

WHEN RECORDED MAIL TO:

Perry Homes
17 East Winchester Street, Ste 200
Salt Lake City, UT 84107

Attn: Dan Reeve

File No.: 111666-DMF

12971508
4/19/2019 3:05:00 PM \$47.00
Book - 10771 Pg - 7624-7642
RASHELLE HOBBS
Recorder, Salt Lake County, UT
COTTONWOOD TITLE
BY: eCASH, DEPUTY - EF 19 P.

IMPROVEMENT AND REIMBURSEMENT AGREEMENT

In Reference to Tax ID Number(s):

26-34-301-001, 26-34-352-003, 26-34-251-001, 26-33-426-002 and 26-33-426-003

IMPROVEMENT AND REIMBURSEMENT AGREEMENT

THIS IMPROVEMENT AND REIMBURSEMENT AGREEMENT (this “**Agreement**”) is made and entered into as of this 15 day of April, 2019, by and among Ivory Land Corp., a Utah corporation (“**Ivory**”) and Perry Development, LLC, a Utah limited liability company (“**Perry**”). Ivory and Perry are collectively referred to herein as the “**Parties**” or “**Owners**,” and, individually, as a “**Party**” or “**Owner**.”

R E C I T A L S

A. The Parties own or are under contract to purchase parcels of real property located within Herriman City, Salt Lake County, State of Utah. The properties that are owned or to be owned by each Party and subject to this Agreement are identified in Exhibit “A” (collectively, the “**Properties**”). The term “**Each Owner’s Property**” means the parcels of land included among the Properties that are anticipated to be owned by each Owner.

B. The Properties are subject to a Master Development Agreement and are intended to be developed and improved for residential use. All of the Properties will benefit from, and become more readily developable by, the design, construction and improvement of new roads, utilities, and the realigned Butterfield Creek.

C. In order to develop the Improvements in an orderly, economical and reasonable manner, for the mutual benefit of the Parties and the Properties, the Parties desire to enter into this Agreement regarding the Work (as defined below) and payment of the Costs (as defined below), all in accordance with the terms and conditions set forth in this Agreement.

T E R M S A N D C O N D I T I O N S

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties covenant and agree as follows:

1. **Recitals**. The Recitals set forth above are incorporated into this Agreement by this reference.

2. **General Background; Definitions**. Each Party acknowledges that: (i) one or more of the other Parties may desire to perform the Work or cause the Work to be performed, and (ii) the performance of the Work by any Party will directly benefit all Parties and the Properties. As used in this Agreement, each of the following terms shall have the meaning ascribed thereto in this Section 2.

2.1 “**Applicable Governmental Entity**” means the Governmental Entity to which the Improvements (defined below) will be dedicated, which is anticipated to be Herriman City.

2.2 “**Bid**” means the bid or bids for the Work (which shall reflect each component of the Work, including engineering, design and construction, separately) received from a professional licensed contractor or contractors as selected in accordance with the terms set forth in Sections 6.1 and 6.2 of this Agreement.

2.3 “**City**” means the Herriman City, a municipal corporation of the State of Utah.

2.4 “**Completion Date**” means, with respect to a Party, the first anniversary of the date of the most recent acceptance or deemed acceptance of a Bid by the Parties in accordance with this Agreement.

2.5 “**Constructing Party**” means the Party or, collectively, the group of Parties who has provided a Notice of Commencement that is still effective.

2.6 “**Costs**” means the costs that are reasonable in all respects (including engineering, design and construction, and necessary utility connection or extension fees) and actually paid by the Constructing Party for the Work performed prior to the Applicable Governmental Party’s acceptance of the dedication of the Improvements in an amount not to exceed the actual costs of the Improvements. Costs do not include general overhead, administration, cost of funds, or any mark-up by the Constructing Party. The reimbursable “Costs” under this Agreement are intended to include “system improvements” (not “project improvements”) that benefit all of the Properties. This Agreement shall not be construed to provide for any reimbursement obligations of impact fees paid for Each Owner’s Property. Reference is made to Section 8.2 of this Agreement for additional provisions pertaining to reimbursable Cost obligations.

2.7 “**Governmental Entity**” means, individually and collectively, each municipality, district, authority, agency and governmental entity having authority or jurisdiction with respect to the subject matter of this Agreement, including federal, state and local governmental entities and including the City.

2.8 “**Improvements**” means, collectively, and including but not limited to: (i) the roads which service both Owner’s Properties (the “**Road Improvements**”), (ii) culinary and secondary water lines and facilities, sanitary sewer lines and facilities, storm drain lines and facilities, and all other utility lines and facilities required to service the Properties (including, but not limited to, telephone, communications conduit, gas connections, extensions, and fees, and power line connections, extensions, and fees, and three-phase power) (the “**Utilities**”) and (iii) the remediation and realignment of the Butterfield Creek (“**Canal Realignment**”). The general location of the Road Improvements, Utilities and Canal Realignment are shown on Exhibit B attached hereto. The Road Improvements, the Utilities, the Canal Realignment and other “system improvements” that qualify for reimbursement under this Agreement are collectively referred to as the “**Improvements**.”

2.9 “**Improvement Verification Materials**” means, collectively, all of the following: (a) a letter from the Applicable Governmental Entity stating that all of the

Improvements have been completed and are in compliance with applicable Legal Requirements, if the Governmental Entity is willing to issue such letter, and if not, (i) correspondence from the Governmental Entity stating that it will not issue such a letter and (ii) evidence that the Governmental Entity has accepted dedication of the Improvements; and (b) written evidence that the Constructing Party has paid all invoices and payments due for the Work and Improvements with final lien waiver documentation in connection with the Improvements.

2.10 “**Legal Requirements**” means all laws, ordinances, orders, regulations, and requirements of all Governmental Entities affecting the construction, use, or occupancy of the Properties, or the Improvements, or performance of the Work.

2.11 “**Notice of Commencement**” shall mean a written notice containing all of the following (a) notice of intent of the Owner providing such notice to become the Constructing Party; (b) a representation and warranty that the Owner providing notice has obtained an agreement from all contractors and subcontractors with whom such Owner has a contract for the design, engineering, development, construction, installation and any other services for the Work that such contractors and subcontractors will assign the applicable contract to the other Owner or Owners if any such Owners shall become the Constructing Party and that for any new such contract entered into after the date of the Notice of Commencement, the Owner providing notice will obtain the right to assign the contract to the other Owner or Owners if such Owners shall become the Constructing Party.

2.12 “**Reimbursing Party**” means each Owner and Party (and the successors to or assigns of all or a portion of such Owner’s interest in the Properties) that is not a Constructing Party that has submitted a Notice of Commencement that is currently in effect.

2.13 “**Share**” means pro rata allocated between each of Perry and Ivory based on the number of lots owned by these Parties in the Properties.

2.14 “**Work**” means the providing of materials and performance of work to accomplish the design, engineering, development, construction, installation, repair and maintenance of any portion of the Improvements, including grading, filling, paving, and all other aspects of construction for which the Constructing Party seeks reimbursement under this Agreement. A Party is not required to complete all of the Improvements at once. Rather, the Parties hereto may ultimately complete differing portions of the Improvements.

3. **Construction of the Improvements.**

3.1 **General.** Any Owner may elect to perform any portion of the Work at such Owner’s initial cost and expense; provided, however, that no Owner shall be entitled to any reimbursement under this Agreement or otherwise exercise any right under this Agreement as a Constructing Party unless and until such Owner has provided the other Owners a Notice of Commencement that is approved or deemed approved as set forth in Section 3.2. Once an Owner becomes a Constructing Party, such Owner shall have the obligation to complete the Improvements in accordance with this Agreement and no other Owner may become a Constructing Party except as otherwise provided in Section 9.

3.2 **Notice of Commencement.** Before any Owner shall become the Constructing Party for any portion of the Work, such Owner shall provide each other Owner a Notice of Commencement. The Owners shall be deemed to have approved the Owner providing the Notice of Commencement as the Constructing Party unless, within ten (10) days from the date of receipt of the Notice of Commencement, any Owner provides the other Owners with written notice of objection, which notice, to be effective, must explain in reasonable detail the basis of the objection and a proposed solution or remedy. If a party makes a timely objection to the Notice of Commencement, the Owners shall endeavor in good faith to resolve the same in a prompt and expeditious manner in order to avoid unnecessary delays. If not resolved through the negotiations of the Owners within ten (10) days of the date of the notice of objection, any such disputes shall be resolved in the manner hereinafter provided in Section 12, but the Owner who issued the Notice of Commencement shall not be prohibiting from commencing construction of the Improvements.

3.3 **Quality of Construction.** The Work commenced pursuant to a Notice of Commencement shall be performed by the Constructing Party: (a) in a good and workmanlike manner; (b) in accordance with the requirements, approvals, regulations, ordinances, specifications, standards, and other items established by each Governmental Entity, including each general plan created by such Governmental Entity; (c) such that the Applicable Governmental Entity shall accept the dedication of the Improvements as public facilities, including the acceptance of the appropriate easements or dedication of the Road and the other Road Improvements as a public right-of-way; and (d) such that the Utilities are stubbed to the boundary of the Road at one or more points designated by each Owner, if requested and designed by the applicable Owner. The Constructing Party shall provide “as-builts” prepared and stamped by the Constructing Party’s engineer to the other Owners.

3.4 **Completion.** Once an Owner provides a Notice of Commencement in accordance with the conditions of this Agreement, such Owner agrees to complete those portions of the Work identified in the Notice of Commencement in accordance with all time frames required by the Governmental Entity, but in any event no later than the Completion Date. In the event a Constructing Party does not complete the Improvements by the Completion Date, a Reimbursing Party may become the Construction Party only in accordance with Section 9.

4. **Platting and Bonding.**

4.1 **Platting.** The Constructing Party shall obtain, or cause to be obtained, all necessary plat approvals and permits from each Governmental Entity that are required to perform the Work and dedicate all of the Improvements. The Owners other than the Constructing Party may have reasonable opportunity to provide input in the design, construction, or platting of the Constructing Party’s residential project but only to the extent necessary to ensure that the Constructing Party’s plans take into account all Improvements and exigencies (such a grading considerations and otherwise) necessary for such Owners (other than the Constructing Party) to develop their respective portions of the Properties in the future.

4.2 **Bonding.** The Owners acknowledge that the City may, upon the recording of a plat for the Constructing Party’s subdivision, require security (whether a cash escrow, a performance bond, a letter of credit, and/or warranty bond) to ensure the construction of the

Improvements. The Constructing Party shall be required to post with the City the security for the construction of the Improvements in a form acceptable to the City and at the Constructing Party's sole costs and expense, as well as an acceptable warranty bond for the applicable warranty period of the Improvements. Notwithstanding the foregoing sentence, to the extent any of the other Owners become the Constructing Party, then such Owner will: (i) use reasonable efforts to obtain from the City a release of the Constructing Party's security posted for construction and warranty of the Improvements; and (ii) post with the City new security provided by such Owner for the construction and warranty of the Improvements in a form required by and acceptable to the City. Nothing in this section shall be construed to prohibit the Constructing Party from developing and constructing the Improvements prior to plat recordation without an improvement/assurance bond.

5. **Cooperation; Easements.**

5.1 **General Cooperation.** The Owners agree to cooperate reasonably with each other in the Work and the dedication of the Improvements, which cooperation includes signing dedication documents (including dedication plats) with respect to the Improvements and the property underlying the Improvements to the extent necessary for the Improvements to be dedicated pursuant to the requirements of the Applicable Governmental Entity, as well the Easements that are reasonably necessary for the Improvements to be constructed and installed (including, without limitation, rights of way, slope and grading easements, and temporary construction staging easements). In addition, the Owners shall not take any actions that unreasonably interfere with or negatively impact the properties or intended developments of the other Owners.

5.2 **Request to Cooperate.** No Owner other than a Constructing Party shall be obligated to cooperate pursuant to Section 5.1 unless requested in writing to do so by the Constructing Party. No Owner shall be obligated to expend any cost that does not constitute a Cost in connection with such cooperation. Reasonable costs expended by an Owner other than a Constructing Party pursuant to cooperation by such other Owner in accordance with Section 5.1 shall be considered to be Work, if the Work benefits all the Owners, and such other Owner shall be entitled to reimbursement for the Costs for such Work as if such other Owner were a Constructing Party and each Constructing Party at the time of such cooperation were a Reimbursing Party with respect to such Costs.

6. **Reimbursing Party's Shares of Costs.** Subject to the provisions in Section 2.3 above, the Costs shall be reimbursed to the Constructing Party pursuant to the following procedures:

6.1 **Notification of Proposed Bid.** After a Notice of Commencement is approved or deemed approved and prior to the commencement of any portion of the Work, the Constructing Party shall present to each other Owner each bid and cost estimate for any and all parts of the Work (each such bid or estimate being a "**Proposed Bid**" and collectively, the "**Proposed Bids**"). Each Proposed Bid shall include the following information: (a) a description of the Improvements that are the subject of such Proposed Bid; (b) copies of contracts with all contractors and subcontractors pursuant to which the Work with respect to such Improvements will be effected, a complete statement of unit costs, a statement as to the total cost of such Work

and an identification of the contractor(s) and subcontractor(s) performing such Work; and (c) if not previously provided to the other party, copies of the plans and specifications approved by the appropriate Governmental Entities pursuant to which the Work shall be effected. For a period of fourteen (14) days following such other Owner's receipt of a Proposed Bid (such fourteen (14)-day period being the "**Bid Objection Period**"), such other Owner shall have the right to object to a Proposed Bid on the basis that such Proposed Bid is unreasonable, excessive or otherwise not in accordance with this Agreement by sending written notice of such objection to each other Owner during the Bid Objection Period. If an Owner fails to provide such objection within the Bid Objection Period, such Owner shall be deemed to have accepted the Proposed Bid. If all Owners accept or are deemed to accept a Proposed Bid, that Proposed Bid shall become the Bid for the specific part or parts of the Work that are the subject of the Proposed Bid.

6.2 **Separate Bid.** In the event that an Owner rejects a Proposed Bid, such Owner may obtain a separate bid for the Work set forth in the Proposed Bid from an unaffiliated independent third party contractor or subcontractor (who meets the criteria described below) using the Constructing Party's drawings and plans (which the Constructing Party shall provide to the Owner requesting the separate bid) by notifying all other Owners during the applicable Bid Objection Period in writing of the intent to obtain a separate bid, after which the Owner seeking a separate bid shall have 14 days to solicit such bids. If the Owner seeking a separate bid receives within 14 days a binding bid that is lower than the Proposed Bid (the "**Lower Bid**"), the Constructing Party may proceed to complete the Work under either the Proposed Bid or the Lower Bid; provided, however, that in the event an Owner obtains a Lower Bid and regardless of whether Constructing Party completes the Work under the Proposed Bid or the Lower Bid, the average of the Proposed Bid and the Lower Bid (i.e., add the two bids together and divide the sum in half) shall become the Bid for purposes of determining the Costs for which the Constructing Party may be reimbursed for the portion or portions of the Work that are the subject matter of the Lower Bid. For purposes of this Section, a Lower Bid is not valid unless it is provided by a contractor or subcontractor that meets the following criteria: the contractor has at least 10 years of construction experience with jobs of the size contemplated and the contractor is prepared to perform the Work in accordance with the same schedule/timing as set forth in the Proposed Bid.

6.3 **Share of Costs.** Except as otherwise provided in Section 2.13 above, each Reimbursing Party shall only be responsible for such Reimbursing Party's Share of the Costs for any particular portion of the Work. Subject to the provisions in Section 6.2 above, if a valid Lower Bid is provided, each Reimbursing Party is responsible for payment of its Share of the actual cost of the Improvements, with the understanding that a Reimbursing Party shall be responsible for the actual Costs of the Work, if the amount of the actual Costs exceeds the amount of the approved bid, if the cost-overrun is reasonably related to additional costs resulting from unknown site conditions, unexpected changes in the scope of work, reasonably necessary change orders, or other reasonable grounds for the actual Costs to exceed the Bid and such Reimbursing Party was permitted to review and reasonably approve any valid change orders associated with an increased bid price for the Work prior to the time that such work was performed. To the extent possible, the Parties will endeavor to seek firm (not to exceed) bids in an effort to minimize any change orders and unforeseen increases in costs.

6.4 **Costs of Required Changes.** If the Constructing Party is required by a Governmental Entity or another Owner to perform Work that benefits only the other Owner, the other Owner who has required such Work or for whose benefit such Work has been performed as required by such Governmental Entity, shall reimburse the Constructing Party for the Costs with respect to such Work at such times as are required by this Agreement. Notwithstanding the foregoing, if any Work is required by a Governmental Entity, and such Work benefits all of the Owners or none of the Owners, then each Owner shall be responsible for its Share of the Costs of such Work.

6.5 **Completion.** Upon completion of the Improvements completed pursuant to any Notice of Commencement, the Constructing Party will present to each Reimbursing Party the (a) Improvement Verification Materials and (b) a detailed invoice with supporting documentation evidencing the amount of such Reimbursing Party's Share of the Costs owed to the Constructing Party as determined pursuant to Section 2.13 and Sections 6.1 through 6.4 (such invoice and supporting documentation being the "**Final Invoice**"). Each Reimbursing Party shall have fourteen (14) business days following receipt of latter to be received of the Improvement Verification Materials and the Final Invoice to notify the Constructing Party that such Reimbursing Party has objections to the Improvement Verification Materials or Final Invoice (the "**Claim Notice**"). Such Reimbursing Party shall be entitled to file such Claim Notice only if it believes, based on its reasonable knowledge, that the Improvement Verification Materials or Final Invoice contain errors or omissions or the Improvements otherwise do not comply with the terms of this Agreement, and the Claim Notice shall describe such errors or omissions with particularity.

6.6 **Audit Rights.** Notwithstanding anything to the contrary set forth in this Agreement, each Reimbursing Party shall have the right to have an accountant, construction consultant or other construction or financial professional review and audit one or more Bids, the Improvement Verification Materials and Final Invoice (such review and audit being the "**Audit**"). A Reimbursing Party's right to obtain an Audit shall not delay such Reimbursing Party's obligations to make payments as provided in this Agreement; provided, however, that within ninety (90) days of such Reimbursing Party's receipt of the latter to be received of the Road Verification Materials and the Final Invoice, such Reimbursing Party shall have the right to provide written objections to the Constructing Party regarding any claimed irregularities in the Bids, the Improvement Verification Materials or the Final Invoice as determined in the Audit. If a Reimbursing Party makes a timely objection to the Improvement Verification Materials or Final Invoice, the Owners shall endeavor in good faith to resolve the same. If not resolved through the negotiations of the Owners, any such disputes shall be resolved in the manner hereinafter provided in Section 12.

7. **Payment of Reimbursing Party's Share of Costs and Release of Funds.** Subject to the completion of the terms and conditions contained in this Agreement, the Reimbursing Party's Share shall be paid to the Constructing Party, in readily available funds, as follows:

7.1 Each Reimbursing Party shall pay such Reimbursing Party's Share of the Costs to any Constructing Party that has completed any portion of the Improvements, as said amount is determined in accordance with Section 6, within ten (10) days of receipt of the

Improvement Verification Materials or Final Invoice, subject only to the audit rights of such Party pursuant to Section 6.6 hereof.

8. **Covenants; Security for Payment.** In addition, to further secure the payment of the Reimbursing Party's Share to the Constructing Party, each Owner covenants and agrees as follows (such agreement being the "**Restriction**"):

Upon (a) the completion of the Work in accordance with applicable Legal Requirements, (b) the provision of all Improvement Verification Materials and a Final Invoice to each Reimbursing Party, (c) the determination of the amount of each Reimbursing Party's Share of the Costs in accordance with Section 6 has been completed, and (d) each Reimbursing Party's Share of the Costs as set forth in the Final Invoice is due and owing, each Reimbursing Party hereby covenants and agrees that it will not have access over, across or to the use of any of the Improvements completed by the Constructing Party until payment of the Reimbursing Party's Share of the Costs to the Constructing Party. The foregoing covenant and restriction shall apply to all Owners.

8.1 **Nature of Restriction.** The Restriction is an appurtenance to the Properties and every portion thereof, and may not be transferred or assigned except as an appurtenance to such properties or such portion thereof. The Restriction shall constitute a covenant running with the land. The Constructing Party is an intended beneficiary of the Restriction and shall be entitled to enforce the terms and provisions hereof and to recover its costs and expenses as provided herein. In addition, the reimbursement obligations of this Agreement are personal to the Parties of this Agreement and shall continue as a contractual obligation of the Parties until all reimbursable Costs and system improvements pertaining to the Properties have been identified and constructed. This means that even if a Party completely builds out or sells all of its Property that is subject to this Agreement (the "**Sold Out Party**"), but reimbursable Costs are subsequently incurred by another Party, the Sold Out Party will remain contractually obligated to pay its proportionate Share of such Costs in accordance with the terms and provisions of this Agreement. Some of the potential Improvements that may be required by the City in the future, resulting in additional reimbursable Costs, include, but are not limited to, a secondary water pond, additional water source(s), and a water storage tank. (The Owners understand that the "potential" Improvements in this section are to be reimbursed by the City through impact fees to the fullest extent possible). In each instance, if the City seeks to impose additional improvements that would otherwise constitute a portion of the Improvements and would therefore result in Cost reimbursement obligations under this Agreement, the Owner who receives notice of such Improvement requirements shall promptly notify all other Owners and Parties, so that a decision can be made, collectively, whether to challenge or contest such Improvement requirements and/or negotiate with the City for City-funded reimbursements or credits to offset the costs of the same.

8.2 **Term of Restriction.** Except as set forth below, the Restriction may not be terminated, extended, modified or amended without the consent of all Owners or their respective successors and assigns, and, except as set forth below, any such termination, extension, modification or amendment shall be effective on recordation in the official records of the Salt Lake County Recorder a written document effecting the same, executed, and acknowledged by all

Owners or their respective successors and assigns. Notwithstanding anything to the contrary set forth herein, the Restriction shall terminate and be of no further force or effect upon: (i) the completion of all of the Improvements; and (ii) the complete payment of the Reimbursing Party's Share of the reimbursable Costs to the Constructing Party. When the provisions of Section 8.1 and this Section 8.2 have been satisfied in full, the Parties shall promptly execute a release of this Agreement evidencing the release of the Restriction as to the Properties.

9. **Self-Help.**

9.1 **Self-Help Notice.** In the event the Constructing Party does not complete the Improvements by the Completion Date, a Reimbursing Party may, upon not less than thirty (30) days written notice to the Constructing Party (such notice being the "**Self-Help Notice**"), undertake to complete construction of all or part of the Improvements if the Constructing Party has not remedied the objection (on the twentieth day following the date of the Self-Help Notice being the "**Self-Help Date**").

9.2 **Rights and Obligations.** On the Self-Help Date, if any Improvements remain unfinished, the current Constructing Party (the "**Defaulting Constructing Party**") shall become a Reimbursing Party with all of the rights and obligations of a Reimbursing Party under this Agreement, and the Reimbursing Party (or group of Reimbursing Parties) that provided the Self-Help Notice (the "**New Constructing Party**") shall, upon providing a Notice of Commencement to all other Owners in accordance with Section 3.2, become the Constructing Party with all of the rights and obligations of the Constructing Party under this Agreement. From and after the Self-Help Date, (a) the Defaulting Constructing Party shall cease to perform the Work (except as required of a Reimbursing Party, including under Section 5); (b) the Defaulting Constructing Party shall provide to the New Constructing Party copies of all plans, bids, estimates, surveys, studies, reports, permits and other documents in the Defaulting Constructing Party's possession or control that relate to the Improvements or the Work, (c) the Defaulting Constructing Party shall assign to New Constructing Party all of the Defaulting Constructing Party's interest in all plans, bids, estimates, surveys, studies, reports, permits and other documents relating to the Improvements or the Work in order to enable the New Constructing Party to complete the Improvements. The most recent Notice of Commencement provided by such Defaulting Constructing Party shall cease to be effective as of the most recent Self-Help Date. The provision of the Self-Help Notice shall not excuse the Defaulting Constructing Party for any damages or claims that may have arisen out of the Defaulting Constructing Party's failure to perform in accordance with this Agreement.

9.3 **Costs.** The New Constructing Party, upon becoming the Constructing Party, shall be reimbursed for Costs for the Work as provided in this Agreement.

10. **Liens.** The Constructing Party shall keep each Reimbursing Party's interest in the Properties free from any mechanic's or other liens (any such mechanic's or other lien being a "**Lien**") arising out of any Work performed by, through, for, or under Constructing Party or any of Constructing Party's agents, servants, employees, consultants, contractors or subcontractors. Constructing Party shall indemnify, hold harmless and agree to defend each Reimbursing Party from and against any and all third party losses, claims, suits, actions, debts, damages, costs,

charges, and expenses of any nature whatsoever, including, without limitation, court costs, consultants' fees, experts' fees and attorneys' fees, and against all liability of any nature whatsoever brought against each Reimbursing Party or any of their successors, assigns, agents, representatives, servicers, or affiliates in connection with any Lien that may be placed on the Reimbursing Party's interest in the Properties pertaining to the Improvements or any Work performed by, through, for, or under the Constructing Party or any of the Constructing Party's agents, servants, employees, consultants, contractors or subcontractors. Constructing Party shall cause any such Lien to be released of record within thirty (30) days of recordation. Furthermore, any Party who is wrongfully subject to a lien resulting from another Party to this Agreement failing to perform its obligations hereunder shall be entitled to record a notice of interest against any remaining portion of the Properties then owned by the Party responsible for the wrongful lien as security to ensure the discharge of such wrongful lien such Notice of Interest as may continue until the lien is fully discharged and released as required hereunder.

11. **No Third-Party Beneficiary.** No term or provision of this Agreement or the Exhibits attached hereto is intended to be, nor shall any such term or provision be construed to be, for the benefit of any person, firm, corporation, or other entity not a party hereto, and no such other person, firm, corporation, or entity shall have any right or cause of action hereunder.

12. **Dispute Resolution.** For purposes of this Section 12, a dispute shall arise when an Owner gives notice to the other Owners of a breach of this Agreement, and the allegedly breaching Owner either refutes the allegation of a breach or fails to cure the breach within thirty (30) days after receipt of the notice of breach. For the resolution of any dispute under this Agreement, the following procedures shall apply:

12.1 **Mediation.** If the Owners are unable to resolve a dispute under this Agreement, the Owners may meet with a mediator in an effort to mediate their dispute in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association (such association being the "AAA" and such rules being the "Rules"). If the Owners cannot agree to mediate the dispute or on a mediator for this purpose within 30 days following a request for mediation, any Owner may commence arbitration pursuant to Section 12.2.

12.2 **Arbitration.** If the Owners are unable to resolve their dispute as a result of mediation under Section 12.1 above, the dispute shall be resolved through arbitration under the following procedures:

(a) **Demand for Arbitration.** If a dispute should arise under this Agreement, any Owner may, at any time within thirty (30) days after the date on which the mediation is completed, make a demand for arbitration by filing a demand in writing with the other Owners.

(b) **Appointment of Arbitrators.** The Owners may choose to appoint one (1) arbitrator to hear the dispute, but in the event that all Owners cannot agree on a sole arbitrator there shall be three (3) arbitrators, one (1) named in writing by the party demanding arbitration, one (1) named in writing by the other Owners involved in the dispute being arbitrated, collectively, each within thirty (30) days after demand for arbitration is made, and a third to be

chosen by the two (2) arbitrators so named. Should any Owner fail to timely appoint its arbitrator, the arbitrator chosen by the participating Owner shall be the sole arbitrator to hear the dispute. Any arbitrator(s) appointed pursuant to this Section 12.2 must agree in advance of commencing any arbitration proceedings to be bound by the terms of this Section 12.2 in connection with such arbitration.

(c) Hearing/Forum. All arbitration hearings conducted under the terms of this Agreement shall take place in Salt Lake County, Utah. The hearing before the arbitrator(s) of the matter to be arbitrated shall be at the time and place within said location selected by the arbitrator(s). At the hearing, any relevant evidence may be presented by each Owner, and the formal rules of evidence applicable to judicial proceedings shall not govern. Evidence may be admitted or excluded in the sole discretion of the arbitrator(s). The arbitrator(s) shall hear and determine the manner and shall execute and acknowledge the arbitrator(s) award in a written decision which explains, in reasonable detail, the factual and legal basis for the award, and the arbitrator(s) shall deliver a copy thereof to each of the Owners by registered or certified mail.

(d) Arbitration Award. If there is only one (1) arbitrator, his or her decision shall be binding and conclusive on the Owners. If there are three (3) arbitrators, the decision of any two (2) shall be binding and conclusive. The submission of a dispute to the arbitrators and the rendering of their decision shall be a condition precedent to any right of legal action on the dispute. A judgment confirming the award of the arbitrators may be rendered by any court having jurisdiction and located in Salt Lake County, Utah.

13. Notices. Any notice required or permitted to be given or transmitted between the Owners pursuant to this Agreement shall be; (i) personally delivered; (ii) mailed, postage prepaid by certified mail, return receipt requested; (iii) sent for next business day delivery by a recognized overnight carrier; or (iv) sent by facsimile or email transmission addressed as follows:

If to Perry: Perry Development, LLC
17 E. Winchester St., Ste. 200
Murray, UT 84107
Attn. William O. Perry, IV
Email: woperry@perryhomesutah.com

If to Ivory: Ivory Development, LLC
978 East Woodoak Lane
Salt Lake City, Utah 84117
Attn: Chris Gamvroulas
Email: chrisg@ivorydevelopment.com

Any Owner may designate a different address for itself by giving written notice in the manner required by this Section 13.

14. Miscellaneous.

14.1. Entire Agreement. This Agreement contains the entire agreement between the Owners. All previous agreements, communications, discussions and negotiations relating to the subject matter hereof have been merged and finalized. No waivers, alterations, amendments, or modifications of this agreement shall be valid unless in writing duly executed by all of the Owners.

14.2. Successors and Assigns. The provisions of this Agreement shall be considered a covenant that runs with the land herein described and runs with the Parties hereto as a continuing contractual obligation (as described in Section 8.1 above), and as such the terms, conditions, and provisions hereof shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of the Owners. Notwithstanding the preceding sentence, this Agreement shall not be binding on and shall not run with the land of any third party purchaser of less than two finished lots who purchases said finished lots with the good faith intention of constructing and then itself inhabiting a residence constructed thereon or on any third party purchaser of one completed single or multi-family residence constructed on a lot who purchases said residence with the good faith intention of itself inhabiting or renting the residence (an "**Exempted Sale**"). No consent or approval of any kind is required from other Owners in order for an Owner to sell its land. Except as provided above in this Section 14.2, if an Owner (or successor owner) sells any portion of the Properties, the purchaser/new owner automatically assumes the burdens and obligations of this Agreement with respect to the portion of the Properties acquired by the new owner.

14.3. Interpretation. This Agreement shall be interpreted and construed only by the contents hereof, and there shall be no presumption or standard of construction in favor of or against any Owner or other Party.

14.4. Severability. If any provision of this Agreement or any portion of any provision of this Agreement shall be deemed to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not alter the remaining portion of such provision, or any other provision hereof, as each provision of this Agreement shall be deemed severable from all other provisions hereof so long as removing the severed portion does not materially alter the overall intent of this Agreement.

14.5. Applicable Law. This Agreement, and the interpretation, validity, effect and performance hereof, shall be governed by the laws of Utah.

14.6. Authority. The individuals executing this Agreement represent and warrant that they have the power and authority to do so and to bind the entities for which they are executing this Agreement.

14.7. Counterparts. This Agreement may be executed in any number of duplicate counterparts, each of which shall be deemed an original, and when taken together shall constitute one and the same original Agreement.

14.8. Recordation. The Owners agree that this Agreement will be recorded in the real property records of Utah County, Utah. Once the obligations of this Agreement have been completed as to a particular plat, then any Owner may prepare and deliver a “**Release of Agreement**” to the other Owners, indicating that the obligations set forth in this Agreement have been completed with respect to the subject plat, and the recipients of said Release of Agreement agree to timely execute and return said Release of Agreement if the obligations of this Agreement have been completed. This provision is intended to allow the Owners to sell lots within their plats and provide clear title to buyers of such lots, so long as the reimbursement obligations have been satisfied with respect to such plat(s), but does not impair or limit the continuing contractual obligations of the Parties to satisfy all Cost reimbursement obligations as described in Section 8.2 above.

14.9. Force Majeure. Except with respect to the obligation to pay money as provided in this Agreement, if the Constructing Party is delayed at any time or precluded in performing its obligations under this Agreement by unforeseen circumstances including acts of *force majeure* including fires, floods, riots, strikes, foreign or domestic governmental acts or regulations, delays requested or authorized by the other Owners and agreed to by the Owner affected thereby, or any other cause beyond the reasonable control of the Constructing Party, the time frame in which the Constructing Party is obligated to perform under this Agreement shall be extended for the period of time in which such Constructing Party’s performance was delayed or suspended, provided that written notice of any such delay is provided to the other Owners.

14.10. Estoppel Certificates. Each Owner shall, at any time and from time to time upon not less than ten (10) days prior request by the requesting Owner, execute, acknowledge, and deliver to such other Owner a statement in writing (a) identifying the amounts owed to or by such Owner pursuant to this Agreement and (b) certifying that no default hereunder on the part of the requesting Owner exists (except that if any such default does exist, the certifying Owner shall specify such default), it being intended that any such statement delivered pursuant to this Section 14.11 may be relied upon by any prospective purchaser or encumbrancer (including assignees) of the Properties.

14.11. Other Acts and Documents. The Owners agree to undertake such other acts and execute and deliver such other documents as may be reasonably appropriate or necessary to effect the purpose and intent of this Agreement.

[remainder of page intentionally left blank; signatures are on the following page]

Perry:

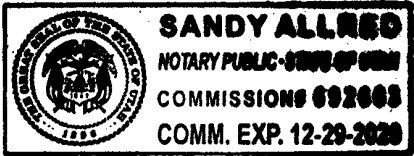
PERRY DEVELOPMENT, LLC
a Utah Limited Liability Company

By: [Signature]
Name: William O. Perry, IV
Title: Manager

STATE OF UTAH)
 SS.
COUNTY OF SALT LAKE)

On this 15 day of April, 2019, personally appeared before me William O. Perry whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me affirmed, did say that he is an authorized representative of Perry Development, LLC. a Utah limited liability company, and that said document was signed by him in behalf of said Company, and said William O. Perry acknowledged to me that said Company executed the same.

Witness my hand and official seal.



[Signature: Sandy Allred]
(notary signature)

Exhibit A

Description of Properties Subject to Agreement

TAKEDOWN 1

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 a point located N00°18'05"W along the Section line 1,177.17 feet from the Southwest Corner of Section 34, T3S, R2W, SLB&M (Basis of Bearing: N89°53'28"W along the Section line from the South 1/4 Corner to the South West Corner of Section 34); thence N00°18'05"W along the Section line 146.80 feet to the Northwest Corner of the SW1/4 of the SW1/4 of Section 34; thence N89°55'34"W along the 1/16th (40 acre) line 614.97 feet; thence N00°04'14"W 437.81 feet; thence Southeasterly along the arc of a non-tangent curve to the right having a radius of 230.00 feet (radius bears: S19°57'52"W) a distance of 67.33 feet through a central angle of 16°46'20" Chord: S61°38'58"E 67.09 feet; thence N36°44'12"E 100.00 feet; thence Southeasterly along the arc of a non-tangent curve to the right having a radius of 330.24 feet (radius bears: S36°44'29"W) a distance of 217.40 feet through a central angle of 37°43'08" Chord: S34°23'57"E 213.50 feet; thence S34°26'56"E 44.38 feet; thence S72°22'04"E 40.88 feet; thence S89°01'48"E 120.62 feet; thence East 233.67 feet; thence Easterly along the arc of a non-tangent curve to the right having a radius of 330.00 feet (radius bears: S06°18'40"W) a distance of 125.68 feet through a central angle of 21°49'17" Chord: S72°46'41"E 124.92 feet; thence S59°44'46"E 124.73 feet; thence Easterly along the arc of a non-tangent curve to the left having a radius of 270.00 feet (radius bears: N30°22'09"E) a distance of 164.13 feet through a central angle of 34°49'49" Chord: S77°02'45"E 161.62 feet; thence N85°32'20"E 686.47 feet; thence S04°27'40"E 100.00 feet; thence N85°32'20"E 238.03 feet; thence along the arc of a curve to the left with a radius of 170.00 feet a distance of 101.41 feet through a central angle of 34°10'39" Chord: N68°27'00"E 99.91 feet; thence N51°21'40"E 76.04 feet; thence along the arc of a curve to the right with a radius of 230.00 feet a distance of 154.11 feet through a central angle of 38°23'25" Chord: N70°33'23"E 151.24 feet; thence N89°39'55"E 10.14 feet; thence Northerly along the arc of a non-tangent curve to the right having a radius of 653.00 feet (radius bears: N89°29'11"E) a distance of 167.49 feet through a central angle of 14°41'46" Chord: N06°50'04"E 167.03 feet; thence S75°49'03"E 87.00 feet; thence Northeasterly along the arc of a non-tangent curve to the right having a radius of 566.00 feet (radius bears: S75°49'03"E) a distance of 279.53 feet through a central angle of 28°17'49" Chord: N28°19'51"E 276.70 feet; thence N42°28'46"E 487.83 feet; thence along the arc of a curve to the left with a radius of 834.00 feet a distance of 623.86 feet through a central angle of 42°51'34" Chord: N21°02'59"E 609.42 feet; thence N00°19'35"W 52.53 feet; thence East 884.30 feet; thence North 34.00 feet; thence East 80.00 feet; thence along the arc of a curve to the left with a radius of 20.00 feet a distance of 31.42 feet through a central angle of 90°00'00" Chord: N45°00'00"E 28.28 feet; thence North 119.00 feet; thence West 100.00 feet; thence North 868.47 feet to the 1/16th (40 acre) line; thence S89°49'23"E along the 1/16th (40 acre) line 650.03 feet to the Northeast corner of the SW1/4 of the NE1/4 of Section 34; thence S00°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 S00°12'42"E along said plat 538.25 feet; thence S89°47'18"W 29.79 feet; thence N71°35'04"W 107.29 feet; thence North 358.00 feet; thence S65°37'45"W 609.50 feet; thence South 751.85 feet; thence N71°28'56"E 285.50 feet; thence N00°01'16"E 18.09 feet; thence N71°29'00"E 300.00 feet; thence South 21.09 feet; thence N71°29'13"E 140.30 feet to said Plat "B", WESTERN CREEK Subdivision; thence South along said plat 37.63 feet; thence N71°07'20"E along said plat 4.93 feet to the 1/16th (40 acre) line; thence S00°07'34"E along the 1/16th (40 acre) line 82.51 feet; thence N89°55'05"W 165.00 feet; thence S00°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 and extension thereof 1,163.36 feet to the 1/4 Section line; thence S00°10'55"E along the 1/4 Section line 1,322.27 feet to the South 1/4 Corner of Section 34; thence N89°53'28"W along the Section line 322.38 feet; thence N78°29'42"W 277.75 feet; thence along the arc of a curve to the right with a radius of 334.00 feet a distance of 457.81 feet through a central angle of 78°32'02" Chord: N39°13'41"W 422.80 feet; thence N00°02'20"E 305.87 feet; thence N89°57'40"W 28.23 feet; thence N00°02'20"E 117.11 feet; thence N46°36'18"W 134.23 feet; thence S75°27'00"W 231.97 feet; thence N00°14'55"W 54.70 feet to the centerline of Herriman Highway; thence S75°27'00"W along the centerline of Herriman Highway 540.19 feet;

thence N14°33'00"W 291.12 feet; thence N09°46'30"E 180.56 feet; thence N81°06'29"W 35.77 feet; thence S85°32'20"W 546.60 feet; thence West 302.43 feet to the point of beginning.

LESS AND EXCEPTING A portion of the SW1/4 of Section 34, Township 3 South, Range 2 West, Salt Lake Base and Meridian, Herriman, Utah, more particularly described as follows:

Beginning at a point located N89°53'28"W along the Section line 373.57 feet and North 1,278.26 feet from the South ¼ Corner of Section 34, T3S, R2W, SLB&M; thence S72°48'42"W 461.71 feet; thence N17°11'18"W 243.11 feet; thence N07°05'29"W 20.19 feet; thence N04°48'56"W 25.70 feet; thence N00°14'55"W 83.18 feet; thence Easterly along the arc of a non-tangent curve to the left having a radius of 426.50 feet (radius bears: N02°07'11"W) a distance of 112.17 feet through a central angle of 15°04'07" Chord: N80°20'45"E 111.85 feet; thence N72°48'42"E 317.55 feet; thence S17°11'18"E 353.00 feet to the point of beginning.

ALSO LESS AND EXCEPT any portion of Herriman Highway (Highway U-111) and any public roadways.

EXHIBIT B
- Improvements -

