

DEVELOPMENT AGREEMENT

This Development Agreement (the "Agreement") is made this 28th day of September, 2005, by and between Washington City, a Utah municipal corporation (the "City") and the State of Utah, School and Institutional Trust Lands Administration, an independent agency of the State of Utah (the "Trust Lands Administration") (collectively, the "Parties").

Recitals

- A. The State of Utah, through the Trust Lands Administration, is the owner of approximately 740 acres of property located in the vicinity of the new interchange constructed at approximately mile post 13 of Interstate Highway 15. The property is described with specificity in Exhibit "A", attached to this Agreement and incorporated by reference (the "Property"). The Property is known and referred to as "Sienna Hills." The Trust Lands Administration desires to develop the Property as a planned community development in a manner consistent with the City's Planned Community Development Ordinance (the "PCD Ordinance").
- B. On or about February 9, 2005, the Washington City Council (the "City Council") granted final approval for a Planned Community Development Project Plan for Sienna Hills, Washington, Utah (the "PCD Plan"). The PCD Plan is filed with the City and includes a Master Plan (the "Master Plan"), which was also approved by the City Council.
- C. The Trust Lands Administration and the City desire to enter this Agreement in order to implement the PCD Plan and the Master Plan and to more fully set forth the covenants and commitments of each party, while giving effect to applicable state law.

Agreement

NOW THEREFORE, in consideration of the premises, conditions, covenants and agreements set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals Incorporated. The recitals are incorporated fully into this Agreement as if set forth fully herein.
2. Findings and Authority.
 - a. Compliance and Benefits. The City finds that: (a) the PCD Plan, the Master Plan and this Agreement are consistent with the Washington City General Plan, the PCD Ordinance and all other applicable ordinances, rules, regulations and policies of

the City; and (b) development of the Property pursuant to this Agreement and the PCD Plan will result in significant planning and economic benefits to and will further the health, safety and welfare of the City and its residents by, among other things: (i) requiring development of the Property in a manner consistent with the applicable rules, regulations and policies of the City; (ii) providing for the dedication of infrastructure improvements to be completed in several phases as set forth herein; (iii) increasing sales and/or property tax and other revenues to the City derived from businesses and improvements to be constructed on the Property; and (iv) creating jobs from new businesses to be located on the Property.

b. Reliance. The City acknowledges the Trust Lands Administration is relying on the PCD Plan, the Master Plan, the execution and continuing validity of this Agreement, and the City's performance of its obligations hereunder. The Trust Lands Administration has expended substantial funds in the development of the Property and, in reliance upon this Agreement, will continue to expend additional funds. The Trust Lands Administration acknowledges that the City is relying on the PCD Plan, the Master Plan, and the execution and continuing validity of this Agreement, and the Trust Lands Administration's performance of its obligations under this Agreement, in continuing to perform the obligations of the City hereunder. The City has expended substantial funds in the development of the Property and, in reliance on this Agreement, will continue to expend additional funds.

3. Master Plan; Development Pursuant to PCD Plan; Restrictive Covenants.

a. Master Plan. On February 9, 2005, the Washington City Council (the "City Council") approved the Sienna Hills Master Plan (the "Master Plan"). The Master Plan describes the drainage, transportation, culinary water, sewer, natural gas, telephone, electrical power and cable television improvements that will be installed and constructed upon the Property. The Sienna Hills Master Plan is an integral part of this Agreement, and is fully incorporated into this Agreement.

b. PCD Plan. On February 9, 2005, the City Council approved the Sienna Hills PCD Plan. Upon its approval, the PCD Plan became incorporated into and part of the City's Zoning Ordinance and the City's General Plan, as amended. The PCD Plan governs all zoning matters with respect to the Property. The PCD Plan describes Sienna Hills as a phased master-planned community, which will include residential, commercial and community-related development. Approximately 468 acres of Sienna Hills will be developed, while the remaining acreage will be designated open space. The residential component of Sienna Hills will provide various types of housing, ranging from single family homes to town homes, condominiums and apartments. Commercial development will consist of retail shops, stores, services, restaurants, offices, commerce parks and light industrial facilities. Community-related development will include a school, a church, and community trails and parks.

The PCD Plan includes a site plan of Sienna Hills which depicts the location of the various anticipated land uses. The Property consists of a number of "Development

Parcels”, designated numbers 1-19. The Trust Lands Administration will act as master developer of the Sienna Hills development. As such, the Trust Lands Administration will convey individual Development Parcels to the private sector in a phased manner. The PCD Plan provides a detailed set of Design Guidelines and Standards (the “Design Guidelines”), which will govern development on the Property.

c. Purpose; Authorization to Develop. The Parties desire that the City have reasonable certainty concerning the manner in which the Property will be developed, and that the Trust Lands Administration, and its successors and assigns, will have reasonable certainty in proceeding with development of the Property. The Trust Lands Administration shall comply with the terms and conditions of the PCD Plan, the Master Plan and this Agreement and the City authorizes the Trust Lands Administration, and its successors and assigns, to develop the Property as set forth in the Master Plan, the PCD Plan and this Agreement.

d. Restrictive Covenants. Several builders may be designing and constructing improvements upon different Development Parcels at the same time. The Trust Lands Administration recognizes the importance of ensuring continuity in the community as it develops and therefore will adopt certain standards and requirements that will guide development and construction over the entire project area. Accordingly, prior to transferring ownership of any portion of the Property, via recorded title, the Trust Lands Administration shall record against such portion of the Property covenants, conditions and restrictions consistent with the PCD Plan, including the Design Guidelines, and this Agreement (the “Master CC&Rs”). In the event a discrepancy exists between the Master CC&Rs and the Design Guidelines, the more restrictive requirement shall apply.

4. Vested Rights. On February 9, 2005, the City approved Ordinance Z-2004-20 by which the Trust Lands Administration, subject to this Agreement, acquired vested rights to develop the Property in conformance with the PCD Plan, and the Master Plan. The rights granted to the Trust Lands Administration under this Agreement are both contractual and as provided under the common law concept of vested rights. The City will grant to the Trust Lands Administration such permits and other approvals as may be necessary for the Trust Lands Administration to develop and construct the Project pursuant to the PCD Plan, the Master Plan, this Agreement, applicable state and federal law, and the applicable ordinances in effect as of the date of execution of this Agreement. The Trust Lands Administration may assign all or any portion of its rights under this Agreement.

5. Applicable Laws and Regulations. All applicable City ordinances and regulations in existence at the time of execution of this Agreement will govern the Project, except as provided herein and by law. The provisions of the PCD Plan, the Master Plan and this Agreement shall not be affected by any inconsistent or contrary moratorium or other ordinance, resolution, rule or regulation enacted by the City that prohibits or regulates site improvement, or the erection, construction, reconstruction, or alteration of any building or structure or changes to the City’s approval process for

subdivisions after the date of this Agreement. Notwithstanding the foregoing, the rights and obligations of the Parties under this Agreement shall be subject to later enacted and applicable state and federal laws and regulations and to the extent applicable, corresponding, local ordinances enacted consequent to such state and federal laws. The rights of the Trust Lands Administration and its successors and assigns under this Agreement shall be subject to any moratorium or ordinance enacted by the City to respond to a bona fide threat to public health and safety and involving facts and circumstances beyond the reasonable control of the City, and which threat represents a compelling, countervailing public interest. The City acknowledges that as of the date of this Agreement, to the best of its knowledge, information and belief, the City is presently unaware of any existing facts under which such moratorium or ordinance might be enacted; provided, however, the City's representation hereunder is limited by its disclosure that certain facts and circumstances may exist that could cause an interference with the City's ability to deliver electric power to the Property and accordingly, result in a moratorium.

6. Washington Parkway Related Improvements. In anticipation of developing the Property, the Trust Lands Administration has entered into several agreements under which it has made financial contributions and dedicated land in connection with the construction of Washington Parkway and underlying infrastructure, including water lines, waste water lines and a natural gas line (the "Parkway Related Improvements"). This Agreement shall not be interpreted to modify any provision of those agreements.¹

7. Trust Lands Administration Municipal Improvements. The infrastructure improvements depicted in the PCD Plan and Master Plan, and set forth in this section, represent the major additional infrastructure improvements intended to service the Sienna Hills community. This section is intended to obligate the Trust Lands Administration to bring the major infrastructure from the perimeter of the Property, or the Washington Parkway right of way, as the case may be, to the boundary of each individual Development Parcel. The Trust Lands Administration shall cause these major improvements to be installed, constructed and completed, in conformance with applicable governmental standards (the "Trust Lands Municipal Improvements") and the Master Plan. The Trust Lands Municipal Improvements may be installed and constructed in stages as necessary to support the development of each Development Parcel. The Trust Lands Administration shall be responsible for all costs to install, construct and complete the Trust Lands Municipal Improvements.

¹ The agreements referenced herein are: 1) Washington Parkway Improvements Agreement dated September 24, 2003, as amended (the "Parkway Agreement"); 2) Washington Parkway Waterline Improvements Agreement dated June 30, 2004; 3) Sienna Hills Sewer Improvements Agreements dated June 30, 2004; and 4) Agreement with Questar Gas Company dated July 28, 2004.

The Trust Lands Municipal Improvements to be constructed include:

- a. Water Distribution System. All pipes, valves, fittings, pressure reducing valve stations, air release valves, and other distribution facilities within the Property for the purpose of distributing water to the perimeter of the Development Parcels.
- b. Sewer Distribution System. Sewer lines extending from the perimeter of the Development Parcels to the existing City sewer system. The Trust Lands Administration shall also cause a sewer lift station to be constructed upon Development Parcel "14.A" prior to the issuance of any certificate of occupancy for any building or structure.
- c. Electrical Distribution System. Subject to the City's obligation pursuant to section 15 (a), all i) transmission lines and switching racks; ii) transformers, circuit breakers, voltage regulating equipment, buses, switches, capacitor banks, reactors, protection and control equipment and any other equipment related to switching, regulating, transforming or otherwise modifying the characteristics of electricity; and iii) underground power lines and distribution lines. The Trust Lands Administration shall be responsible for installing and constructing the portion of the electric distribution system up to the Development Parcels' perimeters.
- d. Roadways. All roadways depicted on the Master Plan and the PCD Plan, other than Washington Parkway and Telegraph Road. Such roadways are referred to as Commercial Roadways and Collector Roadways in the Master Plan. The roadways depicted in the Master Plan are conceptual and, subject to City review and approval, may be adjusted in their location and width and re-designated as another category of roadway.
- e. Community Trail System. The community trail system depicted on the Master Plan (the "Parkway Trail") and as set forth more fully in the Parkway Agreement.
- f. Storm Water Drainage/ Detention Basins. The construction of a drainage system and associated detention basins, as shown in the Master Plan. Sienna Hills is located in an existing drainage basin that has several natural drainage channels, running predominantly north to south. The drainage system has been designed in a manner to direct run-off into three large existing washes. Curb and gutters, and developed drainage ditches will lead the storm water into these natural drainage channels.

The historical volume of run-off from the Property will be increased by development, as described in the Master Plan. As a result, detention basins will be located in certain areas upon the Property, including detention basins which have been designed for the run-off from the Freeway Commercial parcels. Although detention basins will not be present upon each Development Parcel, detention basins for the project as a whole have been designed to accommodate the increased run-off from the entire Property.

The City acknowledges the drainage system and detention basins have been engineered and designed to account for storm water run-off from the Property. This integrated design will result in the run-off leaving the southern end of the Property being maintained at historical levels. The City will therefore not require developers to construct individual detention basins within each Development Parcel.

g. **Community Parks.** The community parks described and depicted in the PCD Plan and the Master Plan. After the completion of each park, the Trust Lands Administration shall dedicate the underlying park property and the park improvements to the City, at which time the City shall grant park impact fee credits to the Trust Lands Administration. The amount of the park impact fee credits shall be ninety per cent (90%) of the value of the land and the actual cost of purchasing and constructing the park improvements. The per acre value of the land for each park shall be equivalent to the per acre value of Development Parcel 1, as set forth in a certificate of sale between the Trust Lands Administration and the purchaser of Development Parcel 1, to be provided to the City upon the closing of the purchase and sale of Development Parcel 1; provided, however, in no event shall the per-acre value exceed \$125,000.

The Trust Lands Administration shall have responsibility for designing and constructing the parks, in consultation and cooperation with the City; provided, however, the design and construction of the parks shall be subject to the following:

i. One park comprised of approximately four acres to be located upon the southern half of the parcel designated "15.B", in the vicinity of Redstone Road. Amenities will include a natural surface walking track, a "tot lot" equipped with playground equipment, a grass field, one pavilion with barbeque facilities, and a parking lot. Construction of the park will commence no later than the time at which the first building permit is issued upon the Property and shall be completed within one year; and

ii. A second park, comprised of approximately four acres, will also be developed. Amenities will include a "tot lot" equipped with playground equipment, a grass field, one pavilion with barbeque facilities, and a parking lot. Park construction will commence no later than; a) within four years of the completion of the park described in Section 15(d)(i); b) or contemporaneously with the development of parcel 18, whichever is earlier.

8. **Financial Assurance.** To the extent permissible under applicable state law, the City agrees that this Agreement constitutes the written undertaking of the Trust Lands Administration to cause the improvements the Trust Lands Administration is required to make under this Agreement to be installed, constructed and completed. The Trust Lands Administration, as a state entity, has provided financial assurances of accomplishing such installation, construction and completion. To the extent that the City has adopted or does adopt an amendment to the Planned Community Development Ordinance, chapter 29 of

the zoning ordinance, so allowing, the City shall not require the Trust Lands Administration to bond for such improvements. The City agrees to favorably consider such amendment if necessary.

9. Developer Performance of Trust Lands Municipal Improvements; Bonding by Developer. The Trust Lands Administration intends to offer Development Parcels to builders and developers in a phased manner. The Trust Lands Administration may enter into different types of transactions, including without limitation sales, development leases or ground leases. As a condition of such transactions, the Trust Lands Administration may contractually obligate the developer to install, construct, complete and dedicate all or any portion any of the Trust Lands Municipal Improvements. Developers shall not be permitted to further assign such obligations. The City may require a bond or any other financial assurance allowed by its ordinances, for any such assigned Trust Lands Municipal Improvement. At such time as the City either receives or declines to require such financial assurance, the Trust Lands Administration's obligation shall terminate with respect to such Improvement.

10. Dedication of Trust Lands Municipal Improvements.

a. Process and Conditions. The Trust Lands Administration intends to dedicate and the City intends to accept the dedication of the Trust Lands Municipal Improvements. The Trust Lands Administration shall satisfy the obligation to dedicate the Trust Lands Municipal Improvements by causing: i) the filing of a dedication plat; ii) the filing of a final subdivision plat; or iii) a developer to be contractually bound to post a satisfactory bond with the City and perform the improvements. The City shall approve and accept for dedication any Trust Lands Municipal Improvements, in whole or in part, as necessary to support the phase of development as long as the Trust Lands Municipal Improvements are consistent with the PCD Plan, the Master Plan, this Agreement and approved plans. Following the recordation of the final plat, the City shall own, operate and maintain the dedicated improvements without further charge or cost to the Trust Lands Administration; provided, however, at the request of the City, and to the extent not prohibited by law or contract, the Trust Lands Administration shall assign to the City any contractual warranty rights existing for such Trust Lands Municipal Improvements. As necessary, the Trust Lands Administration will contractually obligate its developers to dedicate any applicable portion of the Trust Lands Municipal Improvements. In any event, the following plat dedication language shall be acceptable to the City:

KNOW ALL MEN BY THESE PRESENTS that the undersigned owner of all the hereon-described tract of land hereafter known as _____ for good and valuable consideration received, does hereby dedicate and convey to Washington City for perpetual use of the public, all parcels of land shown on this plat as Public Roadway, and does hereby dedicate and convey to Washington City and to each public utility providing utility services, non-exclusive easements for installation and maintenance of public utilities and drainage facilities over, on, under and across the utility easements as shown on this plat. Excepting and

reserving to grantor all coal, oil and gas and other mineral deposits. Also, subject to a perpetual easement reserved hereby in the name of grantor and located within the boundaries of all land dedicated herein, said perpetual easement being an easement for fiber optics and related facilities and uses and such perpetual easement being appurtenant to Sienna Hills Parcel 2 (as so designated in the PCD Plan) owned by grantor.

b. Stormwater Drainage System. Notwithstanding the foregoing, ownership of the major drainage system and detention basins shall be conveyed to a homeowner's association. The Trust Lands Administration, or its successor, will dedicate an easement to the City for both the major drainage system and the detention area located at the confluence of the major channels near Telegraph Road. The dedication will occur either by dedication plat or upon final subdivision platting. Thereafter, the City shall maintain any portion of the storm water drainage system located within its right of way.

c. Fiber Optics Network Reservation. The Trust Lands Administration intends to implement a privately owned high speed broadband information service system (the "Fiber Optic Network") at Sienna Hills. The Fiber Optic Network will provide Internet Protocol telephone, high speed internet and home video services to residential and commercial users within Sienna Hills. The Trust Lands Administration plans to select an Information Service Provider (ISP) that will provide such high speed broadband information services to Sienna Hills over a Fiber Optic Network. The Trust Lands Administration will cause a Fiber Optic Network consisting of power lines, conduits, cabling, and other utility and communications items (hereafter "Owner Facilities") to be installed within reserved private easements ("Fiber Optic Easements") throughout the Property.

The Trust Lands Administration has reserved or will reserve to itself the right to install, maintain, and operate the private fiber optics communications network within exclusive private easements on the Property. These Fiber Optics Easements will be of sufficient size and in such locations as may be required to provide fiber optics communications to the Development Parcels within the Property. Each subdivision or dedication plat for any portion of the Property will identify the location and/or scope of the Fiber Optics Easements, and, depending on the needs of the system, many of the Trust Lands Administration's Fiber Optics Easements will be located in areas, including beneath roads, that will be dedicated to the public at the time of recordation of the applicable subdivision plats or road dedication plats, subject to the Fiber Optics Easements. Nothing in this subsection will prevent the City from requiring the dedication of sufficient area at the time of plat recordation to provide necessary public improvements to any Development Parcel within the Property. It is anticipated that Owner Facilities and City facilities may be installed in the same trench.

Nothing herein shall act as a waiver of appropriate and applicable franchise fees for communication facilities otherwise imposed by city ordinance. Nothing herein is intended or shall be construed to create any exclusive right to provide communication services within the Subject Property.

11. Phasing/ Conveyancing of Development Parcels.

a. Conveyance of Development Parcels (Sale or Lease). The Phasing Plan set forth in the PCD Plan contemplates that over a period of several years, the Trust Lands Administration will make available to the private sector a series of Development Parcels. The boundaries of the Development Parcels, as depicted on the PCD Plan, are approximate. At such time as the Trust Lands Administration enters into a transaction with a builder or developer for a particular Development Parcel, the Trust Lands Administration will convey such Development Parcel in a manner that is dependent on the percentage of land within the Development Parcel being conveyed, as follows:

- i. Conveyance of an entire Development Parcel or portion of a Development Parcel that is at least twenty-five per cent of the Development Parcel's estimated acreage (as set forth in the PCD Plan) will occur by metes and bounds description, in the manner set forth in Utah Code Ann. Title 53C, Chapter 4, which is the method prescribed by law for the State to subdivide its lands. Such a conveyance shall not be deemed a subdivision for purposes of Section 29-3-101 of the PCD ordinance, nor for purposes of Utah Code Ann. Title 10, Chapter 9a.
- ii. Conveyance of a portion of a Development Parcel that is less than twenty-five per cent of the Developmental Parcel's acreage (as established by the PCD Plan) will require utilizing the process set forth in Section 29-3-101 of the PCD ordinance and Utah Code Ann. Title 10, Chapter 9a; provided, however, this provision shall not apply to lands being conveyed or utilized for the purpose of open space, trails, common areas, roadways, or infrastructure (including facilities related to a fiber optics network). Such conveyances will be treated in the manner set forth in Section 11.1(i).

b. Post-Conveyance Development. The Trust Lands Administration will maintain a master parcel plat at its offices, which will be updated with each transaction, and available to the City for review. The developer shall have responsibility for installing, constructing and completing the infrastructure within its Development Parcel. The Trust Lands Administration shall have no obligation under this Agreement to do so itself. The City may require developers to provide bonds or other acceptable assurances to the City in an amount sufficient to complete the improvements, in accordance with its bonding ordinances.

After entering into a transaction, the developer will be responsible for pursuing subdivision platting within the Development Parcel and obtaining final site design approval from the City, in conformity with the PCD Plan, this Agreement, the CC&Rs and applicable City ordinances. City staff, the Planning Commission and the City Council will have the opportunity to review the project. A developer will incorporate appropriate changes or comments into its plan that are consistent with the PCD Plan.

12. Permitted Uses and Density; Dimensions of Proposed Structures and Improvements. Section 2 of the PCD Project Plan sets forth, for each Development Parcel, the permitted uses, permitted density of use or development, minimum net lot sizes, allowable building heights, building setbacks and parking ratios per building. Within each Development Parcel, the Trust Lands Administration may adjust the relative location of land uses to the extent that such adjustments are in conformance with approved uses for that Development Parcel. The Trust Lands Administration may also transfer density between Development Parcels provided the adjusted density within a Development Parcel does not exceed 110% of the density designated for such parcel in the PCD Plan. In no event shall the overall approved density for the Property be exceeded.

13. Property Owner's Association's Responsibilities for Improvements. In accordance with Section 14 of the PCD Plan, the Restrictive Covenants shall establish a mechanism for transferring ongoing maintenance related obligations to a property owners association, for such items as landscaping within the City's right of way, private roadways, residential front yards, neighborhood trails, neighborhood parks, ponds and lakes, and certain open spaces, at which time the Trust Lands Administration shall have no further obligation.

14. Open Space. The PCD Plan and the Master Plan designate certain areas of the Property as open space. These areas will not be developed, except in the approximate areas where the neighborhood trail system, neighborhood parks, recreation, and storm water facilities are depicted, along with related amenities. The Trust Lands Administration intends to convey the open space to a property owner's association and the City shall have no obligation toward such areas, with the exception of the major drainage system, as discussed in section 10.b.

The boundaries of the open space as depicted on the Master Plan are approximate and the boundaries will be described with specificity at such time as the adjacent Development Parcels or roadways are sold or otherwise developed and capable of being described. In any event the amount of open space will continue to exceed the City's requirements for open space areas.

15. City Improvements. The City shall cause the following improvements for the Property to be installed, constructed and maintained, at such time as it becomes necessary for the development of the Property (the "City Improvements"):

a. Electric Power Supply and Substation. The City shall cause electric power to be delivered to the Property at such time and in such amount as is necessary to service the uses described in the PCD Plan and Master Plan. In the event the City determines it is necessary to construct an electric power substation to meet its obligation hereunder, the Trust Lands Administration will provide a right of way upon a portion of Development Parcel "17" at no cost in a size reasonably sufficient to accommodate the substation.

b. Culinary Water Supply and Storage. The City shall cause a sufficient supply of culinary water with adequate flow, quantity, pressure, capacity and quality to service the uses contemplated on the Property in the PCD Plan and the Master Plan, together with adequate facilities for the storage of such water to be delivered to the pipeline located within the right of way located at the intersection of Washington Parkway and Sienna Hills Parkway.

c. Traffic Signals. The City will construct traffic signals along Washington Parkway at such time as the volume of traffic dictates.

16. City Improvement Costs. The City will pay all costs to cause the City Improvements to be installed, constructed, and maintained. The City may charge and collect impact fees, hookup fees and consumption fees for utilities provided by the City, subject to section 18.

17. No Further Exactions. Subject to the obligations of the Trust Lands Administration set forth herein, no further exactions will be required of the Trust Lands Administration by the City; provided, however, that this paragraph shall not be construed to relieve the Trust Lands Administration from any dedications or other requirements required by applicable law or ordinance.

18. Impact Fees. As a condition of development approval, under the Utah Impact Fee Act, Title 11 Chapter 36, Utah Code Ann., the City may impose impact fees in accordance with the impact fee formula established by the ordinance in effect at the time development occurs. The City may only charge impact fees at the ordinary time in the course of development of the Property as the City customarily charges to other developers, in a non-discriminatory manner. With respect to Sienna Hills, the following conditions with regard to impact fees shall apply:

a. The Trust Lands Administration is entitled to certain impact fee credits, as follows:

- i. the impact fee credits granted to the Trust Lands Administration pursuant to the Parkway Agreement;
- ii. impact fee credits that the City will grant upon dedication of the Community Parks.

b. Neither the Trust Lands Administration nor its successors or assigns will be charged impact fees related to storm water management after completion of the drainage and detention system because the completed Sienna Hills development will have no additional impact upon the City's existing drainage system;

c. The Trust Lands Administration's impact fee credits are assignable in whole or in part. To evidence the transfer of impact fee credits, the Trust Lands Administration will issue certificates to developers or builders. Each certificate will state the specific dollar amount it represents and will set forth the type of impact fee credit

being utilized thereunder. The impact fee credits will not be allocated on a pro rata basis across all of the units to be developed, amounting to a partial impact fee payment, but rather, shall be utilized as full impact fee payments until the total dollar amount available is exhausted. The City and the Trust Lands Administration will independently maintain ledgers accounting for the impact fee credits and agree to reconcile their ledgers bi-annually, commencing six months from the date of this Agreement

19. Term. This Agreement shall have a term of 15 years from the date of execution by both parties. This term may be extended by mutual written agreement of the parties, prior to the expiration of the initial 15 years. The Trust Lands Administration shall have the right to record such agreement in the Official Records of Washington County, Utah.

20. Amendments. The City acknowledges the PCD Plan is a general outline of the proposed development of the Property. The Trust Lands Administration may, after consultation with the City, make minor changes, pursuant to Sections 11 and 12 to the boundaries of the Development Parcels and the densities attributable to such parcels. In the event the Trust Lands Administration desires to make a major modification, the Trust Lands Administration shall submit to the City an application to amend the PCD Plan. Major modifications shall include changes in land use classification, density increases in excess of ten per cent, and modifications in the site design standards established in the PCD Plan, such as decreasing authorized setbacks, decreasing approved street widths or increasing maximum building heights. The Trust Lands Administration and the City shall cooperate in accomplishing any amendments to this Agreement, the PCD Plan and the Master Plan that are reasonably necessary to accomplish the goals expressed in this Agreement and the PCD Plan or to respond to any changes in market conditions or development requirements. In the event the Trust Lands Administration determines it is necessary to amend the PCD Plan, review and modification of the PCD Plan shall be limited to the matter submitted and any substantive impacts consequent to such amendments. The PCD Plan and this Agreement shall not be amended in a manner that eliminates the vested rights of the Trust Lands Administration, except as agreed by the Trust Lands Administration. All major amendments shall be in writing and shall be approved and signed by both the Trust Lands Administration and the City and shall be recorded.

21. Cooperation and Dispute Resolution. It is the intent of the parties that the Trust Lands Administration have the ability to proceed expeditiously with the development of the Property and that, accordingly, an expedited City review process is necessary. If the Trust Lands Administration believes that an impasse has been reached with the City staff on any issue arising from this Agreement or the PCD Plan, the Trust Lands Administration shall have the right to appeal to the City Manager for an expedited decision. If the issue on which an impasse has been reached is an issue where a final decision can be reached by the City Staff, the City Manger shall give the Trust Lands Administration a final decision within 15 days after the date of a written request for an expedited decision is made. If the issue on which an impasse has been reached is one where a final decision requires action by the City Council, the City Manager shall be

responsible for placing the matter on the agenda for the next regularly scheduled City Council meeting following the date that the Trust Lands Administration has requested an expedited decision; provided, however, that if the issue is appropriate for review by the City Planning Commission, the matter shall be submitted to the City Planning Commission first, and then to the City Council. Both parties will use reasonable good faith efforts to resolve any impasse pending any such expedited decision.

22. Default. Failure by a party to perform any of such party's obligation under this Agreement for a period of 30 days (the "Cure Period") after written notice thereof from the other party shall constitute a default by such failing party under this Agreement; *provided, however,* that if the failure cannot reasonably be cured within 30 days, the Cure Period shall be extended for the time period reasonably required to cure such failure so long as the failing party commences its efforts to cure within the initial 30 day period and thereafter diligently proceeds to complete the cure. Said notice shall specify the nature of the alleged default and the manner in which said default may be satisfactorily cured, if possible.

23. Notices and Filings. All notice, filings, consents, approvals and other communications provided for herein or given in connection herewith shall be validly given, filed, made, delivered or served if in writing and delivered personally, sent by certified United States mail, postage prepaid, or by a national express overnight delivery service, freight prepaid, if to:

The City:

City Manager
WASHINGTON CITY
111 North 100 East
P.O. Box 575
Washington City, Utah 84780
Attention: City Manager

With a copy to:

City Attorney
Durham, Jones & Pinegar
192 East 200 North, 3rd Floor
St. George, Utah 84770
Attention: City Attorney

The Trust Lands Administration:

TRUST LANDS ADMINISTRATION
2303 N. Coral Canyon Blvd., Suite 100-A
Washington, Utah 84780
Attention: Curt Gordon

With a copy to:

TRUST LANDS ADMINISTRATION
675 East 500 South, Suite 500
Salt Lake City, Utah 84102
Attention: Frederick P. McBrier

or to such other addresses as either party hereto may from time to time designate in writing and deliver in a like manner. Notices, filings, consents, approvals and communication given by personal delivery or overnight delivery shall be effective upon receipt and if given by mail shall be deemed delivered 72 hours following deposit in the U.S. mail, postage prepaid and addressed as set forth above.

24. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City or the Trust Lands Administration of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

25. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all parties may be physically attached to a single document.

26. Headings. The descriptive headings of the sections of this Agreement are inserted for convenience only and shall not control the meaning or construction of any of the provisions hereof.

27. Further Acts. Each of the parties shall execute and deliver all such documents and perform all such acts as reasonably necessary to carry out the matters contemplated by this Agreement.

28. Time of the Essence; Force Majeure. Except as otherwise provided in this section, time is of the essence for this Agreement. If either party is delayed or hindered in or prevented from the performance of any act required hereunder by reason or inability to procure materials, acts of God, failure of power, riots, insurrection, war or other reason of a like nature (other than labor disputes) not the fault of the party delayed in performing work or doing acts required under this Agreement, then performance of such act will be excused for the period of delay and the time for the performance of any such act will be extended for a period equivalent to the period of such delay.

29. **Binding Effect.** All of the provisions of this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto, except as provided in section 30.

30. **Termination on Sale to the Public.** It is the intention of the parties that although recorded, this Agreement shall not create conditions or exceptions to title or covenants running with the Property. Nevertheless, in order to alleviate any concern as to the effect of this Agreement on the status of title to any of the Property, this Agreement shall terminate without the execution or recordation of any further document or instrument as to any lot which has been finally subdivided and individually (and not in "bulk") leased (for a period of longer than one year) or sold to the purchaser or user thereof (a "Public Lot") and thereupon such Public Lot shall be released from and no longer be subject to or burdened by the provisions of this Agreement.

31. **No Partnership or Third Party Beneficiaries.** It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between the Trust Lands Administration and the City. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

32. **Entire Agreement.** This Agreement, together with the PCD Plan and the Master Plan, constitute the entire agreement between the parties pertaining to the subject matter hereof. All other prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

33. **Names and Plans.** The Trust Lands Administration shall be the sole owner of all names, titles, plans, drawings, specifications, ideas, programs, designs and work products of every nature developed, formulated or prepared by or at the request of the Trust Lands Administration in connection with the Property.

34. **Good-Standing: Authority.**

a. The Trust Lands Administration hereby represents and warrants to the City that: (i) the Trust Lands Administration is an independent agency of the State of Utah; (ii) the individual(s) executing this Agreement on behalf of the Trust Lands Administration are duly authorized and empowered to bind the Trust Lands Administration; and (iii) this Agreement is valid, binding, and enforceable against the Trust Lands Administration in accordance with its terms.

b. The City hereby represents and warrants to the Trust Lands Administration that: (i) the City is a Utah municipal corporation; (ii) the City has power and authority pursuant to enabling legislation, the Land Use Act, and the Zoning Ordinance to enter into and be bound by this Agreement; (iii) the individual(s) executing this Agreement on behalf of the City are duly authorized and empowered to bind the

City; and (iv) this Agreement is valid, binding, and enforceable against the City in accordance with its terms.

35. Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be severed from this Agreement, and the Agreement shall otherwise remain in full force and effect.

36. Governing Law. This Agreement is entered into in Utah and shall be construed and interpreted under the laws of Utah.

37. Recordation. No later than 10 days after this Agreement has been executed by the City and the Trust Lands Administration, it shall be recorded in its entirety, at the Trust Lands Administration's expense, in the Official Records of Washington County, Utah.

38. No Waiver of Governmental Immunity. Nothing in this Agreement is intended to, or shall be deemed, a waiver of the City's or the Trust Lands Administration's governmental immunity.

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

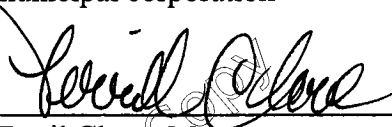
Approved as to Form
Mark L. Shurtleff
ATTORNEY GENERAL

By: 

STATE OF UTAH
SCHOOL AND INSTITUTIONAL
TRUST LANDS ADMINISTRATION:

By 
Kevin S. Carter, Director

WASHINGTON CITY,
a Utah municipal corporation

By 
Terril Clove, Mayor

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

On the 10th day of October, 2005, personally appeared before me Kevin S. Carter, who being by me duly sworn did say that he is the Director of the School and Institutional Trust Lands Administration of the State of Utah, and the signer of the above instrument, who duly acknowledged that he executed the same.

Given under my hand and seal this 10th day of October, 2005.

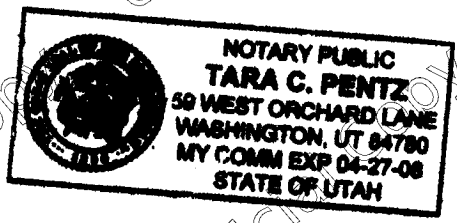


Michelle L. Barndt
Notary Public

STATE OF Utah)
 : ss.
COUNTY OF Washington)

On the 11th day of October, 2005, personally appeared before me Terrill Clave, who being by me duly sworn did say that he is the Mayor of Washington City, and the signer of the above instrument, who duly acknowledged that executed the same.

Given under my hand and seal this 11th day of October, 2005.



Tara C. Pentz
Notary Public

EXHIBIT "A"**Sienna Hills Legal Description:**

Beginning at the Northeast Corner of Section 12, Township 42 South, Range 15 West, Salt Lake Base and Meridian, thence along the East Section line of said Section 12 South 01°01'55" West 1334.15 feet to the South line of sectional Lot 1 of Section 7, Township 42 South, Range 14 West; thence along said South line of said Lot 1 South 88°56'32" East 1279.07 feet to the East line of said Lot 1; thence along the East line of said Lot 1 North 00°20'40" East 1336.06 feet to the North line of said Section 7; thence along said section line South 89°01'27" East 718.11 feet to a point on the Westerly boundary line of the Coral Canyon Development Lease Boundary as described in Development Lease No. 610, dated June 30, 1999, between SunCor Development and The State of Utah, as to which a Memorandum of Lease was recorded July 2, 1999, as Entry No. 00653936, in Book 1339, beginning at page 1451 in the office of the Washington County Recorder, in said county, in the State of Utah; thence along said boundary line in the following eighteen (18) courses: South 13°27'52" East 860.98 feet; thence South 13°25'06" East 477.18 feet; thence South 04°14'38" East 576.08 feet; thence South 46°25'46" East 171.31 feet; South 40°28'45" East 327.21 feet; thence South 22°11'51" East 213.85 feet; thence South 07°08'12" West 258.29 feet; thence South 37°11'51" West 162.48 feet; thence South 21°32'45" West 243.06 feet; thence South 36°08'23" West 220.08 feet; thence South 29°42'15" West 384.05 feet; thence South 38°36'53" West 411.12 feet; thence South 20°53'13" West 539.79 feet; thence South 21°28'02" West 447.91 feet; thence South 07°20'31" West 477.09 feet; thence South 14°28'10" West 304.43 feet; thence South 23°37'27" West 360.25 feet; thence South 07°27'02" West 362.75 feet to a point on the arc of a curve concave to the left, said curve having a radius of 918.02 feet, from which the radius point bears South 43°36'41" East; said point also being on the northerly right-of-way line of Telegraph Road, thence along said Telegraph Road right-of-way in the following nine (9) courses: Southwesterly 18.10 feet along the arc of said curve through a central angle of 01°07'46"; thence North 44°44'27" West 35.00 feet; thence South 45°15'33" West 212.75 feet to the point of curvature of a curve concave to the right, said curve having a radius of 966.29 feet, thence Southwesterly 519.06 feet along the arc of said curve through a central angle of 30°46'38" to the point of tangency; thence South 76°02'12" West 471.30 feet to the point of curvature of a curve concave to the left, said curve having a radius of 953.02 feet, thence Southwesterly 682.74 feet along the arc of said curve through a central angle of 41°02'47" to the point of tangency; thence South 34°59'24" West 528.62 feet to the point of curvature of a curve concave to the right, said curve having a radius of 1786.48 feet, thence Southwesterly 649.44 feet along the arc of said curve through a central angle of 20°49'43" to a point from which the radius point bears North 34°10'53" West, said point also being on the East Line of the West Half of the Northwest Quarter of the Northeast Quarter of the Southeast Quarter (W1/2NW1/4NE1/4SE1/4), said line also being the West East East 256th line of Section 13 Township 42 South, Range 15 West; thence along said East line South 00°53'32" West 886.75 feet to North line of the South Half of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter (S1/2SW1/4NE1/4SE1/4), said line also being

EXHIBIT "A" (CONT.)

the South North South 256th line of said Section 13; thence along said North line North 89°14'49" West 331.40 feet to the West line of the East Half of the Southeast Quarter (E1/2SE1/4), said line also being the East 16th line of said Section 13; thence along said West line South 00°53'41" West 666.89 feet to the North line of the South Half of the Northeast Quarter of the Southwest Quarter of the Southeast Quarter (S1/2NE1/4SW1/4SE1/4) said line also being the North South South 256th line of said Section 13; thence along said North line North 89°20'57" West 1325.72 feet to the Center Section Line of Section 13 Township 42 South, range 15 West; thence along said center section

North 00°54'18" East 4301.17 feet to the South Quarter Corner of said Section 12; thence along the Center Section line of said Section 12 North 01°05'21" East 1348.50 feet to the South 1/16th line of said Section 12, thence North 88°00'59" West 565.95 feet to a point of non-tangent of a 1500.00 foot radius curve to the left, of which the radius point bears South 29°21'57" East; thence Southwesterly 337.36 feet along said curve through a central angle of 12°53'10", from which the radius point bears South 42°15'07" East; thence North 88°00'59" West 653.04 feet; thence North 08°55'05" West 210.09 feet to a point on the said North property line of said property, said point also being on the South 1/16th line of said Section 12, thence North 88°00'59" West 528.39 feet to a point being on the Southerly right-of-way line of Interstate 15; thence along said right-of-way line in the following ten(10) courses: North 68°08'24" East 649.09 feet to an existing right-of-way monument; thence North 68°12'09" East 305.40 feet to an existing right-of-way monument; thence North 64°21'52" East 706.98 feet to an existing right-of-way monument; thence North 59°19'21" East 520.88 feet to an existing right-of-way monument; thence North 53°42'03" East 517.13 feet to an existing right-of-way monument; thence North 48°43'20" East 517.03 feet to an existing right-of-way monument; thence North 43°58'18" East 512.61 feet to an existing right-of-way monument; thence North 39°46'41" East 233.39 feet to an existing right-of-way monument; thence North 39°02'42" East 912.72 feet to an existing right-of-way monument; thence North 39°02'55" East 1351.82 feet to the North Section Line of said Section 12; thence along said section line South 88°43'57" East 67.05 feet to the point of beginning.

Contains 742.28 acres.

Less and Excepting:

1. A parcel of land in fee for the Interstate 15 Northbound Mile Post 13 ramps, known as Project No. *SP-15-1(20)13, described in State of Utah Patent No. 19639 with Exhibit A labeled as Parcel No. 15-1(1):A. Encloses 5.992 acres.
2. The area inside Washington Parkway Right-of-Way boundary as described in a dedication plat to be executed contemporaneously with this Agreement. Encloses 15.88 acres.
3. The area inside the Telegraph Road Right-of-Way boundary, a 200 foot wide public roadway. Encloses 7.9 acres.