

FIFTH AMENDMENT TO ANNEXATION AGREEMENT

THIS FIFTH AMENDMENT TO ANNEXATION AGREEMENT is made and entered into this 2nd day of March, 2000 by and between MIDWAY CITY, a political subdivision of the State of Utah, (the "City") and SPENCER F. ECCLES ("Owner") as an amendment to the Annexation Agreement for 808 River Road Planned Unit Development, dated November 7, 1991, as previously amended (the "Annexation Agreement") between the City and 808 River Road LTD, a Utah Limited Partnership ("LTD") as heretofore amended.

2000 MAR 15 10:50 AM FEE \$14.00 BY MWC
REQUEST: RAY QUINNEY & NESEKER
MONTGOMERY CO RECORDER-ELIZABETH M PARCELL

222525

RECITALS:

A. The Annexation Agreement provides for the annexation of 49.275 acres of land described in the Annexation Agreement originally owned by LTD (the "Subject Property") and an Annexation Plat covering the Subject Property was executed by the City but was held in escrow by the City Recorder until conditions precedent in the annexation were satisfied.

B. The Annexation Agreement also indicated preliminary approval of the 808 River Road Planned Unit Development (the "PUD") and set conditions for development of the Subject Property pursuant to the PUD. Final approval of the PUD Plat was previously a condition precedent to the recordation of the Annexation Plat. Final approval of the PUD Plat was given August 27, 1993.

C. The Annexation Agreement has been amended by an Amendment to Annexation Agreement dated August 6, 1992, and by a Second Amendment to the Annexation Agreement dated August 27, 1993, and by a Third Amendment to Annexation Agreement dated as of September 29, 1994, and a Fourth Amendment to Annexation Agreement dated as of March 9, 1999 (collectively the "Prior Amendments").

D. Owner acquired the Subject Property from LTD subject to the Annexation Agreement and has succeeded to the rights of LTD under the Annexation Agreement.

E. This Fifth Amendment to the Annexation Agreement ("Fifth Amendment") is being executed by the City and Owner to memorialize action taken by the Midway City Council on March 2, 2000, and to reflect the agreement of the parties as to the current status of the Annexation Agreement and to modify some of the terms of the Annexation Agreement as amended by the Prior Amendments.

F. Pursuant to this Fifth Amendment, the Owner and City are agreeing to immediately record the Annexation Plat, the Owner is withdrawing the PUD Plat from consideration by the City without prejudice to Owner's right to submit future plats for consideration to the City, consistent with the RA1-43 zoning of the Subject Property.

AGREEMENT:

NOW THEREFORE, for and in consideration of the recitals, promises and covenants herein set out, the City and Owner hereby agree as follows:

1. Status of Annexation of Subject Property. All of the conditions to the annexation of the Subject Property into the City have been met and satisfied including without limitation the Owner's delivery of water shares to the City, and the construction by Owner of the Additional Line Extension as contemplated by the Third Amendment to the Annexation Agreement.

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2. Recordation of Annexation Plat. The Annexation Plat being held in escrow by the City Recorder shall be released from escrow and shall be delivered to the Wasatch County Recorder for recordation within 10 days following the date of execution of this Amendment upon payment by Owner of the county recording fees. In the event such Annexation Plat requires updating or additional signatures from Owner of City, such signatures shall be promptly provided. Upon recording of the Annexation Plat, the annexation of the Subject Property into the City shall be complete, and the Subject Property is and shall be zoned RA1-43.

3. Withdrawal of PUD Plat. Owner hereby withdraws the PUD Plat from consideration by the City without prejudice to Owner's right to submit new plats to the City consistent with the RA1-43 zoning of the Subject Property. The City accepts Owner's withdrawal of the PUD Plat from consideration, releases Owner from any obligations under any improvement bonds or agreements related to the PUD Plat, and agrees to return the letter of credit improvement bond issued by Bank of New York to Owner's legal counsel within ten days of execution of this Amendment. In any future subdivision plat application for the Subject Property, the City agrees to provide water and sewer service at customary rates for customary connection fees for City residents, and the City shall only require such ordinary and customary fees and bonds as are required for other similar projects within the City.

4. Owner's Rights Assignable. Owner's rights and obligations under the Annexation Agreement, as amended by the Prior Amendments and this Fifth Amendment, may be assigned by Owner to any party acquiring all of the Subject Property. Owner's conveyance of all of the Subject Property to another party shall be deemed to be an assignment of all Owner's rights as herein set out to such other party.

5. Ratification and Confirmation of Annexation Agreement. The parties agree that the Annexation Agreement, as amended by the Prior Amendments and this Fifth Amendment, is in full force and effect by and between the City and Owner, and it is hereby expressly ratified and confirmed.

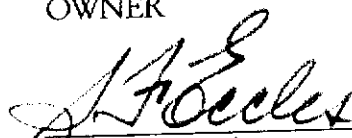
IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the date first above written.

CITY OF MIDWAY

OWNER

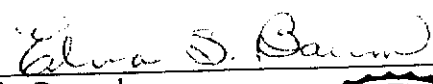


Mayor



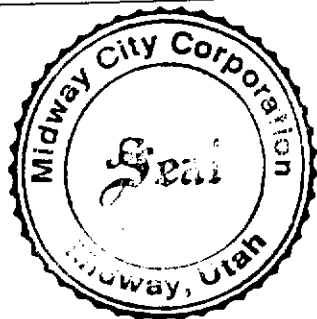
Spencer F. Eccles

Attest:



City Recorder

522678



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SURVEYOR'S CERTIFICATE

I hereby certify that this is a true and accurate map of the tract of land to be annexed to the City of Midway, Wasatch County, Utah.

BOUNDARY DESCRIPTION

A tract of land located in the Southeast Quarter of Section 26, the Southwest Quarter of Section 25, the Northeast Quarter of Section 35, and the Northwest Quarter of Section 36, all in Township 3 South, Range 4 East, Salt Lake Base and Meridian, Wasatch County, Utah, described as follows:

BEGINNING at a point being on the north-south center section line North 00° 02' 18" West 372.24 feet from the South Quarter Corner of Section 26, Township 3 South, Range 4 East, Salt Lake Base and Meridian, said South Quarter Corner being North 00° 21' 08" West 53.56 feet from a Wasatch County reference monument located in the approximate center of River Road 55 feet more or less south of 800 North Road in Midway, Utah, and running thence North 00° 02' 18" West 287.76 feet; thence North 89° 46' 06" East 660.00 feet; thence North 00° 02' 18" West 396.39 feet; thence East 2456.84 feet to a point in the center of the Provo River; thence southerly along the center of the river the following courses: South 05° 07' 44" West 5.11 feet, South 34° 10' 46" East 172.21 feet, South 01° 50' 45" West 130.02 feet, South 10° 37' 48" West 157.26 feet, South 62° 59' 15" West 152.04 feet, South 29° 30' 28" West 188.44 feet, South 01° 42' 26" West 118.10 feet, South 39° 02' 51" East 80.16 feet, South 35° 12' 43" East 203.18 feet, South 04° 28' 15" East 160.69 feet, South 53° 55' 42" West 111.63 feet, South 64° 04' 20" West 126.68 feet, and South 45° 57' 10" West 56.93 feet to a point 17.3 rods south of the north line of the Northwest Quarter of Section 36, Township 3 South, Range 4 East, Salt Lake Base and Meridian; thence leaving said river South 89° 37' 32" West 218.16 feet to a point on the west line of the said Northwest Quarter of Section 36; thence South 00° 10' 10" East 21.05 feet along said west line; thence North 58° 19' 10" West 126.70 feet; thence North 34° 31' 10" West 101.40 feet; thence North 10° 16' 10" West 94.00 feet; thence North 18° 25' 10" West 66.51 feet to the south line of the Southeast Quarter of said Section 26; thence South 89° 46' 06" West 61.85 feet along said south line to a point 16 rods west of the east line of the Southeast Quarter of said Section 26; thence North 00° 10' 10" West 421.74 feet along a line 16 rods west of and parallel with said east line to a point 25.56 rods north of the south line of said Southeast Quarter of said Section 26; thence South 89° 46' 06" West 2151.09 feet along a line 25.56 rods north of and parallel with said south line to a point 15 rods east of the west line of said Southeast Quarter; thence South 00° 02' 18" East 49.50 feet 15 rods east of and parallel with said west line; thence South 89° 46' 06" West 247.50 feet to the **POINT OF BEGINNING**. Contains 49.275 Acres.

NOTE: The basis of bearings for the above description is taken from the State Coordinate and Dependent Resurvey of portions of Township 3 South, Range 4 East, Salt Lake Base and Meridian.

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