City Manager acknowledged to me that the City executed the same.

__________________________________
NOTARY PUBLIC

My Commission Expires: ________________

Residing at: _________________________

MASTER DEVELOPER ACKNOWLEDGMENT

STATE OF UTAH )
    :ss.
COUNTY OF UTAH )

On the _____ day of ______, 2017, personally appeared before me ______, who being by me duly sworn, did say that he is the Manager of ______________, a Utah limited liability company and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

______________________________
NOTARY PUBLIC

My Commission Expires: ________________

Residing at: _________________________
| Exhibit “A” | Legal Description of Property |
| Exhibit “B” | Capital Improvement Roads |
| Exhibit “C” | City’s Vested Laws |
| Exhibit “D” | General Plan |
| Exhibit “E” | MDA Ordinance |
| Exhibit “F” | Preliminary PUD |
| Exhibit “G” | System Improvements on Property |
| Exhibit “H” | Zoning Map |
| Exhibit “I” | Traffic Study |
| Exhibit “J” | Storm Drain Requirements |
Exhibit “A”
Legal Description of Property

OVERALL DESCRIPTION
A portion of the SE1/4 and SW1/4 of Section 33, and a portion of Section 34, Township 3 South, Range 2 West, Salt Lake Base and Meridian, Herriman, Utah, more particularly described as follows:

Beginning at the South ¼ Corner of Section 34, T3S, R2W, SLB&M; thence N89°53'28"W along the Section line 1,208.30 feet; thence N0°14'55"W 892.87 feet to the centerline of Herriman Highway; thence along said centerline the following 2 (two) courses and distances: S75°27'00"W 1,252.37 feet; thence S76°37'00"W 238.88 feet; to the Section line; thence N0°18'05"W along the Section line 803.76 feet to the Southeast Corner of the NE1/4 of the SE1/4 of Section 33, T3S, R2W, SLB&M; thence N89°55'34"W along the 1/16th (40 acre) line 3984.36 feet; thence N0°38'23"W along the 1/16th (40 acre) line 1,323.55 feet to the 1/4 Section line; thence S89°55'59"E along the 1/4 Section line 3992.18 feet to the East ¼ Corner of Section 33; thence S89°51'43"E along the 1/4 Section line 1,329.78 feet to the West 1/16th Corner of Section 34; thence N0°14'07"W along the 1/16th (40 acre) line 1,326.55 feet to the Center 1/16th Corner of the NW1/4 of Section 34; thence S89°49'23"E along the 1/16th (40 acre) line 2,661.98 feet to the Center 1/16th Corner of the NE1/4 of Section 34; thence S0°07'34"E along the 1/16th (40 acre) line 1,342.76 feet to the Northerly line of Plat “B”, WESTERN CREEK Subdivision, according to the Official Plat thereof on file in the Office of the Salt Lake County Recorder; thence S79°59'39"W along said plat 6.09 feet; thence S0°12'42"E along said plat 779.78 feet; thence N89°59'57"W 132.48 feet; thence South 187.10 feet; thence N71°29'13"E 140.30 feet to the west line of said plat; thence South along said plat 37.63 feet; thence S0°07'34"E 4.93 feet to the 1/16th (40 acre) line; thence S0°07'34"E along the 1/16th (40 acre) line 82.51 feet; thence N89°55'05"W 165.00 feet; thence S0°07'34"E 264.36 feet to the north line of CHRISTOFFERSEN ESTATES Subdivision, according to the Official Plat thereof on file in the Office of the Salt Lake County Recorder; thence N89°51'03"W along said plat 1,163.36 feet to the 1/4 Section line; thence S0°10'55"E 1,322.27 feet to the point of beginning.

LESS AND EXCEPTING COLTON Subdivision, according to the Official Plat thereof on file in the Office of the Salt Lake County Recorder and Tracts Previously Conveyed.
ALSO LESS AND EXCEPTING that Real Property described in Deed Bool 7011 Page 1538 of the Official Records of Salt Lake County described by deed as follows:

Beginning on the North right of way line of Utah Highway 111, said point being South 1106.76 feet and West 1844.51 feet from the East Quarter Corner of Section 34, Township 3 South, Range 2 West, Salt Lake Base and Meridian, said point also being South 71°29’ West 1945.21 feet and North 28.00 feet from the Salt Lake County Witness Monument located in said highway; and running thence South 71°29’ West 100 feet; thence North 459.41 feet; thence North 71°29’ East 100.00 feet; thence South 459.41 feet to the point of beginning.

‘Net’ Area: 372.97± acres
Exhibit “B”
Capital Improvement Roads

(see attached)
Exhibit “C”
City’s Vested Laws

(see attached)
Exhibit “D”
General Plan
Exhibit “E”
MDA Ordinance

(see attached)
HERRIMAN, UTAH

ORDINANCE NO. 17.

AN ORDINANCE OF THE CITY COUNCIL OF HERRIMAN
APPROVING A MASTER DEVELOPMENT AGREEMENT FOR HIDDEN OAKS
WITH RESPECT TO APPROXIMATELY 372.97 ACRES OF REAL PROPERTY
LOCATED AT APPROXIMATELY 7000 WEST HERRIMAN MAIN STREET

WHEREAS, the Herriman City Council (“Council”) met in regular meeting on February _, 2018, to consider, among other things, an ordinance of the City Council of Herriman approving a Master Development Agreement for Hidden Oaks (the “Development Agreement”) with respect to approximately 371.97 acres of real property located at approximately 7000 West Herriman Main Street owned or controlled by Dansie Land, LLC (“Dansie Land”); and

WHEREAS, the Utah Code Ann. § 10-9a-102 authorizes, among other things, that the City may enter into development agreements; and

WHEREAS, staff has presented to the Council the Development Agreement for the referenced property; and

WHEREAS, Council has reviewed the Development Agreement and hereby find that (i) entering into the Development Agreement is permitted under and consistent the City code; and (ii) it is in the best interests of the City to enter into the Development Agreement.

NOW, THEREFORE, BE IT ORDAINED that the Development Agreement is approved, and the City Manager and Recorder are hereby authorized and directed to execute and deliver the same; and

BE IT FURTHER ORDAINED that the City Manager may make formal, nonsubstantive changes in the Development Agreement as may be agreed to by the City Manager and Dansie Land, including without limitation to the exhibits thereto, insofar as it is necessary to bring the document into conformance with the intent of the approval granted herein and to provide for ease of readability, including, without limitation, (i) creating a table of contents; (ii) correcting internal cross references; (iii) revising headings and titles for sections and other subdivisions; (iv) revising section numbers; (v) updating exhibits to reflect comments included thereon at the time of approval or to cause changes that bring such exhibits into conformance with applicable City code; and (vi) other changes necessary to preserve the original meaning of the Development Agreement; but in no case, shall the City Manager make any change in the meaning or effect of Development Agreement as approved.

PASSED AND APPROVED by the Council of Herriman, Utah, this _ day of February, 2018.

HERRIMAN
ATTEST:

Jackie Nostrom, CMC City Recorder

Mayor David Watts
Exhibit “F”
Preliminary PUD

(see attached)
Exhibit “G”
System Improvements on Property

(see attached)
Exhibit “H”
Zoning Map
Exhibit “I”
Traffic Study
(see attached)
Exhibit “J”
Storm Drain Requirements

- Prior to Engineering approval of the first phase of the development, the Master Developer or the Sub Developer must provide an approved Storm Drain Master Plan outlining the required storm drain infrastructure to service the development in order to comply with local standards and requirements including but not limited to the Herriman City Standards.

- Detention Ponds are allowed to be constructed with highwater depths greater than 4.0’ if a perimeter fence is installed around the pond.

- Temporary Detention Ponds within the development area will not be allowed. Each phase of construction will be required to provide the permanent detention pond that will handle flows from the phase being developed. This may require off-site storm drain infrastructure or easements. Temporary Retention ponds may be allowed if approved by the city engineer and a permanent detention pond plan is in place for the temporary retention pond.

- Storm Drain Discharge locations shall be approved by the governing entity.

- The storm drain piping shall be designed at a minimum 0.5% slope unless approved by the city engineer.
DATE: January 18, 2018
TO: The Honorable Mayor and City Council
FROM: Michael Maloy, City Planner
MEETING: City Council 01/24/2018
REQUEST: Proposed development located at approximately 16750 S Camp Williams Road

Summary
The developer, Ken Olson and Gary McDougal, is proposing a development agreement for approximately 112 acres of property located on Camp Williams Road (Redwood Road). They currently have an application pending for 266 units of apartments and townhomes, but would like to propose a different plan that would outline the type of units and timeline for each phase.

The City Council should review the proposed development agreement and give staff and the developer direction on moving forward.

Site
The parcel is located at approximately 16750 S Camp Williams Road and contains 112 acres.

Zoning
The site is currently had 3 different zones. There is approximately 17 acres zoned C-2 (Commercial), 36 acres zoned R-M (Multi Family Residential), and 60 acres are MU-2 (Mixed Use).

General Plan
Due to the successful referendum, we are now operating under the 2014 General Plan. The 2014 GP shows the property as Commercial and Industrial.
Discussion

The property currently has 36 acres of R-M (Multi Family Residential) zoning. This would allow up to 20 units per acre on the entire property, for over 700 units of apartments. The developer currently has a pending application for 266 units of apartments and townhomes on 13 acres of the R-M property. The MU-2 portion of the property could be developed at 10 units per acre, for an additional 600 units. This would be approximately 1,300 units over the entire project.

The developer has suggested that he would be willing to put that application on hold and enter into a development agreement to outline the type of development on the property and the phasing. The development agreement has a site plan that requests 1,002 units. The Council previously discussed the agreement and asked to see more details on the amenities that would be included in the project. The developer has amended the development agreement to include information regarding the various amenities and lifestyle that would be provided.

The draft development agreement states that the project would be developed in 5 phases, as outlined below:

1. **Phase 1.** Phase 1 will be comprised of 156 townhome units located on approximately 13 acres within the Property. Density equals 12 units per acre.

2. **Phase 2.** Phase 2 will occupy 20 acres within the Property and will consist solely of commercial development.

3. **Phase 3.** Phase 3 will be comprised of 396 stacked units located on approximately 22 acres within the Property. Density equals 18 units per acre.

4. **Phase 4.** Phase 4 will occupy 25 acres within the Property and will consist solely of commercial development.

5. **Phase 5-A and 5-B.** For purposes of density allocations under this Agreement, Phases 5-A and 5-B will be treated as one (1) phase. Phase 5-A will be comprised of 120 townhome units located on approximately 12 acres within the Property. Density equals 10 units per acre. Phase 5-B. Phase 5-B will be comprised of 330 stacked units located on approximately 33 acres within the
Property. Density equals 10 units per acre. Together, treating them as one phase, Phases 5-A and 5-B will have a maximum of 450 units on 45 acres.

**Recommendation**

Staff recommends reviewing the proposed development agreement and site plan and giving the applicant direction.
MASTER DEVELOPMENT AGREEMENT
FOR
HERRIMAN CROSS ROADS PROJECT

October ____ 2017
MASTER DEVELOPMENT AGREEMENT
FOR
HERRIMAN CROSS ROADS PROJECT

THIS MASTER DEVELOPMENT AGREEMENT is made and entered as of the 20th day of October____, 2017, by and between Herriman City, a Utah municipality and the undersigned persons/entities, which are collectively referred to herein as “Master Developer.”

RECITALS

A. The capitalized terms used in this MDA and in these Recitals are defined in Section 1.2, below.

B. Master Developer owns the Property.

C. Master Developer and the City desire that the Property be developed in a unified and consistent fashion in accordance with the provisions of this MDA.

D. The parties acknowledge that development of the Property pursuant to this MDA will result in significant planning and economic benefits to the City and its residents by, among other things, requiring orderly development of the Property as a master planned community and increasing property tax and other revenues to the City based on improvements to be constructed on the Property.

E. The parties desire to enter into this MDA to specify the rights and responsibilities of the Master Developer to develop the Property as expressed in this MDA and the rights and responsibilities of the City to allow and regulate such development pursuant to the requirements
of this MDA.

F. The parties understand and intend that this MDA is a “development agreement” within
the meaning of, and entered into pursuant to the terms of Utah Code Ann. §10-9a-101 et seq.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other
good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the
City and Master Developer hereby agree to the following:

TERMS

1. **Incorporation of Recitals and Exhibits/ Definitions.**

1.1. **Incorporation.** The foregoing Recitals and Exhibits “A” - “__” are hereby
incorporated into this MDA.

1.2. **Definitions.** As used in this MDA, the words and phrases specified below shall have
the following meanings:

1.2.1. **Act** means the Land Use, Development, and Management Act, Utah Code Ann.
§ 10-9a-101, et seq.

1.2.2. **Addendum No. 1** means the attachment hereto that contain the terms of this
MDA that are unique to the Project.

1.2.3. **Administrator** means the person designated by the City as the Administrator of
this MDA.

1.2.4. **Applicant** means a person or entity submitting a Development Application.

1.2.5. **Buildout** means the completion of all of the development on the entire Project
in accordance with the approved plans.

1.2.6. **City** means the Herriman City, a Utah municipality.
1.2.7. **City Consultants** means those outside consultants employed by the City in various specialized disciplines such as traffic, hydrology or drainage for reviewing certain aspects of the development of the Project.

1.2.8. **City’s Future Laws** means the ordinances, policies, standards, and procedures which may be in effect as of a particular time in the future when a Development Application is submitted for a part of the Project and which may or may not be applicable to the Development Application depending upon the provisions of this MDA.

1.2.9. **City’s Vested Laws** means the ordinances, policies, standards and procedures of the City in effect as of the date of this MDA, a digital copy of which is attached as Exhibit “__”.

1.2.10. **Council** means the elected City Council of the City.

1.2.11. **Default** means a material breach of this MDA as specified herein.

1.2.12. **Denied** means a formal denial issued by the final decision-making body of the City for a particular type of Development Application but does not include review comments or “redlines” by City staff.

1.2.13. **Development** means the development of a portion of the Property pursuant to an approved Development Application.

1.2.14. **Development Application** means an application to the City for development of a portion of the Project including a Subdivision or any other permit, certificate or other authorization from the City required for development of the Project.

1.2.15. **Development Report** means a report containing the information specified in Sections 3.5 or 3.6 submitted to the City by Master Developer for a Development by
Master Developer or for the sale of any Parcel to a Subdeveloper or the submittal of a Development Application by a Subdeveloper pursuant to an assignment from Master Developer.

1.2.16. **Final Plat** means the recordable map or other graphical representation of land prepared in accordance with Utah Code Ann. § 10-9a-603, or any successor provision, and approved by the City, effectuating a Subdivision of any portion of the Project.

1.2.17. **Master Developer** means Gary McDougal and Ken Olson as Owners/Managers of S. A. McDougal LLC, Mac8 LLC, FlyFam, LLC and KSO Trust, and their respective assignees or transferees as permitted by this MDA.

1.2.18. **Maximum Residential Units** means the development on the Property of One Thousand Two (1,002) Residential Dwelling Units, as set forth in the Exhibits hereto.

1.2.19. **MDA** means this Master Development Agreement including all of its Exhibits and Addendum No. 1.

1.2.20. **Notice** means any notice to or from any party to this MDA that is either required or permitted to be given to another party.

1.2.21. **Open Space** shall have the meaning specified in Section 10-20-9 of the City’s Vested Laws.

1.2.22. **Outsourcing** means the process of the City contracting with City Consultants or paying overtime to City employees to provide technical support in the review and approval of the various aspects of a Development Application as is more fully set out in this MDA.
1.2.23. **Parcel** means a portion of the Property that is created by the Master Developer to be sold to a Subdeveloper as a Subdivision that is not an individually developable lot as specified in Section 6.9.

1.2.24. **Planning Commission** means the City’s Planning Commission.

1.2.25. **Pod** means an area of the Project as generally illustrated on the Preliminary PUD intended for a certain number of Residential Dwelling Units.

1.2.26. **Preliminary PUD** means that plan for the development of the Project attached as Exhibit “__”.

1.2.27. **Project** means the total development to be constructed on the Property pursuant to this MDA with the associated public and private facilities, and all of the other aspects approved as part of this MDA.

1.2.28. **Property** means the real property owned by Master Developer and to be developed by Master Developer more fully described in Exhibit "A".

1.2.29. **Public Infrastructure** means those elements of infrastructure that are planned to be dedicated to the City as a condition of the approval of a Development Application.

1.2.30. **Residential Dwelling Unit** means a structure or portion thereof designed and intended for use as a single-family residence or as may be specified in Addendum No. 1.

1.2.31. **Subdeveloper** means a person or an entity not “related” (as defined by Section 165 of the Internal Revenue Code) to Master Developer which purchases a Parcel for development.

1.2.32. **Subdivision** means the division of any portion of the Project into developable lots pursuant to State Law and/or the Zoning Ordinance.
1.2.33. **Subdivision Application** means the application to create a Subdivision.

1.2.34. **Zoning Ordinance** means the City’s Land Use and Development Ordinance adopted pursuant to the Act that was in effect as of the date of this MDA as a part of the City’s Vested Laws.

2. **Development of the Project.**

2.1. **Compliance with the Preliminary PUD and this MDA.** Development of the Project shall be in accordance with the City’s Vested Laws, the City’s Future Laws (to the extent that these are applicable as otherwise specified in this MDA), the Preliminary PUD and this MDA.

2.2. **Maximum Residential Units.** At Buildout of the Project, Master Developer shall be entitled to have developed the Maximum Residential Units as specified in and pursuant to this MDA.

2.3. **Limits on Transfer of Residential Dwelling Units Between Pods.** The Parties acknowledge that the exact configuration of the final layout of the Project may vary from that shown in the Preliminary PUD due to final road locations, market forces and other factors that are unforeseeable. Master Developer may transfer the location of Residential Dwelling Units between and among Pods so long as no Pod exceeds the Maximum Residential Dwelling Units for that Pod as specified in the Preliminary PUD. No transfer shall allow the Project to exceed the Maximum Residential Dwelling Units.

2.4. **Accounting for Residential Units for Parcels Sold to Subdevelopers.** Any Parcel sold by Master Developer to a Subdeveloper shall include the transfer of a specified portion of the Maximum Residential Units sold with the Parcel. At the recordation of a Final Plat or other document of conveyance for any Parcel sold to a Subdeveloper, Master Developer
shall provide the City a Sub-Development Report showing the ownership of the Parcel(s) sold, the portion of the Maximum Residential Units and/or other type of use transferred with the Parcel(s), the amount of the Maximum Residential Units remaining with Master Developer and any material effects of the sale on the Preliminary PUD.

3. **Zoning and Vested Rights.**

3.1. **Zoning.** The City has zoned the Property as C-2, MU-2, R-M.

3.2. **Vested Rights Granted by Approval of this MDA.** To the maximum extent permissible under the laws of Utah and the United States and at equity, the City and Master Developer intend that this MDA grants Master Developer all rights to develop the Project in fulfillment of this MDA, the City’s Vested Laws and the Preliminary PUD except as specifically provided herein. The parties specifically intend that this MDA grant to Master Developer “vested rights” as that term is construed in Utah’s common law and pursuant to Utah Code Ann. § 10-9a-509.

3.3. **Exceptions.** The restrictions on the applicability of the City’s Future Laws to the Project as specified in Section 3.2 are subject to only the following exceptions:

   3.3.1. **Master Developer Agreement.** City’s Future Laws that Master Developer agrees in writing to the application thereof to the Project;

   3.3.2. **State and Federal Compliance.** City’s Future Laws which are generally applicable to all properties in the City and which are required to comply with State and Federal laws and regulations affecting the Project;

   3.3.3. **Codes.** City’s Future Laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the
APWA Specifications, AASHTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare;

3.3.4. Taxes. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the City to all properties, applications, persons and entities similarly situated; or,

3.3.5. Fees. Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law.

3.3.6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, and imposed by the City. Master Developer and Subdeveloper agree that the impact fees imposed on the Master Developer by the City meet all requirements of the U. S. Constitution, Utah Constitution, law and applicable statutes, including but not limited to Utah Code Ann. Section 11-36a-101 et seq.

3.3.7. Compelling, Countervailing Interest. Laws, rules or regulations that the City’s land use authority finds, on the record, are necessary to avoid jeopardizing a compelling, countervailing public interest pursuant to Utah Code Ann. §10-9a-509(1)(a)(i) (2016).

4. Term of Agreement. The term of this MDA shall be until 2042. If Master Developer has not been given Notice that it is in breach of this MDA on Jan 1, 2042 and if any such Default is not being cured then this MDA shall automatically be extended to Jan 1, 2062. This MDA shall
also terminate automatically at full Buildout.

5. **Processing of Development Applications.**

5.1. **Outsourcing of Processing of Development Applications.** Within fifteen (15) business days after receipt of a Development Application and upon the request of Master Developer the City and Master Developer will confer to determine whether the City desires to Outsource the review of any aspect of the Development Application to insure that it is processed on a timely basis. If the City determines that Outsourcing is appropriate then the City shall promptly estimate the reasonably anticipated differential cost of Outsourcing in the manner selected by the Master Developer or Subdeveloper in good faith consultation with the Master Developer or Subdeveloper (either overtime to City employees or the hiring of a City Consultant). If the Master Developer or a Subdeveloper notifies the City that it desires to proceed with the Outsourcing based on the City’s estimate of costs then the Master Developer or Subdeveloper shall deposit in advance with the City the estimated differential cost and the City shall then promptly proceed with having the work Outsourced. Upon completion of the Outsourcing services and the provision by the City of an invoice (with such reasonable supporting documentation as may be requested by Master Developer or Subdeveloper) for the actual differential cost (whether by way of paying a City Consultant or paying overtime to City employees) of Outsourcing, Master Developer or the Subdeveloper shall, within ten (10) business days pay or receive credit (as the case may be) for any difference between the estimated differential cost deposited for the Outsourcing and the actual cost differential.

5.2. **Acceptance of Certifications Required for Development Applications.** Any Development Application requiring the signature, endorsement, or certification and/or
stamping by a person holding a license or professional certification required by the State of Utah in a particular discipline shall be so signed, endorsed, certified or stamped signifying that the contents of the Development Application comply with the applicable regulatory standards of the City. The City should endeavor to make all of its redlines, comments or suggestions at the time of the first review of the Development Application unless any changes to the Development Application raise new issues that need to be addressed.

5.3. **Independent Technical Analyses for Development Applications.** If the City needs technical expertise beyond the City’s internal resources to determine impacts of a Development Application such as for structures, bridges, water tanks, and other similar matters which are not required by the City’s Vested Laws to be certified by such experts as part of a Development Application, the City may engage such experts (as City Consultants) as City deems reasonably necessary, with the actual and reasonable costs being the responsibility of Applicant. If the City needs any other technical expertise other than as specified above, under extraordinary circumstances specified in writing by the City, the City may engage such experts (as City Consultants), with the actual and reasonable costs being the responsibility of Applicant.

5.4. **City Denial of a Development Application.** If the City denies a Development Application the City shall provide a written determination advising the Applicant of the reasons for denial including specifying the reasons the City believes that the Development Application is not consistent with this MDA, and/or the City’s Vested Laws (or, if applicable, the City’s Future Laws).

5.5. **Meet and Confer regarding Development Application Denials.** The City and
Applicant shall meet within fifteen (15) business days of any Denial to resolve the issues specified in the Denial of a Development Application.

5.6. **City Denials of Development Applications Based on Denials from Non-City Agencies.** If the City’s denial of a Development Application is based on the denial of the Development Application by a Non-City Agency, Master Developer shall appeal any such denial through the appropriate procedures for such a decision and not through the processes specified below.

5.7. **Mediation of Development Application Denials.**

5.7.1. **Issues Subject to Mediation.** Issues resulting from the City’s Denial of a Development Application that are not subject to arbitration provided in Section 5.8 below shall be mediated and include the following:

(i) the location of On-Site Infrastructure, including utility lines and stub outs to adjacent developments,

(ii) right-of-way modifications that do not involve the altering or vacating of a previously dedicated public right-of-way,

(iii) interpretations, minor technical edits or inconsistencies necessary to clarify or modify documents consistent with their intended purpose of the Development Standards, and

(iv) the issuance of building permits.

5.7.2. **Mediation Process.** If the City and Applicant are unable to resolve a disagreement subject to mediation, the parties shall attempt within ten (10) business days to appoint a mutually acceptable mediator with knowledge of the legal issue in dispute. If the parties are unable to agree on a single acceptable mediator they shall
each, within ten (10) business days, appoint their own representative. These two representatives shall, between them, choose the single mediator. Applicant shall pay the fees of the chosen mediator. The chosen mediator shall within fifteen (15) business days, review the positions of the parties regarding the mediation issue and promptly attempt to mediate the issue between the parties. If the parties are unable to reach agreement, the mediator shall notify the parties in writing of the resolution that the mediator deems appropriate. The mediator's opinion shall not be binding on the parties.

5.8. **Arbitration of Development Application Objections.**

5.8.1. **Issues Subject to Arbitration.** Issues regarding the City’s Denial of a Development Application that are subject to resolution by scientific or technical experts such as traffic impacts, water quality impacts, pollution impacts, etc. are subject to arbitration.

5.8.2. **Mediation Required Before Arbitration.** Prior to any arbitration the parties shall first attempt mediation as specified in Section 5.7.

5.8.3. **Arbitration Process.** If the City and Applicant are unable to resolve an issue through mediation, the parties shall attempt within ten (10) business days to appoint a mutually acceptable expert in the professional discipline(s) of the issue in question. If the parties are unable to agree on a single acceptable arbitrator they shall each, within ten (10) business days, appoint their own individual appropriate expert. These two experts shall, between them, choose the single arbitrator. Applicant shall pay the fees of the chosen arbitrator. The chosen arbitrator shall within fifteen (15) business days, review the positions of the parties regarding the arbitration issue and render a decision. The arbitrator shall ask the prevailing party to draft a proposed order for consideration.
and objection by the other side. Upon adoption by the arbitrator, and consideration of such objections, the arbitrator's decision shall be final and binding upon both parties. If the arbitrator determines as a part of the decision that the City’s or Applicant’s position was not only incorrect but was also maintained unreasonably and not in good faith then the arbitrator may order the City or Applicant to pay the arbitrator’s fees.

5.9. **Parcel Sales.** The City acknowledges that the precise location and details of the public improvements, lot layout and design and any other similar item regarding the development of a particular Parcel may not be known at the time of the creation of or sale of a Parcel. Master Developer may obtain approval of a Subdivision as is provided in Utah Code Ann., Section 10-9a-103(57)(c)(v) (2017) that does not create any individually developable lots in the Parcel without being subject to any requirement in the City’s Vested Laws to complete or provide security for any Public Infrastructure at the time of such subdivision. The responsibility for completing and providing security for completion of any Public Infrastructure in the Parcel shall be that of the Master Developer or a Subdeveloper upon a subsequent re-Subdivision of the Parcel that creates individually developable lots. However, construction of improvements shall not be allowed until the Master Developer or Subdeveloper complies with the City’s Vested Laws.

6. **Addendum No. 1.** Addendum No. 1 contains the provisions of this MDA that are unique to the development of the Project.

7. **Application Under City’s Future Laws.** Without waiving any rights granted by this MDA, Master Developer may at any time, choose to submit a Development Application for all of the Project under the City’s Future Laws in effect at the time of the Development Application so long as Master Developer and any Subdeveloper is not in current breach of this Agreement.
8. **Public Infrastructure.**

8.1. **Construction by and Master Developer.** Master Developer shall have the right and the obligation to construct or cause to be constructed and installed all Public Infrastructure reasonably and lawfully required as a condition of approval of the Development Application.

8.2. **Bonding.** If and to the extent required by the City's Vested Laws, unless otherwise provided by Chapter 10-9a of the Utah Code as amended, security for any Public or private Infrastructure—is required by the City it shall provide in a form acceptable to the City as specified in the City's Vested Laws. Partial releases of any such required security shall be made as work progresses based on the City's Vested Laws.

9. **Upsizing/Reimbursements to Master Developer.**

9.1. "**Upsizing**". The City shall not require Master Developer to “upsize” any future Public Infrastructure (i.e., to construct the infrastructure to a size larger than required to service the Project) unless financial arrangements reasonably acceptable to Master Developer are made to compensate Master Developer for the incremental or additive costs of such upsizing. For example, if an upsizing to a water pipe size increases costs by 10% but adds 50% more capacity, the City shall only be responsible to compensate Master Developer for the 10% cost increase. An acceptable financial arrangement for upsizing of improvements means reimbursement agreements, payback agreements, and impact fee credits and reimbursements.

10. **Default.**

10.1. **Notice.** If Master Developer or a Subdeveloper or the City fails to perform their respective obligations hereunder or to comply with the terms hereof, the party believing *
that a Default has occurred shall provide Notice to the other party. If the City believes that the Default has been committed by a Subdeveloper then the City shall also provide a courtesy copy of the Notice to Master Developer.

10.2. **Contents of the Notice of Default.** The Notice of Default shall:

10.2.1. **Specific Claim.** Specify the claimed event of Default;

10.2.2. **Applicable Provisions.** Identify with particularity the provisions of any applicable law, rule, regulation or provision of this MDA that is claimed to be in Default;

10.2.3. **Materiality.** Identify why the Default is claimed to be material; and

10.2.4. **Optional Cure.** If the City chooses, in its discretion, it may propose a method and time for curing the Default which shall be of no less than thirty (30) days duration.

10.3. **Meet and Confer, Mediation, Arbitration.** Upon the issuance of a Notice of Default the parties shall engage in the “Meet and Confer” and “Mediation” processes specified in Sections 5.5 and 5.7. If the claimed Default is subject to Arbitration as provided in Section 5.8 then the parties shall follow such processes.

10.4. **Remedies.** If the parties are not able to resolve the Default by “Meet and Confer” or by Mediation, and if the Default is not subject to Arbitration then the parties may have the following remedies:

10.4.1. **Law and Equity.** All rights and remedies available at law and in equity, including, but not limited to, injunctive relief and/or specific performance.

10.4.2. **Security.** The right to draw on any security posted or provided in connection with the Project and relating to remedying of the particular Default.

10.4.3. **Future Approvals.** The right to withhold all further reviews, approvals,
licenses, building permits and/or other permits for development of the Project in the case of a default by Master Developer, or in the case of a default by a Subdeveloper, development of those Parcels owned by the Subdeveloper until the Default has been cured.

10.5. Public Meeting. Before any remedy under this Agreement may be imposed by the City the party allegedly in Default shall be afforded the right to attend a public meeting before the City Council and address the City Council regarding the claimed Default.

10.6. Emergency Defaults. Anything in this MDA notwithstanding, if the City Council finds on the record that a default materially impairs a compelling, countervailing interest of the City and that any delays in imposing such a default would also impair a compelling, countervailing interest of the City then the City may impose the remedies of Section ____ without first meeting the requirements of Sections 5.7. The City shall give Notice to Master Developer and/or any applicable Subdeveloper of any public meeting at which an emergency default is to be considered and the Developer and/or any applicable Subdeveloper shall be allowed to address the City Council at that meeting regarding the claimed emergency Default.

10.7. Extended Cure Period. If any Default cannot be reasonably cured within thirty (30) days then such cure period shall be extended so long as the defaulting party is pursuing a cure with reasonable diligence.

10.8. Default of Assignee. A default of any obligations assumed by an assignee shall not be deemed a default of Master Developer.

10.9. Limitation on Recovery for Default – No Damages. Anything in this MDA notwithstanding no party shall be entitled to any claim for any monetary damages as a
result of any breach of this MDA and each Party waives any claims thereto. The sole remedy available to Master Developer or any Subdeveloper shall be that of specific performance.

11. **Notices.** All notices required or permitted under this Amended Development Agreement shall, in addition to any other means of transmission, be given in writing by certified mail and regular mail to the following address:

**To the Master Developer:**

Gary McDougal  
11576 S State #102b  
Draper Utah 84020

Ken S. Olson  
10299 S Springcrest Lane  
South Jordan, Utah 84095

**With a Copy to:**

**To the City:**

Herriman City  
Attn: City Manager

Herriman, UT  84096

Herriman City  
Attn: City Attorney

Herriman, UT  84096

11.1. **Effectiveness of Notice.** Except as otherwise provided in this MDA, each Notice shall be effective and shall be deemed delivered on the earlier of:
11.1.1. **Hand Delivery.** Its actual receipt, if delivered personally, by courier service, or by facsimile provided that a copy of the facsimile Notice is mailed or personally delivered as set forth herein on the same day and the sending party has confirmation of transmission receipt of the Notice). If the copy is not sent on the same day, then notice shall be deemed effective the date that the mailing or personal delivery occurs.

11.1.2. **Electronic Delivery.** Its actual receipt if delivered electronically by email provided that a copy of the email is printed out in physical form and mailed or personally delivered as set forth herein on the same day and the sending party has an electronic receipt of the delivery of the Notice. If the copy is not sent on the same day, then notice shall be deemed effective the date that the mailing or personal delivery occurs.

11.1.3. **Mailing.** On the day the Notice is postmarked for mailing, postage prepaid, by First Class or Certified United States Mail and actually deposited in or delivered to the United States Mail. Any party may change its address for Notice under this MDA by giving written Notice to the other party in accordance with the provisions of this Section.

12. **Headings.** The captions used in this MDA are for convenience only and are not intended to be substantive provisions or evidences of intent.

13. **No Third Party Rights/No Joint Venture.** This MDA does not create a joint venture relationship, partnership or agency relationship between the City and Master Developer. Further, the parties do not intend this MDA to create any third-party beneficiary rights. The parties acknowledge that this MDA refers to a private development and that the City has no interest in, responsibility for or duty to any third parties concerning any improvements to the Property or
unless the City has accepted the dedication of such improvements at which time all rights and responsibilities—except for warranty bond requirements under City’s Vested Laws and as allowed by state law—for the dedicated public improvement shall be the City's.

14. **Assignability.** The rights and responsibilities of Master Developer under this MDA may be assigned in whole or in part by Master Developer with the consent of the City as provided herein.

14.1. **Sale of Lots.** Master Developer’s selling or conveying lots in any approved Subdivision or Parcels to builders, users, or Subdevelopers, shall not be deemed to be an “assignment” subject to the above-referenced approval by the City unless specifically designated as such an assignment by the Master Developer.

14.2. **Related Entity.** Master Developer’s transfer of all or any part of the Property to any entity “related” to Master Developer (as defined by regulations of the Internal Revenue Service in Section 165), Master Developer’s entry into a joint venture for the development of the Project or Master Developer’s pledging of part or all of the Project as security for financing shall also not be deemed to be an “assignment” subject to the above-referenced approval by the City unless specifically designated as such an assignment by the Master Developer. Master Developer shall give the City Notice of any event specified in this subsection within ten (10) days after the event has occurred. Such Notice shall include providing the City with all necessary contact information for the newly responsible party.

14.3. **Notice.** Master Developer shall give Notice to the City of any proposed assignment and provide such information regarding the proposed assignee that the City may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the City with all necessary contact information for the proposed assignee.
14.4. **Time for Objection.** Unless the City objects in writing within twenty (20) business days of notice, the City shall be deemed to have approved of and consented to the assignment.

14.5. **Partial Assignment.** If any proposed assignment is for less than all of Master Developer’s rights and responsibilities then the assignee shall be responsible for the performance of each of the obligations contained in this MDA to which the assignee succeeds. Upon any such approved partial assignment Master Developer shall not be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations herein.

14.6. **Denial.** The City may only withhold its consent if the City is not reasonably satisfied of the assignee’s financial ability to perform the obligations of Master Developer proposed to be assigned or there is an existing breach of a development obligation owed to the City by the assignee or related entity that has not either been cured or in the process of being cured in a manner acceptable to the City. Any refusal of the City to accept an assignment shall be subject to the “Meet and Confer” and “Mediation” processes specified in Sections 5.6 and 5.7. If the refusal is subject to Arbitration as provided in Section 5.8 then the parties shall follow such processes.

14.7. **Assignees Bound by MDA.** Any assignee shall consent in writing to be bound by the assigned terms and conditions of this MDA as a condition precedent to the effectiveness of the assignment.

15. **Binding Effect.** If Master Developer sells or conveys Parcels of lands to Subdevelopers or related parties, the lands so sold and conveyed shall bear the same rights, privileges, configurations, and number of Residential Dwelling Units as applicable to such Parcel and be
subject to the same limitations and rights of the City when owned by Master Developer and as set forth in this MDA without any required approval, review, or consent by the City except as otherwise provided herein.

16. **No Waiver.** Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

17. **Severability.** If any provision of this MDA is held by a court of competent jurisdiction to be invalid for any reason, the parties consider and intend that this MDA shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this MDA shall remain in full force and effect.

18. **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

19. **Time is of the Essence.** Time is of the essence to this MDA and every right or responsibility shall be performed within the times specified.

20. **Appointment of Representatives.** To further the commitment of the parties to cooperate in the implementation of this MDA, the City and Master Developer each shall designate and appoint a representative to act as a liaison between the City and its various departments and the Master Developer. The initial representative for the City shall be the City Manager and the initial
representative for Master Developer shall be __________. The parties may change their designated representatives by Notice. The representatives shall be available at all reasonable times to discuss and review the performance of the parties to this MDA and the development of the Project.

21. **Applicable Law.** This MDA is entered into in Salt Lake County in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah’s choice of law rules.

22. **Venue.** Any action to enforce this MDA shall be brought only in the Third District Court for the State of Utah, Salt Lake City Division.

23. **Entire Agreement.** This MDA, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all parties.

24. **Mutual Drafting.** Each party has participated in negotiating and drafting this MDA and therefore no provision of this MDA shall be construed for or against either party based on which party drafted any particular portion of this MDA.

25. **Recordation and Running with the Land.** This MDA shall be recorded in the chain of title for the Project. This MDA shall be deemed to run with the land. The data disk of the City’s Vested Laws, Exhibit “C”, shall not be recorded in the chain of title. A secure copy of Exhibit “C” shall be filed with the City Recorder and each party shall also have an identical copy.

26. **Authority.** The parties to this MDA each warrant that they have all of the necessary authority to execute this MDA. Specifically, on behalf of the City, the signature of the City Manager of the City is affixed to this MDA lawfully binding the City pursuant to Resolution No. ___ adopted by the City on _____, 2017.

* 23
IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first herein above written.

MASTER DEVELOPER                        CITY
____________________________________    ________________
                                      Herriman City

____________________________________    ___________________
                                      ___________________
                                      By: ________________
                                      Its: _________________

By: ________________    By: __________,
Its: _________________    Its: City Manager

Approved as to form and legality:    Attest:

____________________________________    __________________
                                      City Attorney    City Recorder

CITY ACKNOWLEDGMENT

STATE OF UTAH    )
COUNTY OF UTAH    )
:ss.

On the _____ day of ______, personally appeared before me ___________ who being by me duly sworn, did say that he is the City Manager of Herriman City, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the City by authority of its City Council and said City Manager acknowledged to me that the City executed the same.

____________________________________
NOTARY PUBLIC

My Commission Expires: ________________
Residing at: _________________________
MASTER DEVELOPER ACKNOWLEDGMENT

STATE OF UTAH )
COUNTY OF UTAH )

On the _____ day of ______, 2017, personally appeared before me _____, who being by me duly sworn, did say that he is the Manager of ______________, a Utah limited liability company and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

______________________________
NOTARY PUBLIC

My Commission Expires: ________________

Residing at: _________________________

TABLE OF EXHIBITS

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<td>“B”</td>
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<tr>
<td>“C”</td>
<td>City’s Vested Laws</td>
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Exhibit A

Legal Description of the Property

PARCEL 1 DEED DESCRIPTION:
THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN.

PARCEL 1 AS-SURVEYED DESCRIPTION:
SITUATED IN THE COUNTY OF SALT LAKE. STATE OF UTAH AND IS DESCRIBED AS FOLLOWS: THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A GLO BRASS CAP ALSO BEING THE SOUTH 1/4 CORNER OF SAID SECTION 22, AND RUNNING THENCE SOUTH 89°55'45" WEST 1,322.86 FEET ALONG THE SOUTHERLY LINE OF SAID SECTION 22; THENCE NORTH 00°34'41" WEST 1,305.61 FEET; THENCE NORTH 89°38'20" EAST 1303.94 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF REDWOOD ROAD; THENCE SOUTH 19°53'27" EAST 74.59 FEET ALONG SAID RIGHT OF WAY LINE; THENCE SOUTH 00°18'25" EAST 1,242.20 FEET TO THE POINT OF BEGINNING. CONTAINING 39.827 ACRES, MORE OR LESS, (AS DESCRIBED).

PARCEL 2 DEED DESCRIPTION:
The northerly 990 FEET OF THE EAST ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, LESS AND EXCEPTING: BEGINNING 1,650 FEET NORTH AND 660 FEET EAST OF THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE EAST 660 FEET; THENCE NORTH 22 FEET; THENCE WEST 660 FEET; THENCE SOUTH 22 FEET TO BEGINNING. ALSO LESS AND EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE ROAD COMMISSION.

PARCEL 2 AS-SURVEYED DESCRIPTION:
SITUATED IN THE COUNTY OF SALT LAKE, STATE OF UTAH AND IS DESCRIBED AS FOLLOWS; THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A GLO BRASS CAP ALSO BEING THE NORTH 1/4 CORNER OF SAID SECTION 27, AND RUNNING THENCE SOUTH 00°12'07" WEST 990.00 FEET; THENCE SOUTH 89°55'44" WEST 1,321.22 FEET; THENCE NORTH 00°06'43" EAST 990.00 FEET TO THE NORTH LINE OF SAID SECTION 27; THENCE SOUTH 89°55'45" EAST 1,322.77 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING. CONTAINING 30.045 ACRES, MORE OR LESS, (AS DESCRIBED).

PARCEL 3 DEED DESCRIPTION:
BEGINNING AT THE SOUTHWEST CORNER OF THE DONALD ROZEMA PROPERTY; SAID CORNER BEING NORTH 975.00 FEET, MORE OR LESS, FROM THE SOUTH QUARTER CORNER OF SECTION 22, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE NORTH 254 FEET, MORE OR LESS, TO THE WESTERLY RIGHT OF WAY LINE OF THE CAMP WILLIAM HIGHWAY; THENCE SOUTH 19°36'00" EAST ALONG SAID RIGHT OF WAY LINE 269.62 FEET, MORE OR LESS, TO THE SOUTH BOUNDARY LINE OF THE DONALD ROSEMA PROPERTY; THENCE WEST ALONG SAID BOUNDARY LINE 90.43 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL 3 AS-SURVEYED DESCRIPTION:
SITUATED IN THE COUNTY OF SALT LAKE, STATE OF UTAH AND IS DESCRIBED AS FOLLOWS; THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 4 SOUTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT NORTH 00°18'25" WEST 975.00 FEET FROM A GLO BRASS CAP BEING THE SOUTH 1/4 CORNER OF SAID SECTION 22, AND RUNNING THENCE NORTH 00°18'25" WEST 267.20 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF REDWOOD ROAD; THENCE SOUTH 19°42'40" WEST 1,264.93 feet along the Westerly right-of-way line of Redwood Road and the West 1/16th line of said Section 22, said point being North 89°59'08" East 1,264.93 feet along the North Section line to said Westerly right-of-way line and South 19°42'40" East 174.15 feet along said Westerly right-of-way line from the Northwest Section Corner monument of said Section 22, and running thence along said Westerly right-of-way line of Redwood Road the next three courses and distances: South 19°42'40" West 589.26 feet; thence South 14°00'02" East 301.5 feet; thence South 19°42'40" East 3108.47 feet along said right of way line; thence North 00°18'25" West 93.37 FEET TO THE POINT OF BEGINNING. CONTAINING 0.286 ACRES, MORE OR LESS, (AS DESCRIBED).

PARCEL 4:
A parcel of land located in the East half of the Northwest Quarter, and the Northeast Quarter of the Southwest Quarter of Section 22, Township 4 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, Utah, and being more particularly described as follows: Beginning at a point at the intersection of the Westerly right-of-way line of Redwood Road and the West 1/16th line of said Section 22, said point being North 89°59'08" East 1,264.93 feet along the North Section line to said Westerly right-of-way line and South 19°42'40" East 174.15 feet along said Westerly right-of-way line from the Northwest Section Corner monument of said Section 22, and running thence along said Westerly right-of-way line of Redwood Road the next three courses and distances: South 19°42'40" West 589.26 feet; thence South 14°00'02" East 301.5 feet; thence South 19°42'40" East 3108.47 feet; thence leaving said Westerly right-of-way line South 89°58'53" West 1,304.37 feet to said West 1/16th line; thence North 00°34'36" West 1,311.35 feet to the East/West Center of Section line; thence North 00°00'32" West 2,462.31 feet, more or less, along said West 1/16th line to the point of beginning.
PARCEL 5:
The East Half of the Northwest Quarter and the Northeast Quarter of the Southwest Quarter of Section 22, Township 4 South, Range 1 West, Salt Lake Meridian, in Salt Lake County, Utah; ALSO beginning East 1297.5 feet from the Northwest Corner of Government Lot 2, said Section 22; and running thence East to the Jordan River; thence Southerly along said river to the South line of said Lot 2; thence West to the Southwest Corner of said Lot 2; thence North 1320 feet to the North line of said Lot 2; thence East 815 feet; thence South 17°30' West 545 feet; thence South 72°30' East 155 feet to a point on a canal; Northeasterly along said canal 860 feet more or less to beginning.

EXCEPTING THEREFROM that portion of the subject property which lies within the legal bounds of Camp Williams Road;

EXCEPTING THEREFROM that portion of the subject property which lies within the Utah Lake Irrigation Company canal right of way, which property is more particularly described as follows: Beginning at a point on the centerline of the canal, which point is 379.1 feet East of the Southeast Corner of the North Half of the Northeast Quarter of Section 22, Township 4 South, Range 1 West, Salt Lake Base and Meridian, thence a strip of land 2 rods to the right and 1-1/2 rods to the left of the centerline of the canal North 49°13'00" West 572.7 feet; thence on a 29°06' curve to the right 93.1 feet; thence a strip of land 3 rods to the right and 3 rods to the left of the centerline of the canal on a 29°06' curve to the right 93.1 feet; thence North 05°02'00" East 40.00 feet; thence a strip of land 2 rods to the right and 1-1/2 rods to the left of the centerline of canal, North 12°10'00" East 304.0 feet; thence on an 08°21' curve to the left, 198.3 feet; thence North 04°26'00" West 204.7 feet; thence North 05°02'00" East 425 feet to a point 51.1 feet West of the North Quarter Corner of said Section 22.

LESS AND EXCEPTING that portion of the subject property which lies within the railroad right-of-way scaled from the Denver & Rio Grande Railroad Right of Way & Track Map Station 2009+44.4 to 2220+44.5 dated June 30, 1919

EXCEPTING from the above-described parcels the tract sold to Utah and Salt Lake Canal Company which is more particularly described as follows: Beginning at a point which is 835 feet East and 680 feet South from the North Quarter Corner of Section 22, Township 4 South, Range 1 West, Salt Lake Base and Meridian, and running thence East 119 feet; thence South 300 feet; thence North 68°00'00" West 80 feet; thence North 65°30'00" West 150 feet; thence North 20°00'00" West 85 feet; thence North 40 feet, more or less, to the point of beginning.

ALSO EXCEPTING the following described tract: Beginning North along the Section line 45 feet from the center of said Section 22; and running thence South 70°24' West 315 feet more or less to the East right of way line of Redwood Road; thence North 19°36' West along said East right of way line 60 feet; thence North 70°24' East 336.67 feet to the Center Section line; thence South 63.69 feet to the point of beginning.

ALSO EXCEPTING the following described tract: A parcel of land located primarily in the Northeast Quarter of the Southwest Quarter of Section 22, Township 4 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, Utah, and being more particularly described as follows: Beginning at the Center of said Section 22, said point being South 89°57'52" East 2670.22 feet from the West Quarter Corner monument and South 00°18'34" East from the North Quarter Corner monument (basis of bearing is North 89°59'08" East 2647.02' feet from the Northwest Section Corner monument to the North Quarter Corner monument), and running thence South 00°18'34" East 777.88 feet along the Center of Section line to the Easterly right-of-way line of Redwood Road; thence along said Easterly right-of-way line the next three courses and distances: North 19°42'40" West 6.69 feet, more or less, to a found UDOT right-of-way monument; thence North 22°32'43" West 505.60 feet; thence North 19°42'40" West 263.45 feet; thence leaving Redwood Road, North 70°05'26" East 298.35 feet to said Center of Section line; thence South 00°18'34" East 45.00 feet to the point of beginning.

ALSO EXCEPTING the following described tract: A parcel of land in the Southeast Quarter of the Northeast Quarter of Section 22, Township 4 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, Utah, and being more particularly described as follows: Beginning at a point on the Center of said Section 22, said point being South 89°57'52" East 2670.22 feet from the West Quarter Corner monument and South 00°18'34" East from the North Quarter Corner monument (basis of bearing is North 89°59'08" East 2647.02' feet from the Northwest Section Corner monument to the North Quarter Corner monument), and running thence South 00°18'34" East 214.15 feet along said Westerly right-of-way line from the Northwest Section Corner monument of said Section 22, and running thence along said Westerly right-of-way line of Redwood Road the next three courses and distances: South 19°42'40" East 589.26 feet; thence South 14°00'02" East 301.5 feet; thence South 19°42'40" East 3108.47 feet; thence leaving said Westerly right-of-way line South 89°58'53" West 1304.37 feet to said West 1/16th line; thence North 00°34'36" West 1311.35 feet to the East/West Center of Section line; thence North 00°03'23" West 2462.31 feet, more or less, along said West 1/16th line to the point of beginning.

Salt Lake County Tax Parcel Numbers: 33-22-100-030, 33-22-400-018, 33-22-300-006, 33-27-100-018,
1. **Developer Dedication.** The Developer shall, by Special Warranty Deed, convey to the City the real property required by the City to fulfill its obligations regarding improvements and roadways as hereinafter set forth; provided, however, that Developer shall be entitled to fair reimbursement or compensation (through impact fee credits or otherwise) for conveyances or dedications relating to “system improvements” as opposed to “project improvements” as such terms are defined under state law.

*
2. **Phased Development.** The Property will be developed in a logical sequence as determined by the Developer except as noted below in paragraph 6. Each portion of the Development (referred to as a numbered “Phase”) has distinct requirements and restrictions with regard to density, infrastructure, and uses.

3. **Maximum Density and Requirements.** As depicted in the chart below, the Property shall be developed in accordance with the following provisions, with the understanding that density units may not be transferred from one phase to the other (i.e., the number of units listed is the maximum number of units allowed in each phase):

   a. **Phase 1.** Phase 1 will be comprised of 156 townhome units located on approximately 13 acres within the Property. Density equals 12 units per acre.

   b. **Phase 2.** Phase 2 will occupy 20 acres within the Property and will consist solely of commercial development.

   c. **Phase 3.** Phase 3 will be comprised of 396 stacked units located on approximately 22 acres within the Property. Density equals 18 units per acre.

   d. **Phase 4.** Phase 4 will occupy 25 acres within the Property and will consist solely of commercial development.

   e. **Phase 5-A and 5-B.** For purposes of density allocations under this Agreement, Phases 5-A and 5-B will be treated as one (1) phase. Phase 5-A will be comprised of 120 townhome units located on approximately 12 acres within the Property. Density equals 10 units per acre. Phase 5-B. Phase 5-B will be comprised of 330 stacked units located on approximately 33 acres within the Property. Density equals 10 units per acre. Together, treating them as one phase, Phases 5-A and 5-B will have a maximum of 450 units on 45 acres.
   a. Phase 2 commercial development shall be constructed (meaning the horizontal improvements are substantially complete) prior to the development of Phase 3.
   b. Phase 2 and Phase 4 commercial development shall be constructed prior to the development of Phase 5-AB.
   c. Phase 5-AB shall not be developed until the Mountain View Corridor is completed to allow for buffering between the Property or after a period of five (5) years from the date of this Agreement, whichever is shorter.

5. Amenities Overview. The amenity package developed for each residential phase is designed to create a lifestyle for the community of resort style living. The project will include active and passive activities including recreation, exercise, integrated trails for community connectivity, open space areas, etc. The buildings, amenities, design, recreation opportunities and open space will all be designed to create an active community that compliments the topography and natural distinctive features in the area. The amenities listed below for each phase of the development is predicated on the total number of planned units actually being built as set forth in paragraph 5 above.

<table>
<thead>
<tr>
<th>Phase</th>
<th>Type</th>
<th>Acres</th>
<th>Density</th>
<th>Units</th>
<th>Stacked</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phase 1</td>
<td>Townhomes R-M</td>
<td>13</td>
<td>12</td>
<td>156</td>
<td></td>
</tr>
<tr>
<td>Phase 2</td>
<td>Commercial C-2</td>
<td>20</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Phase 3</td>
<td>Stacked Units R-M</td>
<td>22</td>
<td>18</td>
<td>396</td>
<td></td>
</tr>
<tr>
<td>Phase 4</td>
<td>Commercial MU2</td>
<td>25</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Phase 5-AB</td>
<td>Townhomes MU2 Stacked</td>
<td>45</td>
<td>10</td>
<td>120</td>
<td>330</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>125</td>
<td></td>
<td>276</td>
<td>726</td>
</tr>
</tbody>
</table>
If the total number of units is reduced the total amenity package for that phase shall be proportionally reduced.

6. **Residential Amenities By Phase.** Each individual residential phase shall be developed with the amenities specified for each phase, as set forth in Exhibit “D” hereto.

7. **Trail System Overview.**
   
   a. All communities (Phases) shall have access to the integrated trail system that will run throughout the Property as depicted on Exhibit “E”.
   
   b. Hard trails/sidewalks will be incorporated into roadway areas based on the overall final design.
   
   c. The trail system will have elements of a natural trail for hiking, walking and bike access to the Jordan River Trail and the Mountain View Corridor Trail.
   
   d. The trail system will include two exercise stations to be built and located within Phase 3 and Phase 5. The final location of the exercise stations will be determined by Developer as each phase is completed.
   
   e. The trail system will have integrated view areas/sitting areas with benches.
   
   f. Jacob Welby Nature Trail will be integrated into trail system.
   
   g. The trail will run along the existing Jacob Welby Canal Road to points north including tying into the Beef Hollow Trail that will give access to the Jordan River Trail.
   
   h. The trail will generally follow and be located on the Jacob Welby Canal Road. If road access is unsuitable a four-foot-wide nature trail will be constructed off the edge of the Jacob Welby Canal Road.
   
   i. The trail will have two passive sitting areas with benches located based on views and proper spacing as determined by the Developer.
   
   j. All trails will tie together at logistical points for connectivity. All communities, including commercial phases, will include sidewalks or hard surface trails along roadways so all communities will have hard surface
access to the Jordan River Trail without the need to cross Camp Williams Road. The trail system will give access thru the underpass for inter-connectivity between all of the communities.

8. **Mountain View Corridor Nature Trail.**
   a. The trail will generally follow the Mountain View Corridor between the Mountain View Corridor and the Development in the open space area. This will be in addition to the hard surface Mountain View Corridor trail that is anticipated to be installed with the Mountain View Corridor by UDOT.
   b. The nature trail will have two passive sitting areas with benches located based on views and proper spacing to be determined by Developer.
   c. The trail will connect to east/west trails, the community trails, and future UDOT Mountain View Corridor trail.

9. **Beef Hollow - Deer Underpass Trail:**
   a. This trail will connect all trails to the Jordan River trail.
   b. At the deer underpass, the trail will consist of a nature trail and a hard surface to allow passage under Camp Williams Road. The trail may be combined thru the underpass.
   c. The trail will consist of a nature trail generally following the gully with a minimum of 6 feet in width.
   d. The east/west trail will incorporate a hard surface trail in addition to the nature trail where needed to give access from the communities to the Jordan River Trail.

10. **Interior Community Trails:**
    a. The trail system will be integrated and tie together to the interior trail or walkway/sidewalks within the phases.
    b. Two exercise stations will be integrated into the trails in to be completed with Phase 3 and Phase 5 as outlined above.
11. **Mountain View Corridor Nature Trail.**
   a. The trail will generally follow the Mountain View Corridor between the Mountain View Corridor and the Development in the open space area. This will be in addition to the hard surface Mountain View Corridor trail that is anticipated to be installed with the Mountain View Corridor by UDOT.
   b. The nature trail will have two passive sitting areas with benches located based on views and proper spacing to be determined by Developer.
   c. The trail will connect to east/west trails, the community trails, and future UDOT Mountain View Corridor trail.

12. **Beef Hollow - Deer Underpass Trail:**
   a. This trail will connect all trails to the Jordan River trail.
   b. At the deer underpass, the trail will consist of a nature trail and a hard surface to allow passage under Camp Williams Road. The trail may be combined thru the underpass.
   c. The trail will consist of a nature trail generally following the gully with a minimum of 6 feet in width.
   d. The east/west trail will incorporate a hard surface trail in addition to the nature trail where needed to give access from the communities to the Jordan River Trail.

13. **Interior Community Trails:**
   a. The trail system will be integrated and tie together to the interior trail or walkway/sidewalks within the phases.
   b. Two exercise stations will be integrated into the trails in to be completed with Phase 3 and Phase 5 as outlined above.

14. **Phase 5 Trails/Transfer of Ownership.** If the Herriman City/Camp Williams purchases Phase 5 the trails that are contemplated for Phase 5 will be adjusted accordingly. Any trails on the Phase 5 property will be approved based on the
new ownership by Herriman City. The owner of the property that develops at that time will be responsible for the installation of Phase 5 trails.

15. Improvements; Plats/Phases.

a. At the time of plat recordation for each phase the Developer and/or Owner of the subject phase shall be responsible for the installation and dedication to the City of all onsite and offsite sewer, storm drainage, and road improvements sufficient for the development of the portion of the property depicted on the plat in accordance with the City regulations.

b. All roadways within the Property shall be public roadways, which shall be constructed in accordance with the applicable City ordinances and regulations, and the approved construction drawings.

c. The City shall provide all public services to the Property (including, without limitation, water service, storm drain, road maintenance, snow removal, etc.) and maintain the related improvements, including roads, that are specifically intended to be public upon dedication to the City and acceptance in writing by the City at the end of the warranty period, so long as the improvements meet the standards set forth in the City's municipal code for public improvements. The City shall provide all such municipal services to the Property at the same levels of service, and on the same terms and rates, as provide to other residents and properties in the City.

Amenities to be Provided

1. Each individual residential phase shall be developed with the amenities specified for each phase, as set forth below:

a. Phase 1 Residential Townhome Amenities.

   i. Entry monument including signage, monument design and landscape designed to show that you have arrived at the Herriman Cross Roads community.
ii. Fencing on the property line along the Camp Williams right-of-way will be installed and will be either a solid five-foot masonry fencing or three rail masonry fencing. If the fencing is solid it will be designed to be staggered at strategic locations with landscaping to prevent having a straight line along the roadway.

iii. The hill area from the top of property line down to the asphalt along the Camp Williams right-of-way will be designed to have native grasses along with trees and shrubs spaced according to the final landscape plan.

iv. A playground will be built with a tot-lot for toddler age children and playground equipment suitable for pre-teens.

v. A nature trail will be improved and opened along the Jacob Welby Canal as it passes through the existing deer underpass and nature trail will connect to the Jordan River Trail.

vi. Phase 1 residents will have access to all recreation opportunities provided in Phase 3.

b. **Phase 3 Multi-Family Clubhouse and Amenities.**

i. Clubhouse.

1. A clubhouse will be built with a minimum of 4,000 sq. feet.

2. Community offices will be maintained in the clubhouse.

3. Gathering area with an oversized flat screen TV, kitchen, seating, etc. will be provided in the clubhouse.

4. A state-of-the-art fitness center containing a minimum of 1,800 sq. feet will be located within main clubhouse. Fitness center to include top of the line equipment including but not limited to treadmills, spin cycles, universal weights, free weights, etc. The fitness area will have a large open fitness center with large windows suitable for exercise classes.
5. The club house will house media rooms with computers, office opportunities, including a gaming room with multiple gaming stations and a business center.

6. Parcel lockers will be available in the clubhouse.

ii. Swimming Pool.

1. Swimming pool with a minimum size of 2,500 sq. feet. Will be provided.

2. Deck area around pool will be built and integrated into the clubhouse.

3. Lounge chairs, chairs, chaise couches, and an outdoor TV will be provided in the deck area.

iii. Hot Tub.

1. Hot tub with a minimum of 150 sq. feet will be provided.

2. Two large built in barbeque grills will be installed and integrated into the area around clubhouse and pool.

3. Pit or fireplace (gas) will be provided and integrated into area around deck and pool.

4. Splash pad to be installed near pool.

iv. Exercise Station.

1. Section of trail in Phase 3 will have one integrated exercise station.

v. Dog Park - Pet Area.

1. A dog park-pet area will be constructed on the west border of Phase 3 and will be shared with Phase 5.

vi. Pickleball & Basketball combined court.

vii. Large Playground area.
viii. Tot-lot playground area.

ix. Benches, sitting areas and a barbecue grill area including two grilling stations.

x. Upper level outdoor patio will be provided for views, reading, yoga, gathering etc. A large screen flat TV will also be provided on the outdoor patio and equipped with chairs, yoga gear, railings etc.

xi. Trail system that is integrated into the overall area and community. The trail to the west of Phase 2 and the trail on Phase 1 to be completed with the development of Phase 1.

xii. Bike storage in facility.

xiii. View Units.

1. All units to include decks or patios with oversize windows.

xiv. 20% of the units are required to be built with oversize glass for views.

xv. Signage and entry monument.

c. Phase 5 Residential Multi-Family Amenities and Recreation Center.

i. Clubhouse with a minimum of 4,000 sq. feet.

ii. Community offices in clubhouse.

iii. Gathering area, with oversized flat screen TVs, kitchen etc.

iv. State-of-the-art fitness center having a minimum of 2,000 sq. feet. Fitness center to be equipped with top of the line equipment including but not limited to treadmills, spin cycles, universal weights, free weights, yoga, an open fitness center suitable for exercise classes, etc.

v. Two media rooms including computers, office opportunities, and community theater area.
vi. Swimming Pool with a minimum size of 2500 sq. feet.

vii. Deck area around pool integrated into clubhouse.

viii. Lounge chairs, chairs, chaise couches, and outdoor TV to be provided around deck area.

ix. Hot tub having a minimum of 150 sq. feet.

x. Two large built-in barbecue grills integrated into deck area around clubhouse.

xi. Fire pit or fireplace (gas).

xii. Bike storage, community bike share.

xiii. Parcel locker system in clubhouse.

xiv. Demonstration kitchen in clubhouse.

 xv. Theatre room or sports bar in clubhouse.

xvi. Section of trail in Phase 3 to have one integrated exercise station.

xvii. Dog Park - Pet Area to be combined with Phase 3.

xviii. Pickleball and basketball combined court.

xix. Large playground area.

xx. Tot-lot playground area.

xxi. Benches, sitting areas and an additional barbecue grill area with two grill stations to be included.

xxii. Upper level outdoor patio will be provided for views, reading, yoga, gathering etc. A large screen flat TV will also be provided on the outdoor patio and equipped with chairs, yoga gear, railings etc.

xxiii. Trail system that is integrated into the overall area and community. The trail to the west of Phase 3 to be completed with this phase.

xxiv. View Units.

1. All units to include decks or patios with oversize windows.
2. 20% of the units are required to be built with oversize glass for views.

xxv. Signage & entry monument.

d. **Phase 5 Townhome Amenities.**
   
i. Completion of integrated trail system.

ii. Playground and tot-lot.

iii. All units to have, at a minimum, a two-car garage.

iv. Sitting areas with benches etc.

v. Remaining open space areas.

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**Herriman Crossroads**

**Design Guidelines/Requirements**

The Design Guidelines for this Project detail the objectives of all residential construction within the Herriman Crossroads Community. Nothing in these Design Guidelines shall override laws and codes. Owner is responsible for understanding and meeting all applicable codes, laws, regulations, etc. of government and municipal entities having jurisdiction over the project.

**Overview**

Herriman Crossroads was conceived and carefully planned as a mixed-use community (commercial/residential) set in a natural Foothills Setting. The specific goals of this development are to:

- Maintain the natural beauty of the setting
- Maintain a safe, pleasant and desirable environment
- Establish and preserve a harmonious design for the community
- Promote and preserve active, walkable resort living

Therefore, all architectural designs, buildings, landscaping, improvements shall be planned to be harmonious with connectivity, blending into environment, amenities to create active lifestyle with differing activities.

The Design Guidelines, Conditions, set forth the Architectural that shall define the minimum requirements necessary for the development.

**Fences and Site Walls**

In order to maintain the visual quality of an open and natural landscape, above-grade fences within Herriman Crossroads shall be permitted in designated locations and with approved materials.

*
• Fences shall be made of Cement, metal, wrought iron or Rhino material.
• It is anticipated that the only fencing will be for the townhomes at the east property line along Redwood road right of way (The property line is for the most part at the top of the large slope 50 feet down to the road). The other fencing area will be where residential is adjacent to the Welby Jacob Canal as approved with final site plan.
• The fence at the townhome east property line will tie into the entry monument & signage area at the main intersection access to the overall development from Redwood Rd.
• The fence will be 5-foot in height made of the materials specified in the design guidelines.
• The fence will consist of solid areas based on the final location of buildings, the fence that is not directly behind buildings will be set off the property line a minimum of 5 feet and be open fencing. No long continuous fencing will be allowed along the property line.
• The fence will be integrated into a landscape plan with trees on the east side of the offset open fencing areas, integrated to tie into the entry monument and landscape design.
• The 50-foot slope area from the fence to the existing pavement will be planted with large shade tree variety trees that will be 20 feet off the pavement on 30-foot centers, the upper row will be up the hill an additional 15 feet with trees staggered planted at 30-foot on center. The trees will be a minimum of 1.5-inch caliper watered with a drip system. The natural grass/sagebrush between the trees on the slope will remain. The right of way on the southeast entrance will be landscaped from the sidewalk for a minimum of fifty feet to the south. The landscaping is subject to UDOT approval.
• Fencing along the Jacob Welby Canal will be six-foot in height with mostly open fencing (rated non-climbable) especially where the fencing is adjacent to Landscaping.
• It is anticipated that the commercial development will not have any fencing.

Entry Monuments & Signage
The main entrance (Redwood Rd Intersection) will have two nice entry monuments one on the south side of the entry for the townhomes and the north side of the intersection for the commercial center along with signage. The final design as approved by Herriman City may have one larger entry monument (in place of the two) if approved by the City. The entry monuments, landscaping and signage will be inviting, aesthetically pleasing and informational. All other phases of development will include smaller monuments & signage at their entrance areas.

Lighting
Any lighting mounted on a building, on the ground, in trees, or on-site walls for general, area, or security illumination shall be subject to these guidelines.
• Building mounted lighting must be directed downward away from adjacent lots, streets.
• All exterior lighting must provide shielding of light sources. Bare bulbs or lamps are not permitted.
• All exterior light sources including LED, Incandescent or other lamps shall have a maximum of 75 watts or unless express approval is received from the City.

Refuse Containers
Details for location of refuse concealed containers will be designated by the Owner in the submitted drawings and site plan. Containers shall be appropriately concealed by a screen wall, Trumpet Vine or Wisteria Vine will be planted to on back & side where refuge containers are
adjacent to landscape areas
Refuse containers will be emptied to keep a neat clean site based on timing, amount of units, industry standards and professional management. Any buildings with common hallways will have garbage service on a timely basis at the individual unit doors as determined by the professional management.

NOISES:
Due to noise and proximity to the Foothills Fireworks are strictly prohibited.

ARCHITECTURAL GUIDELINES

Design diversity within the limits of the Design Guidelines is anticipated and desired. Key architectural concerns include massing, building height, color and materials selection should be carefully considered in the design process. The architectural standards and design restrictions are intended to preserve, protect, promote and enhance the unique qualities of the community at Herriman Crossroads.

The Architectural Design palate will have similar refined rustic, muted finish elements as approved in the final architectural design. The various blend of designs considered will be:

- Traditional Design
- Mountain Modern (Mountain Resort Theme)
- Prairie
- Mountain Resort

Modern with bright colors etc, will not be allowed and do not blend with the natural setting.

Colors and Finishes
Muted natural tones should be used for all exterior elements, especially in the predominant color palate of the structure body. Colors with Light Reflectance Value (LRV) below Sixty-Five percent (65%).

Exterior Walls- Stone, Brick, Hardy Cultured Stone, stucco, and glass are the exterior materials characteristic of design
- Brick, Cultured Stone or stone will make up a minimum of 40% of the exterior walls on town home units 2 story or less, 35% of exterior walls on buildings over two stories.
- Hardy Board (or equivalent) will makeup a minimum of 25% of the exterior walls up to 65% maximum.
- Stucco- *is allowed to make up the third component of the exterior wall.*
- Metal Siding, panels etc.- may be used in design as accent areas, rock baskets with metal etc. not to exceed 15%.

Porches and Decks
Porches provide a personality and welcome invitation to the community. They also extend the opportunity for outdoor living space. Roofs- All roofs must have the proper mass, proportion, pitch and placement for the particular style of house design. General rules include:
• Slope roofs are required for all townhomes or buildings under 3 stories.
• Flat roofs may be integrated into roof design only on buildings over two stories that are large in mass. This will be based on design only as conditionally approved by Herriman City.
• Sloped roofs are to be constructed of non-reflective materials colored in earth tones that complement the natural environment.
• All roofs must be a dark color in order to visually recede into the background and natural setting.

Windows and Glazing
Windows provide a great opportunity for expression and enhancement to every design. Window size, placement, shape and grid configuration should align with the plan design. Special consideration will be given to light, views etc. integrated into the window design.

LANDSCAPING –
The landscaping design will have areas of grass turf, bed areas and a detailed tree plan to soften and create a ascetically pleasing feel and design. Drip system for shrub beds and low water practices will be incorporated into the design. Perennials, grasses, shrubs, landscape rocks etc. will be incorporated into the landscape design. Maintenance will be done to the highest quality based on frequency and industry standards.
Exhibit E

Trail System Map
Concept Picture of Amenities
DATE: January 16, 2018

TO: The Honorable Mayor and City Council

FROM: Heather Upshaw, Economic Development Manager

SUBJECT: Branding Strategy Presentation

BACKGROUND:
The City selected Kassing Andrews (the Consultant) to undertake a Branding Strategy in September 2017. The Consultant has completed their business survey. The Consultant will now present their findings, thus far, to the City Council.

The RFP deliverables are outlined below:

1) provide updated research which includes, evaluation of existing brand, perceptions, SWOT analysis; 2) provide analysis of the target audience and an action plan to communicate effectively; 3) develop a series of brand exploration, brand elements, color palette, etc. based on the action plan; 4) present a draft branding strategy to the City Council for review and comment at two City Council meetings; and 5) present final strategy to the City Council.
BACKGROUND:
The City selected Better City (the Consultant) to undertake a Balanced Economy Study in September 2017. The Consultant has completed their benchmarking, stakeholder interviews, and preliminary research. The Consultant will now present their findings, thus far, to the City Council.

The RFP deliverables are outlined below:

1) provide updated data which includes, retail leakage, real estate projections, and meaningful analysis of all data gathered; 2) provide analysis of real estate market of the priority areas; 3) provide detailed priority list of economic areas based on market conditions; 4) provide potential projects which aligns with the prioritized list; 5) provide detailed analysis for successful projects based on the preferred economic areas; 6) provide a needs assessment of commercial, office, industrial, residential, open space, and other areas to achieve a balanced approach to growth; 7) provide specific funding options and analysis of each option; 8) provide draft study to City Council for review and comment at two City Council meetings; and 9) present final study to the City Council.
Mayor and Council

Monthly Financial Summary

Attached is the December 2017 financial report, all of the figures are through December 31, 2017. I have presented the information in summary format, please contact me with any questions or concerns.

General Fund
The general fund has revenues exceeding expenditures through December 31, 2017 in the amount of $1,497,709 this represents an increase in fund balance after transferring $1,500,000 to Capital Projects. We are currently 50% of the year as you will see we are little behind our projection of revenue and expenditures.

Budget
The budget numbers represent the adopted budget of June 7, 2017 and amended September 27, 2017

[Signature]

Alan W Rae
Director of Finance
### GENERAL FUND

#### 12/31/2017

<table>
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<tr>
<th>Revenue Source</th>
<th>Budget</th>
<th>% of Budget</th>
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<td><strong>OTHER REVENUE</strong></td>
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<td>Parks/Rec Special Service District Fees</td>
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<td>Miscellaneous Revenue</td>
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<td><strong>TOTAL GENERAL FUND REVENUE</strong></td>
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#### EXPENDITURES

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<td>Parks, Recreation and Events</td>
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<td>Category</td>
<td>12/31/2017</td>
<td>Budget</td>
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<td>Events</td>
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<td><strong>TOTAL GENERAL FUND EXPENDITURES</strong></td>
<td><strong>8,093,844</strong></td>
<td><strong>18,777,588</strong></td>
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<td><strong>CHANGE IN FUND BALANCE</strong></td>
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<td>Fund</td>
<td>12/31/2017 Revenue</td>
<td>12/31/2017 Expenditures</td>
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<tr>
<td>---------------------------------</td>
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<td><strong>PARK IMPACT FEE FUND</strong></td>
<td>$2,521,490</td>
<td>$3,304,500</td>
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<td><strong>STORM DRAIN IMPACT FEE FUND</strong></td>
<td>$402,357</td>
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<td><strong>ROAD IMPACT FEE FUND</strong></td>
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<td><strong>NEW DEVELOPMENT STREET LIGHTS</strong></td>
<td>$329,945</td>
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<td><strong>NEW DEVELOPMENT STREET SIGNS</strong></td>
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<td><strong>HERRIMAN TOWNE CENTER CDA/SAA</strong></td>
<td>$1,639,647</td>
<td>$1,812,700</td>
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<tr>
<td><strong>HERRIMAN TOWNE CENTER-CITY HALL</strong></td>
<td>$6,263</td>
<td>$8,008,453</td>
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<td><strong>CAPITAL PROJECTS</strong></td>
<td>$2,135,114</td>
<td>$33,400,000</td>
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## WATER FUND

<table>
<thead>
<tr>
<th>REVENUE</th>
<th>12/31/2017</th>
<th>Budget</th>
<th>% of Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Operating Income</strong></td>
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<tr>
<td>Water Sales</td>
<td>$4,341,101</td>
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<td>Secondary Water Sales</td>
<td>344,326</td>
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<td>Connection Fees</td>
<td>237,589</td>
<td>328,600</td>
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<td>Other Operating Income</td>
<td>202,107</td>
<td>346,880</td>
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<td><strong>Total Operating Income</strong></td>
<td>$5,125,124</td>
<td>$8,863,980</td>
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<td><strong>Operating Expenses</strong></td>
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<tr>
<td>Administration</td>
<td>$1,918,532</td>
<td>$3,598,345</td>
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<td>Blue Stakes</td>
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<td>Secondary Water</td>
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<td><strong>Total Operating Expenses</strong></td>
<td>$4,716,745</td>
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<td><strong>Total Income from Operations</strong></td>
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<td><strong>Non-Operating Revenue</strong></td>
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<td>$31,000</td>
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<td><strong>Non-Operating Expenses</strong></td>
<td>$317,530</td>
<td>$594,288</td>
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<td><strong>Total Income or (Expense)</strong></td>
<td>$98,194</td>
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## WATER RIGHTS IMPACT FEE FUND

| Revenue                      | 1,317,453 | $1,500,000 | 87.83% |
| Expenditures                 | 243,920   | 2,573,000 | 9.46%  |

## WATER IMPACT FEE FUND
STAFF REPORT

DATE: January 18, 2018

TO: The Honorable Mayor and City Council

FROM: Jackie Nostrom, City Recorder

SUBJECT: Ordinance Amending Herriman City Code §1-7 regarding the appointment of the City Recorder and City Treasurer

RECOMMENDATION:
Approval of the ordinance amending Herriman City Code §1-7 regarding the appointment of the City Recorder and City Treasurer

BACKGROUND:
Prior to 2017 Utah State Statute required that the City Council should appoint a City Recorder and a City Treasurer on or before the first Monday in February following a City Election and Herriman City Code outlined the same requirement.

DISCUSSION:
The 2017 Utah Legislature amended the state statute to eliminate the necessity to reappoint the City Recorder and City Treasurer following municipal elections. Staff is recommending to amend the City Code to reflect the changes outlined in State Statute.

ALTERNATIVES:
The City Council may request to leave the requirement into the City Ordinances and appoint a City Recorder and City Treasurer every other year.

FISCAL IMPACT:
None.
AN ORDINANCE AMENDING TITLE 1 CHAPTER 7 OF THE HERRIMAN CODE OF ORDINANCES REGARDING APPOINTMENT OF THE CITY RECORDER AND CITY TREASURER

WHEREAS, the City Council (the “Council”) met in regular meeting on January 24, 2018, to consider, among other things, an ordinance amending title 1 chapter 7 of the Herriman Code of Ordinances regarding appointment of the city recorder and city treasurer; and

WHEREAS, prior to 2017 state statute required that on or before the first Monday in February following a city election, the mayor, with the advice and consent of the city council, shall appoint a recorder and city treasurer; and

WHEREAS, the Herriman Code of Ordinances contained the same requirements; and

WHEREAS, in 2017 the Utah legislature amended the state statute to eliminate the requirement to appoint a city recorder and city treasurer following a city election; and

WHEREAS, after careful consideration, the Council finds that it is in the best interest of the health, safety, and welfare of the inhabitants of Herriman to amend title 1 chapter 7 of the Herriman Code of Ordinances to make it consistent with state statute.

NOW, THEREFORE, BE IT ORDAINED by the Council that title 1 chapter 7 of the Herriman Code of Ordinances be amended, designated by interlineating the words to be deleted and underlining the words to be added, as follows:

1-7-3: CITY RECORDER AND CITY TREASURER:

A. Appointment: On or before the first Monday in February following a city election, the mayor, with the advice and consent of the city council, shall appoint a qualified person to each of the offices of city recorder and city treasurer.

B. Ex Officio Auditor: The city recorder is ex officio the city auditor and shall perform the duties of that office.

This Ordinance, assigned Ordinance No. 18-__, shall take effect as soon as it shall be published or posted as required by law, deposited and recorded in the office of the City Recorder, and accepted as required herein.
PASSED AND APPROVED this _____ day of ____________________, 2018.

HERRIMAN

ATTEST: ________________________________

David Watts, Mayor

__________________________________________________________________________

Jackie Nostrom MMC, City Recorder
DATE: January 16, 2018

TO: The Honorable Mayor and City Council

FROM: Sandra Llewellyn, Community Development Coordinator

SUBJECT: Advice and Consent of the proposed Community Facilitators and Deputy Facilitators

RECOMMENDATION:
Staff recommends approval of the resolution consenting the proposed Community Facilitators and Deputy Facilitators.

BACKGROUND:
Staff emailed the background information for each Community Facilitator to City Council members for review.

As per the Community Facilitator Appointment Process and Procedure:

1.4 The Community Development Coordinator will make a selection and present the choice to the City Council for advice and consent.

Community 1
Facilitator - Michael O’Rourke
Deputy Facilitator - David Howe

Community 2
Facilitator - Robert Bradfield
Deputy Facilitator - Lorin Palmer

Community 3
Facilitator - David Hale

Community 4
Facilitator - Sherrie Ricks

Community 5
Facilitator - Renee Laws
Deputy Facilitator - Kyle Walton

Community 6
Facilitator - Preston Oberg
RESOLUTION NO. 18-

A RESOLUTION OF THE CITY COUNCIL CONSENTING TO THE APPOINTMENT OF COMMUNITY FACILITATORS

WHEREAS, the Herriman City Council ("Council") met in regular session on January 24, 2018, to consider, among other things, consenting to the appointment of community facilitators; and

WHEREAS, the Herriman Community Facilitators Appointment Process and Procedure provides that the Community Development Coordinator may appoint community facilitators with the advice and consent of the Council; and

WHEREAS, the Community Development Coordinator hereby nominates
  Community 1: Facilitator - Michael O’Rourke, Deputy Facilitator - David Howe
  Community 2: Facilitator - Robert Bradfield, Deputy Facilitator - Lorin Palmer
  Community 3: Facilitator - David Hale
  Community 4: Facilitator - Sherrie Ricks
  Community 5: Facilitator - Renee Laws, Deputy Facilitator - Kyle Walton
  Community 6: Facilitator - Preston Oberg, as the community facilitators; and

WHEREAS, the Council has given advice regarding the appointment of community facilitators and hereby consents to such appointments; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety, and welfare of the residents of Herriman to consent to such appointment.

NOW, THEREFORE, BE IT RESOLVED that the Council consents to the appointment of
  Community 1: Facilitator - Michael O’Rourke, Deputy Facilitator - David Howe
  Community 2: Facilitator - Robert Bradfield, Deputy Facilitator - Lorin Palmer
  Community 3: Facilitator - David Hale
  Community 4: Facilitator - Sherrie Ricks
  Community 5: Facilitator - Renee Laws, Deputy Facilitator - Kyle Walton
  Community 6: Facilitator - Preston Oberg, as community facilitators.

PASSED AND APPROVED by the Council of Herriman, Utah, this 24 day of January, 2018.

HERRIMAN

_______________________________
David Watts, Mayor

ATTEST:

_______________________________
Jackie Nostrom, MMC
City Recorder