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RICHARD T. MAUGHAN
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AGREEMENT FOR THE ANNEXATION AND DEVELOPMENT OF
LAND BETWEEN LAYTON CITY AND MATTHEW LOVE

C11-14
CR 2517-43
09-050-
0072

**AGREEMENT FOR THE ANNEXATION AND DEVELOPMENT OF LAND BETWEEN
LAYTON CITY AND MATTHEW LOVE**

THIS AGREEMENT for the annexation and development of land (hereinafter referred to as "Agreement") is made and entered into this 1st day of June, 2017, between LAYTON CITY, a municipal corporation of the State of Utah (hereinafter referred to as "City"), and Matthew Love (hereinafter individually referred to as "Owner"). City and Owner are collectively referred to as the "Parties" and individually as a "Party".

RECITALS

WHEREAS, in furtherance of the objectives of the Layton City General Plan, City has considered an application for an annexation of property into the City located at approximately 2700 North Fairfield Road in Layton City (hereinafter the "Annexation Area");

WHEREAS, the total area proposed for annexation consists of approximately 35.95 acres, which is described and depicted on Exhibit A attached hereto (hereinafter "Exhibit A");

WHEREAS, the total area proposed for development consists of approximately 35.95 acres (hereinafter the "Subject Area"), which is described and depicted on Exhibit B attached hereto (hereinafter "Exhibit B");

WHEREAS, Parties desire to enter into this Agreement to provide for the annexation and development of the Annexation Area and Subject Area in a manner consistent with the overall objectives of the City's General Plan and the intent reflected in that Plan;

WHEREAS, City is willing to annex 35.95 acres and zone the Subject Area subject to Owner agreeing to certain development limitations and undertakings described herein, which will provide protection for the Annexation Area and surrounding property values and will enable the City Council to consider the approval of such development at this time; and

WHEREAS, City believes that entering into the Agreement with Owner is in the best interest of the City and the health, safety, and welfare of its residents.

NOW, THEREFORE, each of the Parties hereto, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, covenant and agree as follows:

**ARTICLE I
DEFINITIONS**

The following terms have the meaning and content set forth in this Article I, wherever used in this Agreement:

1.1 "City" shall mean Layton City, a body corporate and politic of the State of Utah. The principal office of City is located at 437 North Wasatch Drive, Layton, Utah 84041.

1.2 "City's Undertakings" shall mean the obligations of the City set forth in Article III.

1.3 "Owner" shall mean Matthew Love. The principal mailing addresses for Owner are listed in paragraph 7.2.

1.4 "Owner's Undertakings" shall have the meaning set forth in Article IV.

1.5 "R-1-8, R-1-6 and R-1-8 PRUD" zoning shall mean single-family use districts, the minimum lot area, setbacks and frontage, as well as the principal and accessory structures within which, are restricted by Table 5-1 of the Zoning Regulation Chart of the Zoning Ordinance and the PRUD Zoning Overlay.

1.6 "Annexation Area" shall have the meaning set forth in the Recitals hereto. The Annexation Area is depicted on Exhibit "A" attached hereto.

1.7 "Subject Area" shall have the meaning set forth in the Recitals hereto. The Subject Area is depicted on Exhibit "B" attached hereto.

ARTICLE II CONDITIONS PRECEDENT

2.1 The following are conditions precedent to Owner's obligations under this Agreement, including without limitation Owner's Undertakings in Article IV: (a) City's approval of this Agreement, including approvals of City's Planning Commission and Council, and full execution of this Agreement by City, (b) Zoning of the Subject Area, and (c) recordation of the annexation plat for the Annexation Area. Once annexed, the City will act promptly to zone the Subject Area to R-1-8, R-1-6 and R-1-8 PRUD.

ARTICLE III CITY'S UNDERTAKINGS

3.1 City shall approve this Agreement (including approvals by the City's Planning Commission and City Council) prior to its decision to annex the Subject Area, and shall not file the annexation plat with the Davis County Recorder until the Subject Area is zoned pursuant to, and consistent with, Article II and this Agreement has been fully executed by all parties.

ARTICLE IV OWNER'S UNDERTAKINGS AND RIGHTS

After the Effective Date, and conditioned upon City's performance of its undertakings set forth in Article III, and provided Owner has not terminated this Agreement pursuant to Section 7.7, Owner agrees to the following:

4.1 **Zoning.** Zoning and development of the Subject Area shall comply with Article II. Once the Subject Property is annexed and zoned in accordance with Article II, development of the Subject Area shall comply with all applicable City rules, regulations and codes.

4.1.1. Development of the Subject Area shall comply with the standards and requirements of the R-1-8, R-1-6 and R-1-8 PRUD zones. The maximum number of units shall be 147 residential units as illustrated in the Subject/Development Area Exhibit "B"

4.1.2. The exterior building materials for the homes shall be made of masonry materials for exterior construction, which may include hardy board, brick, rock or stucco. Vinyl siding shall not be allowed. The maximum height for the buildings is 30 feet.

4.1.3. All homes with corner visibility from public streets and common open space areas shall be detailed with special architectural treatments that primarily apply to the front of the home, and to the side of the home visible from the street or common area. The detailing shall primarily utilize color and texture variations of hardy board siding and trim to emphasize features such as windows, porches and doors, building articulation, or other features.

4.1.4. The homes shall include an attached two car garage as a minimum.

4.1.5. The minimum lot width for any home with a front-loaded garage shall be 50 feet.

4.1.6. One street tree with at least 2" caliper shall be planted in the parking strip of the public street section in front of each home on a lot with less than 55 feet of frontage. For homes built on a lot with over 55 feet of frontage, two street trees with at least 2" caliper shall be planted with 25 feet of separation, in accordance with Layton Municipal Code 19.16.075 – Permitted Trees Within Park Strips and Along Frontages. Tree spacing may be reduced according to the species of tree and mature canopy spread. Street tree species should vary between streets to create unique street identity, visual variety, and to promote the health of City's urban forestry. In the event that any of the trees or shrubs die or do not adequately grow, they shall be promptly replaced.

4.1.7. For the common open space areas, a 2" minimum caliper deciduous tree, in combination with a minimum 6 foot evergreen tree shall be planted for every 3,000 (1:3,000) square feet of open space throughout the development. Trees and landscaping shall have a 1 year warranty, and be planted to provide shade and to visually enhance recreational features including pocket parks and the trail network. In the 20 foot open space buffer along the north edge of the site, at least 25 evergreen trees shall be used to screen homes from existing off-site commercial uses, and shall be planted in a triangulated, or staggered configuration with deciduous trees or shrubs accents. All common areas, detention basin(s), landscape buffers and/or planting strips found within the public right-of-way shall be owned and maintained by the subdivision Homeowner's Association with specific maintenance responsibilities outlined within the subdivision CC&R's. In the event that any of the trees or shrubs die or do not adequately grow, they shall be promptly replaced.

4.1.8. Two pocket parks shall be provided as recreational gathering features within the development, including a park area located east of the detention area, and a park area located next to the power line corridor between the R-1-8 PRUD and R-1-6 zoned areas (See Exhibit "B"). The two pocket parks shall be owned and maintained by the subdivision Homeowner's Association with specific maintenance responsibilities outlined within the subdivision CC&R's. Both of the parks shall provide recreational play features for children, landscaping, seating, and tables, and shall connect to the trail and sidewalk network.

4.1.9. A 6-foot wide pathway shall be provided along the powerline corridor and throughout the common open space area as shown in Exhibit "B." The pathway shall be built up to the adjacent Wyndom Square PRUD off-site open space and private trail to the northeast within the powerline corridor, and shall accommodate pedestrian and bicycle access from existing residential areas. All pathways within the development shall be owned and maintained by the subdivision Homeowner's Association with specific maintenance responsibilities outlined within the subdivision CC&R's.

4.2 Culinary Water.

4.2.1. Owner shall be responsible for the acquisition of all necessary easements for the construction and installation of all culinary water improvements.

4.2.2. Owner shall be responsible for the construction and installation of all on-site and off-site culinary water improvements.

4.2.3. There is an existing 6-inch waterline in Fairfield which terminates at a fire hydrant at Tip RV (Parcel 09-046-0053) to the north. An 8-inch main will need to extend from this point, loop through the project, and connect to a 10-inch stub in 1025 East.

4.2.4. There is a 12" dry line in 1025 East for a future transmission line that will need to extend north through the project to parcel 09-050-0096. This improvement may qualify for a possible payback if used to serve any additional offsite development.

4.3 **Sanitary Sewer.** There is a 12-inch main running east/west through the property. This line will need to be located at the standard location within a public street. The owner shall be responsible for any relocation required to meet this standard.

4.4 **Storm Drain.** There is a 15 inch stub in 1025 East with a capacity for 16 cubic feet per second from this parcel. There are 30 inch and 18 inch mains in Fairfield Road, which are at capacity. A detention basin will be required for all storm water beyond the 16 cubic feet per second mention above. The basin will need to be sized for a 100-year-storm event.

4.4.1. The developer may enter into a payback agreement with the City specific to the storm drain line for improvements to extend, expand, or improve the City's storm drain system beyond the improvements required to service or benefit the development of the Subject Property.

4.5 **Street Improvements.** A maximum of two connections will be allowed to Fairfield Road. One connection will need to be provided to parcel 09-050-0096 to the north to provide the parcel with access to utilities.

4.5.1. Owner shall be responsible to remove the temporary turn-a-round on 1025 East and replace it with a standard street cross section at Owner's expense. Owner shall also be responsible for any driveway tie-ins as well as landscape repair and any other necessary repairs.

4.6 **Land Drain.** A land drain system will be required for any home with a footing and foundation drain or as specified in a geotechnical report required as part of the subdivision review and approval process.

4.6.1. The land drain may need to extend in Fairfield Road and connect to the storm drain system at a point is lower than the finished floor elevation.

4.7 **Water Exactions.** Owner shall be responsible for complying with Layton City's Water Exactions requirements effective on the date of execution of this agreement.

4.8 **Precedence of this Agreement.** Owner agrees that Agreement shall take precedence over any contrary provisions of any City staff memorandums or representations.

4.9 **Not Considered Approvals.** Owner agrees that except as otherwise provided herein, these enumerations are not to be construed as approvals thereof, as any required approval process must be pursued independent hereof.

4.10 **Conflicts.** Owner agrees that except as otherwise provided, any conflict between the provisions of Agreement and City's standards for improvements, shall be resolved in favor of the stricter requirement.

ARTICLE V GENERAL REQUIREMENTS AND RIGHTS OF CITY

5.1 **Issuance of Permits - Owner.** Owner, or its assignee, shall have the sole responsibility for obtaining all necessary building permits in connection with Owner's Undertakings and shall make application for such permits directly to the Layton City Community Development Department and other appropriate departments and agencies having authority to issue such permits in connection with the performance of Owner's Undertakings. City shall not unreasonably withhold or delay the issuance of its permits.

5.2 **Completion Date.** Owner shall, in good faith, reasonably pursue completion of the development. Each phase or completed portion of the project must independently meet the requirements of this Agreement and the City's ordinances and regulations, such that it will stand alone, if no further work takes place on the project.

5.3 **Access to the Subject Area.** For the purpose of assuring compliance with this Agreement, so long as they comply with all safety rules of Owner and its contractor, representatives of City shall have the right of access to the Subject Area without charges or fees during the period of performance of Owner's Undertakings. City shall indemnify, defend and hold Owner harmless from and against all liability, loss, damage, costs or expenses (including without limitation attorneys' fees and court costs) arising from or as a result of the death of a person or any accident, injury, loss or damage caused to any person, property or improvements on the Subject Area arising from the exercise by City, its agents or employees of its rights granted in this paragraph.

ARTICLE VI REMEDIES

6.1 **Remedies for Breach.** In the event of any default or breach of this Agreement or any of its terms or conditions, the defaulting Party or any permitted successor to such Party shall, upon written notice from the other, proceed immediately to cure or remedy such default or breach, and in any event cure or remedy the breach within thirty (30) days after receipt of such notice. In the event that such default or breach cannot reasonably be cured within said thirty (30) day period, the Party receiving such notice shall, within such thirty (30) day period, take reasonable steps to commence the cure or remedy of such default or breach, and shall continue diligently thereafter to cure or remedy such default or breach in a timely manner. In case such action is not taken or diligently pursued, the aggrieved Party may institute such proceedings, as may be necessary or desirable in its opinion to cure or remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the Party in default or breach of its obligations.

6.2 **Enforced Delay Beyond Parties' Control.** For the purpose of any other provisions of this Agreement, neither City nor Owner, as the case may be, nor any successor in interest, shall be considered in breach or default of its obligations with respect to its construction obligations pursuant to this Agreement, in the event the delay in the performance of such obligations is due to unforeseeable causes beyond its fault or negligence, including, but not restricted to, acts of God or of the public enemy, acts of the government, acts of the other Party, fires, floods, epidemics, quarantine restrictions, strikes,

freight embargoes, or unusually severe weather, or delays of contractors or subcontractors due to such causes or defaults of contractors or subcontractors. Unforeseeable causes shall not include the financial inability of the Parties to perform under the terms of this Agreement.

6.3 **Extension.** Any Party may extend, in writing, the time for the other Party's performance of any term, covenant or condition of this Agreement or permit the curing of any default or breach upon such terms and conditions as may be mutually agreeable to the Parties; provided, however, that any such extension or permissive curing of any particular default shall not operate to eliminate any other obligations and shall not constitute a waiver with respect to any other term, covenant or condition of this Agreement nor any other default or breach of this Agreement.

6.4 **Rights of Owner.** In the event of a default by Owner's assignee, Owner may elect, in its discretion, to cure the default of such assignee; provided, Owner's cure period shall be extended by 30 days.

**ARTICLE VII
GENERAL PROVISIONS**

7.1 **Successors and Assigns of Owner.** This Agreement shall be binding upon Owner and its successors and assigns, and where the term "Owner" is used in this Agreement it shall mean and include the successors and assigns of Owner, except that City shall have no obligation under this Agreement to any successor or assign of Owner not approved by City. Notwithstanding the foregoing, City shall not unreasonably withhold or delay its consent to any assignment or change in Ownership (successor or assign of Owner) of all or any portion of the Subject Area. Upon approval of any assignment by City, or in the event Owner assigns all or part of this Agreement to an assignee, Owner shall be relieved from further obligation under that portion of the Agreement for which the assignment was made and approved by City.

7.2 **Notices.** All notices, demands and requests required or permitted to be given under this Agreement (collectively the "Notices") must be in writing and must be delivered personally or by nationally recognized overnight courier or sent by United States certified mail, return receipt requested, postage prepaid and addressed to the Parties at their respective addresses set forth below, and the same shall be effective upon receipt if delivered personally or on the next business day if sent by overnight courier, or three (3) business days after deposit in the mail if mailed. The initial addresses of the Parties shall be:

To Owner: Matthew Love
2654 North Fairfield Road
Layton, UT 84041

To City: LAYTON CITY CORPORATION
437 North Wasatch Drive
Layton, Utah 84041
Attn: Alex R. Jensen, City Manager
801/336-3800 801/336-3811 (FAX)

Upon at least ten (10) days prior written notice to the other Party, either Party shall have the right to change its address to any other address within the United States of America

If any Notice is transmitted by facsimile or similar means, the same shall be deemed served or delivered upon confirmation of transmission thereof, provided a copy of such Notice is deposited in regular mail on the same day of such transmission.

7.3 **Third Party Beneficiaries.** Any claims of third party benefits under this Agreement are expressly denied, except with respect to permitted assignees and successors of Owner.

7.4 **Governing Law.** It is mutually understood and agreed that this Agreement shall be governed by the laws of the State of Utah, both as to interpretation and performance. Any action at law, suit in equity, or other judicial proceeding for the enforcement of this Agreement or any provision thereof shall be instituted only in the courts of the State of Utah.

7.5 **Integration Clause.** This document constitutes the entire agreement between the Parties and may not be amended except in writing, signed by the City and the Owner.

7.6 **Attorneys' Fees.** In the event of any action or suit by a Party against the other Party for reason of any breach of any of the covenants, conditions, agreements or provisions on the part of the other Party arising out of this Agreement, the prevailing Party in such action or suit shall be entitled to have and recover from the other Party all costs and expenses incurred therein, including reasonable attorneys' fees.

7.7 **Termination.** Except as otherwise expressly provided herein, the obligation of the Parties shall terminate upon the satisfaction of the following conditions:

7.7.1 With regard to Owner's Undertakings, performance of Owner of Owner's Undertakings as set forth herein.

7.7.2 With regard to City's Undertakings, performance by City of City's Undertakings as set forth herein.

Upon an Owner's request (or the request of Owner's assignee), the other Party agrees to enter into a written acknowledgment of the termination of this Agreement, or part thereof, so long as such termination (or partial termination) has occurred.

7.8 **Recordation.** The recordation of any documents or plats shall be as follows:

7.8.1 Notice of this Agreement will be recorded against the Subject Area in the Davis County Recorder's Office.

7.8.2 The Parties agree that the annexation plat will only be recorded with the Davis County Recorder's Office after the zoning amendments contemplated in Article II have been completed by the City Council.

7.9 **Recording Amendments.** Any subsequent amendment to this Agreement may be recorded as agreed by the Parties.

7.10 **Exhibits.** The following Exhibits are attached to and form a part of this Agreement:

- Exhibit "A" - Description of Annexation Area
- Exhibit "B" - Subject/Development Area

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives effective as of the day and year first above written.



LAYTON CITY CORPORATION:

By: *Robert J. Stevenson*
ROBERT J STEVENSON, Mayor

ATTEST:

By: *Kimberly S Read*
KIMBERLY S READ, City Recorder

APPROVED AS TO FORM:

Gary Crane
GARY CRANE, City Attorney

Signed by *Matthew Love*
MATTHEW LOVE

Subscribed and sworn to me this 5 day of June, 2017

Anneliesa Earl
Notary

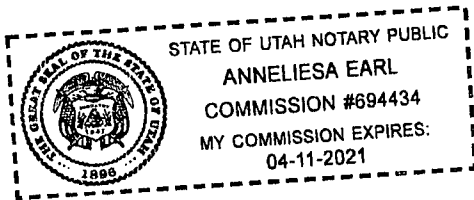


EXHIBIT "A"

**Matt Love
Annexation
Agreement**

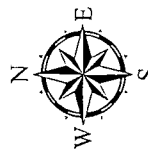
**Annexation
Area**

**Approximately
2700 North
Fairfield Road**

35.91 Acres

Legend

- Centerlines
- City Boundary
- Interstate 15
- Property
- Highways
- Streams



1 inch = 394 feet

**Layton
City**

3037827
BK 6825 PG 621



Legal Description

Parcel # 09-050-0072

BEG AT A PT 660 FT S & 660 FT W FR NE COR OF NW 1/4 OF SEC 10-T4N-R1W, SLB&M; TH W 660 FT; TH S 660 FT; TH W 1472.33 FT TO A PT ON THE E R/W LINE OF FAIRFIELD RD; TH ALG SD R/W LINE THE FOLLOWING FIVE (5) COURSES: S 486.29 FT, E 10.00 FT, S 180.00 FT, W 22.74 FT, S 0°23'12" W 71.38 FT; TH LEAVING SD R/W LINE & RUN S 88°36'10" E 144.38 FT; TH S 0°07'20" E 100.00 FT; TH N 88°36'10" W 144.35 FT TO A PT ON THE E R/W LINE OF FAIRFIELD RD; TH FOLLOWING SD R/W LINE S 0°23'12" W 119.77 FT; TH LEAVING SD R/W LINE & RUN E 622.22 FT; TH S 1°22' W 82.28 FT; TH S 89°29' E 929.57 FT, M/L, TO BNDRY LINE AGMT 2023-1305; TH ALG SD AGMT 2 COURSES AS FOLLOWS: N 743.81 FT, M/L, TO AN EXIST FENCE LINE & S 89°05'07" E 1208.69 FT TO THE SEC LINE; TH N 869.45 FT, M/L, TO N LINE OF HWY; TH W'LY ALG N LINE SD HWY TO A PT S OF BEG; TH N 10 FT, M/L, TO POB. CONT 55.199 ACRES LESS & EXCEPTING: BEG AT A PT WH IS S 0°07'30" W ALG THE 1/4 SEC LINE 896.30 FT FR THE N 1/4 COR OF SEC 10-T4N-R1W, SLB&M, SD PT BEING ON THE S LINE OF HWY 193; & RUN TH S 0°07'30" W 728.74 FT ALG THE 1/4 SEC LINE TO THE N LINE OF WYNDOM HIGHLAND NO 1; TH N 89°05'07" W 1361.78 FT ALG SD SUB & SD SUB LINE EXT TO THE PROJ OF THE E LINE OF THE PPTY CONV IN BK 1043 PG 113; TH N 0°21'28" E 904.02 FT TO THE S LINE OF HWY 193; TH ALG SD HWY S 80°10'30" E 712.10 FT TO A PT OF CURVATURE TO A 5804.65 FT RAD CURVE TO THE LEFT; TH E'LY ALG SD CURVE FOR DIST OF 660.58 FT (CENTRAL ANGLE = 6°31'13", CHORD BEARING & DIST = S 83°26'06" E 660.22 FT) TO THE POB. CONT. 25.087 ACRES LESS ACREAGE IN HILLFIELD RD 1.544 ACRES TOTAL ACREAGE 28.568 ACRES