WHEN RECORDED, RETURN TO:

Herriman City
5355 West Herriman Main Street
Herriman, Utah 84096

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

MASTER DEVELOPMENT AGREEMENT
FOR
HIDDEN OAKS

August 15, 2018

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RECORDER, SALT LAKE COUNTY, UTAH
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HERRIMAN UT 84096
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MASTER DEVELOPMENT AGREEMENT
FOR
HIDDEN OAKS

THIS MASTER DEVELOPMENT AGREEMENT is made and entered as of the 15th day of August, 2018, by and between Herriman City, a Utah municipality and Dansie Land, LLC, a Utah limited liability company ("**Master Developer**") (collectively the "**Parties**").

RECITALS

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

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

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

D. The Parties desire to enter into this MDA.

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

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

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

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

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

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

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

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

TERMS

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

1.1. **Incorporation.** The foregoing Recitals and Exhibits "A" - "M" are hereby incorporated into this MDA.

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

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

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

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

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

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

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

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

1.2.8. **Capital Improvement Road(s)** means each of the rights-of-way identified on Exhibit "B", including minor collectors (indicated in blue), major collectors (indicated in orange), and minor arterials (indicated in red).

1.2.9. **City** means Herriman City, a Utah municipality.

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

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

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

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

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

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

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

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

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

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

1.2.20. **Design Guidelines** means the Design Guidelines, attached hereto as Exhibit "L", regarding certain aspects of design and construction on portions of the Property.

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

1.2.22. **Development Application** means a complete application to the City for development of a portion of the Project including a Subdivision, a Building Permit, a Land Disturbance Permit, final PUD, or any other permit, certificate or other authorization from the City required for development of the Project.

1.2.23. **Development Report** means a report containing the information specified in Section 2.4 submitted to the City by Master Developer for a Development by Master Developer of any Parcel or for the sale of any Parcel to a Subdeveloper or the submittal of a Development Application by a Subdeveloper pursuant to an assignment from Master Developer.

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

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

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

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

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

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

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

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

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

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

1.2.34. **Master Developer** means Dansie Land, LLC, a Utah limited liability company, and its assignees or transferees as permitted by this MDA.

1.2.35. **Maximum Residential Units Maximum Residential Units** means the

development on the Property of the total number of Residential Dwelling Units as set forth on the Preliminary PUD; provided that such number of units shall be *decreased by* (a) the number of units allocated to a Pod that is included in the Non-Residential Dwelling Unit Properties to the extent such Pod is developed as a non-Residential Dwelling Unit use; and (b) for any other non-Residential Dwelling Units use located on the Project, the number of units equal to the product of (i) the average maximum number of units allocated to the Pod in which such non-Residential Dwelling Units use is located (prior to any density transfer) *multiplied by* (ii) the ratio of (x) the number of acres developed for such non-Residential Dwelling Units use within such Pod *divided by* (y) the total number of acres contained in such Pod.

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

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

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

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

1.2.40. **Non-Residential Dwelling Unit Properties** means the portions of the Property as generally illustrated on the Preliminary PUD as having an intended use as a charter school (Pod 2), elementary school (Pod 9), middle school (Pod 8), or church or church-related use (Pod 3, Pod 4a and Pod 7a).

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

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

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

1.2.44. **On-Parcel Infrastructure** means those items of public or private infrastructure as a condition of the approval of a Development Application that are necessary for development of a Parcel such as roads or utilities and that are located on that portion of the

Property which is subject to a Development Application, excluding any System Improvements located on the Property or any Off-Parcel Infrastructure.

1.2.45. **Open Space** shall have the meaning specified in Section 10-15C-6 of the City's Vested Laws, and shall include, without limitation, those areas identified as Open Space on Exhibit "F", as such areas may be more particularly described in any Subdivision or final PUD in accordance with the terms of this MDA.

1.2.46. **Ordinances** means the MDA Ordinance, the Preliminary PUD, and the Zone Change Ordinance.

1.2.47. **Outsourc[e][ing]** means the process of the City contracting with City Consultants to provide technical support in the review and approval of the various aspects of a Development Application as is more fully set out in this MDA.

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

1.2.49. **Planning Commission** means the City's Planning Commission.

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

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

1.2.52. **Preliminary PUD** means that preliminary Planned Development Overlay Zone of the Project as recommended for approval to the City Council by the Planning Commission as a preliminary Planned Unit Development on November 2, 2017 and subsequently modified as directed by the City Council, a copy of which is attached as Exhibit "F".

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

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

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

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

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

1.2.58. **Soft Costs** means the actual reasonable costs and expenses associated with the design, layout, complete construction documents by an engineer, any engineering or architectural fees or costs, design review fees or costs, legal fees and costs, financing costs, costs of bonds or security, insurance, and the costs of permits and fees associated with the System Improvements located on the Property.

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

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

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

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

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

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

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

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

2. **Development of the Project.**

2.1. **Compliance with the Preliminary PUD and this MDA.** Development of the Project shall be in accordance with the City's Vested Laws, the City's Future Laws (to the extent that these are applicable as otherwise specified in this MDA), the Preliminary PUD and this MDA. The City acknowledges and agrees that the Preliminary PUD approval and any associated conditional use application shall not expire until the expiration of the term of this MDA. The City agrees that no fees shall be charged or assessed against Master Developer related to the

Preliminary PUD approval other than the initial fee paid prior to the execution of this MDA. Other than the initial fee, any additional fees payable related to the PUD shall be paid upon submittal by Master Developer or a Subdeveloper for final Subdivision and final PUD approval, which fees shall only be based upon the number of units contained in the proposed final Subdivision and final PUD approval, and which shall not exceed the Applicable Fees. In accordance with Section 10-15C-5 of the Code, including, without limitation, clause H(2) thereof, the City hereby agrees that: (a) Master Developer may subdivide portions of the Property into Parcels and sell Parcels to various Subdevelopers or other parties; (b) the Subdevelopers or other parties owning Parcels within the Property may further subdivide Parcels into smaller Parcels, (c) each Subdeveloper or other parties owning Parcels within the Property will submit separate applications for final Subdivision and final PUD approval for each Parcel within the Preliminary PUD, (d) each final Subdivision and final PUD plan application shall be independently reviewed; provided that the Open Space and density shall be considered based upon the preliminary PUD and the Property as a whole and not to any specific final Subdivision or final PUD application, (e) applications for final PUD approval shall satisfy the requirements set forth in Chapter 20 of the Code, whereby specific plans and designs related to, including, but not limited to, the following: grading, drainage, landscaping, fencing, screening, signage, floodlighting, site plans, and building plans solely pertaining to the Parcel seeking final PUD approval shall be required as part of the final PUD approval process, and (f) any conditions related to the final Subdivision and final PUD will be solely applied toward the Parcel governed by such final Subdivision and final PUD approval. Upon issuance of the conditional use permit or final site plan approval for planned unit development, as applicable, with respect to any final Subdivision and final PUD approval, the conditional use permit or final site plan approval for planned unit development, as applicable, shall thereafter continue in perpetuity, unless it is revoked due to a violation of such permit or plan approval, as applicable. In evaluating the application for final Subdivision and final PUD approval, the City/planning commission may not impose any conditions or requirements on Master Developer or any Subdeveloper that are inconsistent with the Preliminary PUD and/or the terms and conditions of this MDA.

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

2.3. **Non-Residential Dwelling Unit Properties.** The City acknowledges that the Master Developer currently intends to sell the Non-Residential Dwelling Unit Properties to Jordan School District, charter schools and/or local area churches for use as a schools and/or church-related uses; provided that, in the event that the purchasers of any such Non-Residential Dwelling Unit Properties makes a final determination that such portion of the Non-Residential Dwelling Unit Properties are not to be developed for such intended use and/or the Non-Residential Dwelling Unit Properties are conveyed to a third party that is not a charter school or other legally authorized private or public school provider or a religious organization, the Non-Residential Dwelling Unit Properties shall be used for Residential Dwelling Units consistent with the Preliminary PUD and shall be subject to the terms of this MDA. Master Developer acknowledges and agrees that upon the sale of the Non-Residential Dwelling Unit Properties to a school district, charter school or other legally authorized private or public school provider or a religious organization, the density attached to the Non-Residential Dwelling Unit Properties on the Preliminary PUD shall be transferred with the subject Non-Residential Dwelling Unit

Properties and shall not be available to Master Developer or any Subdeveloper for purposes of Section 2.4 of this MDA or otherwise unless and until such Non-Residential Dwelling Unit Properties revert to Residential Dwelling Units as provided in this Section. The City and Master Developer each acknowledge and agree that upon the sale of each of the Non-Residential Dwelling Unit Properties to a school district, charter school or other legally authorized public or private school provider or a religious organization, the terms of this MDA shall no longer apply to such sold Non-Residential Dwelling Unit Properties unless and until such Non-Residential Dwelling Unit Properties revert to Residential Dwelling Units as provided in this Section, whereupon the provisions of this MDA shall be reinstated as to such Non-Residential Dwelling Unit Properties. Master Developer acknowledges that the City desires to have reasonable variety in the size of the Residential Dwelling Unit lots and the design of the residences to be located thereon that that are (i) adjacent to the eastern edge of Pod 8 (the middle school property) and (ii) adjacent to the western edge of Pod 9 (the elementary school). To that end, Residential Dwelling Unit lots in the areas designated in the immediately prior sentence shall not have more than two (2) lots adjacent to one another whose total square footage is within 1,000 square feet of the other.

2.4. **Limits on Transfer of Residential Dwelling Units Between Pods; Use of Density.** The Parties acknowledge that the exact configuration of the final layout of the Project may vary from that shown in the Preliminary PUD due to final road locations, market forces and other factors that are unforeseeable. Master Developer may transfer the location of Residential Dwelling Units between and among Pods so long as (a) no transfer of the location of Residential Dwelling Units between and among Pods allows the Project as a whole to exceed the Maximum Residential Dwelling Units for the Project as a whole; (b) no individual Pod exceeds the Maximum Residential Dwelling Units allocable to that Pod as specified in the Preliminary PUD and (c) the lot size for any individual residential lot in any Pod is no smaller than the minimum lot size applicable to such Pod as specified on the Preliminary PUD. Notwithstanding anything to the contrary contained in this MDA: (i) the area of the Project zoned as R-1-21 shall not have more than 2 units per gross acre within the area zoned as R-1-21; (ii) Pods 14, 16, and 18 as identified on the Preliminary PUD shall not (a) in the aggregate, have less than thirty-six (36) Residential Dwelling Unit lots of at least 21,780 square feet, nor (b) have any Residential Dwelling Unit lot of less than 14,000 square feet; and (iii) the Residential Dwelling Unit lots to be located adjacent to the southern edge of Pod 5 shall include no less than three (3) lots of at least 10,000 square feet. Except as provided in Section 7.1 and subject in all respects to the limitations on transfer set forth above in this Section, the entire Open Space located within the Property may be allocated or used for density clustering of Residential Dwelling Units within the entire Property and each Subdivision within the Property is not required to independently satisfy any Open Space requirements so long as the development, at full build-out, meets the Open Space requirements. Under no condition shall the City deny a Development Application if the applicant Subdeveloper is not currently in default under this MDA and its Development Application (i) does not exceed the Maximum Density that is available for the entire Property or any individual Pod, (ii) the plan is consistent with the Preliminary PUD, (iii) the plan is consistent with sound land use planning practices as certified by the land planner for the Master Developer and/or Subdeveloper provided such land use planner is reasonably acceptable to the City, (iv) the plan does not contain aspects that are detrimental to the health, safety or general welfare of persons residing in the vicinity, or injurious to property or improvements in the vicinity as reasonably determined by the City, and (v) the Master Developer or Subdeveloper

complies with the City's Vested Laws and any other applicable state, county, or district code, or ordinance.

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

2.6. **Certain Fencing Requirements.** In addition to other fencing requirements applicable to the Property pursuant to the City's Vested Laws and as may otherwise be agreed upon in connection with a Development Application, Master Developer agrees to install six-foot, pre-cast concrete fencing along the borders of the Property identified on Exhibit "M" attached hereto. Such fencing shall be (i) of type, quality and style determined by Master Developer so long as such type, quality and style meets any applicable minimum standards applicable thereto under the City's Vested Laws and the Development Standards, and (ii) located only in areas where such fencing is permitted under the City's Vested Laws and the Development Standards.

2.7. **Senior Housing.** Pod 15 and Pod 17 shall be developed only for Senior Housing.

3. **Zoning and Vested Rights.**

3.1. **Zoning.** The City has zoned the Property as R-1-15 and R-1-21 as set forth on the Zoning Map.

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

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

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

requirements set forth in the City's Planned Development Overlay Zone ordinance that are consistent with the proposed building heights set forth in the Design Guidelines may be adopted by Master Developer and/or any Subdeveloper without Master Developer and/or such Subdeveloper being required to adopt all of the City's Future Laws in connection therewith;

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

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

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

3.3.5. Fees. Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law, , all such fees to be reasonably and rationally related to the type and scope of services to be rendered in connection with such fees

3.3.6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, imposed and collected by the City, subject to this Section 3.3.6 and Sections 8.4 and 8.5 of this MDA. Any Impact Fee imposed upon Master Developer or any Subdevelopers will not exceed the uniformly assessed individual Impact Fee applied toward all developments within the service area where the Property is located. If Master Developer or any Subdeveloper objects to the Impact Fees charged to Master Developer or such Subdeveloper, Master Developer or such Subdeveloper may challenge such disputed Impact Fees in accordance applicable law, including, without limitation, Utah Code Ann. § 11-36a-701 in effect as of the date hereof.

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

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

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

the Zone Change Ordinance; (b) the Preliminary PUD; and (c) the MDA Ordinance.

If the City fails to adopt any of the Ordinances, Master Developer may elect to refile a complaint objecting to the annexation of the Property is such refiling is permissible under applicable state law.

The City acknowledges and agrees that the Ordinances and the terms and conditions of this MDA represent material consideration for Master Developer to settle its dispute regarding the annexation of the Property into the City. In the event any Ordinance or any term or condition of this MDA is illegal, unconstitutional, invalid, or not enforceable, the Parties shall cooperate to amend the MDA to resolve the issue in a mutually agreeable manner that is consistent with the terms and intent of this MDA. If after reasonable efforts have been made by both Parties to resolve these issues and they remain unresolved, Master Developer shall have the right to refile the Annexation Lawsuit (if such refiling is permissible under applicable state law). Master Developer agrees to dismiss the Annexation Lawsuit without prejudice within ten (10) days following the execution and recording of this MDA.

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

5. **Approval Processes and Modification of MDA.**

5.1. **Approval Processes for Development Applications.**

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

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

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

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

5.2. **Administrative Actions.**

5.2.1. Administrative Actions Defined. Aspects of a Development Application may be approved by an Administrative Action. An Administrative Action involves approval of aspects of a Development Application by the City staff and/or the Administrator. Administrative Actions with regard to Development Applications means the following, which shall be subject only to the approval process more fully set forth below in this Section 5.2:

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

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

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

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

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

5.2.3. Development Standards. The Development Standards outlines the general approval procedure for different activities along with the general requirements and standards that may be applicable to certain improvements and types of developments. Pursuant to Section 1 of the Development Standards, steps related to the City's approval procedure as outlined in the Development Standards may be combined, added, replaced or eliminated as deemed necessary by the City. This MDA is a contract between Master Developer and the City that will inure to the benefit of the Property and the owners thereof whereby the City agrees that, in the event of any conflict between any approval procedures and processes contained in this Section 5.2.3 and the Development Standards, this Section 5.2.3 shall supersede and replace the Development Standards, in being understood and agreed that where no such conflict exists, the provisions of the Development Standards shall apply. The City hereby agrees as follows:

(a) As part of the Preliminary PUD approval process (including application for the Preliminary PUD and the conditional use permit), Master Developer shall not be

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

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

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

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

5.3. **Material Actions.**

5.3.1. Material Actions Defined. Except with respect to the listed Administrative Actions described in Section 5.2.1 above, all other reviews, actions, approvals, and/or consents

with respect to a Development Application concerning a portion of the Property shall be deemed and considered Material Actions and shall be processed in accordance with the City's Vested Laws, this MDA and the Development Standards.

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

5.4. **General Provisions Regarding All Development Applications and Approvals.**

5.4.1. Application Fees. Due to the City's understanding of the Property, the City has agreed (i) to deem satisfied certain requirements for the Master Developer and/or Subdevelopers to provide certain information and/or documentation to the City under the City's Vested Laws, and (ii) to grant Master Developer's and/or Subdeveloper's requested reviews and approvals of all Development Applications without the imposition of any charges or fees to Master Developer and/or Subdevelopers in addition to those provided generally for review under the City's fee schedule in effect at the time of the application while recognizing that (except as otherwise specifically provided herein) a complete application will still be required for all Development Applications.

5.4.2. Standard Review Fees. Master Developer or the applicable Subdeveloper shall only have the obligation to pay the standard fees applicable with respect to any submittal of a Development Application under the City's fee schedule in effect at the time of the application.

5.4.3. Processing of Development Applications. The City shall cooperate reasonably and in good faith in promptly and fairly processing and reviewing all Development Applications. During each application process, the City shall keep the Applicant informed of the status of the applicable Development Application. The City agrees to exercise good faith efforts to follow the General Review Processes and meet all timelines set forth therein. If Master Developer and/or Subdeveloper determines the City has not met all of the processes and timelines set forth in the General Review Processes, then, among other remedies, Master Developer and/or Subdeveloper shall have the right to request a decision under Utah Code Ann. Section 10-9a-509.5. As more fully set forth in Section 7.1 below, Master Developer intends to apply for a CLOMR/LOMR for certain portions of the Property. The City agrees that, following issuance of a CLOMR but prior to the issuance of the LOMR related thereto, Master Developer and/or a Subdeveloper shall have the right to submit a Development Application for any portion of the Property that would be subject to a FEMA map revision pursuant to such CLOMR and to have such Development Application reviewed and approved pursuant to the terms of this MDA and the City's Vested Laws and/or City's Future Laws, as applicable, notwithstanding that the related LOMR has not yet been issued, provided that in no event shall any construction that would be prohibited by applicable law within a FEMA floodplain and/or that would be reasonably expected to invalidate or otherwise materially impair the City's participation in the

National Flood Insurance Program (or any successor thereto) be permitted except and until a LOMR for such portion of the Property that is consistent with the subject Development Application is issued by FEMA.

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

(i) After receipt of any preliminary plat approval, no Final Plat approval shall be Denied or delayed if the Development Application for such Final Plat complies with the conditions of the approved Preliminary Plat and all applicable fees and requirements have been paid or satisfied;

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

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

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

5.7. **Acceptance of Certifications Required for Development Applications.** Any Development Application requiring the signature, endorsement, or certification and/or stamping

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

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

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

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

5.10. **City Denial of a Development Application.** The City cannot use the Development Application process to impose upon the Master Developer and/or Subdeveloper greater obligations than agreed to in this MDA or to avoid the City's responsibilities, obligations, or costs as set forth in this MDA, and the City cannot Deny or condition approval of a

Development Application to impose upon Master Developer or Subdeveloper any obligation or cost assumed by the City in this MDA. If the City denies a Development Application the City shall provide a written determination advising the Applicant of the reasons for denial including specifying the reasons the City believes that the Development Application is not consistent with this MDA, the Preliminary PUD and/or the City's Vested Laws (or, if applicable, the City's Future Laws).

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

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

5.13. **Mediation of Development Application Denials.**

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

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

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

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

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

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

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

5.16. **Modifications to this MDA**. Any amendment, modification, or supplement to this MDA must be in writing and approved by the City and Master Developer and its assigns as provided herein. Only Master Developer or an assignee that succeeds to all of the rights and

obligations of Master Developer under this MDA (and not including a Subdeveloper) may submit an application to modify the MDA. If a Subdeveloper desires to modify the MDA as part of a Development Application, the Subdeveloper must obtain the Master Developer's approval to such modification. Notwithstanding the foregoing, the Parties (not the Subdeveloper unless specifically authorized) may mutually determine to waive one or more provisions hereof as such provisions relate to a particular Development Application, without formally amending the MDA.

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

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

5.16.3. Council Modifications. The Council may approve any amendments, modifications, or supplements to this MDA that are not Administrative Modifications or Planning Commission Modifications. Applications for Council Modifications shall be filed with the City staff. The Council shall consider and decide upon the Council Modification within a reasonable time after the filing of the request for the Council Modification. If the Council objects to the Modification Application, the Council shall provide a written determination advising the Applicant of the reasons for denial including specifying the reasons the City believes that the

Modification Application is not consistent with the intent of this MDA, the Preliminary PUD and/or the City's Vested Laws (or, if applicable, the City's Future Laws).

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

(a) Identify the property or properties affected by the Modification Application.

(b) Describe the effect of the Modification Application on the affected portions of the Project.

(c) Identify any Non-City Agencies potentially having jurisdiction over the Modification Application.

(d) Provide a map of any affected property and all property within three hundred feet (300') showing the present or intended use and Density of all such properties.

(e) Be accompanied by a fee in an amount reasonably estimated by the City to cover the costs of processing the Modification Application.

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

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

7. **Open Space.**

7.1. **Creation of Additional Open Space.** Master Developer and/or a Subdeveloper shall dedicate the Open Space as provided on the Preliminary PUD, subject to the right to make modifications to the Preliminary PUD as provided herein, but in any case not less than the amount of Open Space that is required by the City's Vested Laws (i.e., 20% of the area within the PUD). For the avoidance of doubt, Master Developer acknowledges and agrees that the Opens Space reflected on the Preliminary PUD does not include any Open Space with respect to the Non-Residential Dwelling Unit use Properties and, therefore, in the event that the Non-Residential Dwelling Unit use Properties are not developed as schools and become Residential Dwelling Units pursuant to Section 2.3 of this MDA, Master Developer and/or a Subdeveloper shall be required to dedicate additional Open Space within the Project with respect to such Non-Residential Dwelling Unit use Properties in an amount not less than the amount of Open Space that is required by the City's Vested Laws (i.e., 20% of the area within the PUD including the subject Non-Residential Dwelling Unit Use Properties area). Master Developer acknowledges and agrees that the Open Space on the Preliminary PUD is based on the assumption that the Federal Emergency Management Agency will revise the FEMA flood map for the Project in such

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

7.2. **Dedication/Conveyance of Open Space.** Master Developer and/or a Subdeveloper shall dedicate to the City any parks and other portions of Open Space to be dedicated to the City as generally illustrated on the Preliminary PUD by Special Warranty Deed; provided, however, that title will be conveyed free and clear of any (a) financial encumbrance, (b) other encumbrance (including easements) that materially and adversely interferes with the use of the property so conveyed as Open Space, active Open Space, and/or improved park space, or (c) environmental contamination that has not been remediated in accordance with applicable environmental law. The dedication of any Open Space located within a Subdivision shall occur immediately following the recordation of the Subdivision plat. To the extent practicable, the Open Space will be designed whereby utilities and easements will be located on the periphery of the Open Space. To the extent that Master Developer and/or Subdeveloper believes it is not practicable to locate an easement or utility on the periphery of the Open Space, Master

Developer and/or Subdeveloper may reserve unto itself an easement over the Open Space for such easement(s) in a location mutually agreed upon by the Master Developer and/or Subdeveloper and the City. Upon mutual agreement as to the location of an easement, Master Developer and/or Subdeveloper may record a document indicating the location of such easement.

7.3. **Improvement of Open Space**. Subject to Master Developer's and/or Subdeveloper's rights set forth in this Section, the City shall be responsible for the design and construction of any park Impact Fee eligible improvements to the Open Space. The City agrees to reasonably cooperate with Master Developer and Subdevelopers in formulating the design of such improvements, including allowing Master Developer and Subdevelopers to attend meetings regarding the design and to review and comment on draft design documents. The City agrees to commence the design and to commence the construction of the agreed upon improvements each when park Impact Fee receipts from the Project reasonably justify proceeding with such design or construction. If Master Developer and/or a Subdeveloper desires to cause the commencement of such design and construction prior to the City's receipt of sufficient funds as set forth above, Master Developer and/or a Subdeveloper may elect to cause the City to commence the design process and thereafter Master Developer and/or a Subdeveloper may construct the agreed upon improvements, each of such design and construction shall be at Master Developer's or such Subdeveloper's cost and expense. In such event, the City will enter into with and reimburse Master Developer for such costs pursuant to a reimbursement agreement in the form attached hereto as Exhibit "K". Neither Master Developer nor any Subdeveloper shall be obligated to make any park Impact Fee eligible improvements to any park Impact Fee eligible the Open Space that exceed the amount of park Impact Fees that are generated from the Property unless and until the City provides other sources of financing the excess cost thereof.

7.4. **Maintenance of Open Space, Parks and Trails.** The City shall be responsible for maintaining the Open Space and parks to be dedicated to the City as generally illustrated on the Preliminary PUD after final inspection and acceptance of the improvements by the City, such maintenance to be consistent with City-wide standards. Master Developer acknowledges that it shall be obligated to provide any warranty for the improvements made to the Open Space as required by the City's Vested Laws.

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

8. **Public Infrastructure.**

8.1. **Acquisition of Rights-of-Way**. The City agrees that, to the extent a road currently exists, the centerline of any Capital Improvement Road and the right-of-way associated therewith will be the centerline of such existing road. As a material covenant in this MDA, the City agrees to use good faith and diligent efforts to obtain funds from the Wasatch Front

Regional Council (or any successor thereto) for the acquisition/purchase of the land and improvements constituting (A) the Capital Improvement Roads, and (B) the Off-Site Capital Improvement Roads, but only as to Herriman Highway/Herriman Main Street and 7300 West as described in Section 1.2.43. In the event the City requires that the alignment for any Capital Improvement Road deviate from the alignment shown on the Preliminary PUD and in System Improvements exhibit attached to this MDA whereby more of the Property is required to be used for any Capital Improvement Road that would have been required if such alignment was consistent with the Preliminary PUD, the City shall compensate the Master Developer for the differential between the amount of the Property projected to be used for such Capital Improvement Road on the Preliminary PUD and the amount of the Property required by the newly required alignment of such Capital Improvement Road. For the avoidance of doubt, in the event that Master Developer and/or a Subdeveloper requests any such realignment of any Capital Improvement Road, the provisions of the immediately preceding sentence shall not apply.

8.2. **Water.**

8.2.1. General Provisions. Except for the portions of the Property currently located in the area designated as pressure zone 5, there is sufficient water rights, water storage capacity, adequate water pressure, flow and capacity to the boarder of the Project to serve the Property for the Maximum Residential Units for both indoor and outdoor water use and fire protection. To the extent that Master Developer and/or a Subdeveloper desires to develop a portion of the Property located in pressure zone 5, Master Developer and/or Subdeveloper shall have the option to (i) lower the grade of such portion of the Property, (ii) engineer the water delivery system on the Property in such a manner that sufficient water rights, water storage capacity, adequate water pressure, flow and capacity is available to serve such portion of the Property for both indoor and outdoor water use and fire protection, provided that such engineering complies with the Development Standards or is otherwise reasonably acceptable to the City, or (iii) delay such development until such time as the City in its discretion installs the required infrastructure to provide sufficient water rights, water storage capacity, adequate water pressure, flow and capacity to such portion of the Property for both indoor and outdoor water use and fire protection; provided that any change in grade, engineered water delivery system or other water delivery plan to such portions of the Property shall be required to meet the requirements of Utah Admin. Code R309-100, et seq. Master Developer and any Subdevelopers shall not be required to dedicate or convey any water rights to the City or to pay any fee, charge or assessment related to acquiring or providing such water so long as they pay the water right impact fees and appropriate water charges assessed for the use of such water, which charges shall be consistent with the City's then current water fee schedule. Inasmuch as Master Developer and/or Subdeveloper will pay a water right impact fee to the city, in the event JVWCD desires to assess Master Developer, a Subdeveloper, or the Property any fee or cost associated with the acquisition of water or in lieu of the dedication of water to JVWCD, the City agrees to formally request in writing and thereafter encourage JVWCD to waive such requirement of Master Developer and/or Subdeveloper. If the water infrastructure is insufficient to serve the Property, the City shall cause the water infrastructure to be upgraded to provide sufficient water capacity, pressure, and flow to the Property as it may be developed. Notwithstanding the above and without waiving or releasing any of the obligations set forth above, Master Developer and/or Subdeveloper may provide its/their own water to the Property to augment the water provided by the City, so long as same complies with the applicable state, county and local laws, ordinance

and rules and regulations applicable thereto. Without waiving any rights or remedies against the City, if the City's representations are not accurate or if the City allows other developments to use water that diminish the water available to the Property that results in a decrease the quantity, flow, or pressure of water for culinary or fire protection services, and if Master Developer and/or Subdeveloper provide its/their own water to the Project or otherwise incur costs to augment the water service or infrastructure, the City shall reimburse the Master Developer and/or Subdeveloper for the costs incurred associated therewith (including Soft Costs and Hard Costs) within ten (10) days after written demand. If the City fails to reimburse the Master Developer and/or Subdeveloper within such ten (10) day period, the amount due shall accrue interest at the Interest Rate. Notwithstanding the foregoing, if any amount owed by the City to the Master Developer and/or the Subdeveloper is not paid within ninety (90) days after such amount is due, Master Developer and/or the Subdeveloper shall have the right to exercise any remedies available under this MDA, at law or in equity against the City.

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

8.3. **Construction of Certain System Improvements.**

8.3.1. Off-Site Impact Fee Eligible Road Projects and Intersection Improvements. Based upon the Traffic Impact Study ("TIS") attached hereto as Exhibit "I" the City agrees that in no event shall Master Developer or any Subdeveloper be required to construct any Off-Site Capital Improvement Road nor shall the construction of any such Off-Site Capital Improvement Road be a condition to any Development Application for so long as the updated traffic study submitted in connection with such Development Application determines that the existing infrastructure supplies a level of service equal to or greater than "D" level service when taking into account the effect of the development proposed in such Development Application. If such updated traffic study determines the level of service would be less than "D" level service and therefore the proposed Development Application would be denied, Master Developer and/or such Applicant shall have the option to construct any off-site transportation Impact Fee eligible project, including, without limitation, constructing any Off-Site Capital Improvement Road, to cause the level of service to be equal to or greater than "D" level service and the Development Application shall thereafter shall not be denied based on the traffic level of service. The City agrees that the term "updated traffic study" as used herein shall mean the Traffic Study attached hereto as updated with respect to the TIS data, showing the roadway ratio of volume to capacity, for the Pod/Parcel subject to the subject Development Application and all previous development with respect to the Project, and shall not require the submission of a complete new traffic study. If Master Developer and/or such Applicant elects to so construct any off-site transportation Impact Fee eligible project, the City agrees to (i) use all reasonable efforts to obtain any rights-

of-way required in order for Master Developer and/or such Applicant to construct such off-site transportation Impact Fee eligible project and (ii) enter into with and reimburse Master Developer pursuant to a reimbursement agreement in the form attached hereto as Exhibit "K". Such reimbursement agreement shall provide that the source of the reimbursement funds for such off-site transportation Impact Fee eligible improvements shall come from: (i) any excess transportation Impact Fees generated from the Project above and beyond the Impact Fees necessary to cover the cost of any transportation System Improvements constructed on the Project; and (ii) from general transportation Impact Fees collected by the City that are not contractually obligated to another party, such reimbursements to be paid on a first come, first served basis (i.e. non-contractually committed Impact Fees shall be paid based on the order in which reimbursement requests are submitted to the City).

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

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

8.4. **Storm Drain**. In addition to the requirements contained in the City's Vested Laws, the City's Future Laws or the Development Standards to the contrary, the design and construction of the storm drainage system on the Property shall be subject to the provisions outlined on Exhibit "J". In the event of a conflict between the requirements in the City's Vested Laws, the City's Future Laws or the Development Standards and Exhibit "J", the provisions of Exhibit "J" shall control.

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

8.6. **Infrastructure Built by Master Developer**. Subject to the terms of this MDA, Master Developer or Subdevelopers may, from time to time, install and construct portions of the System Improvements located on the Property. The City shall enter into a reimbursement

agreement in the form attached as Exhibit "K" to this MDA for such System Improvements upon request from Master Developer and shall thereafter ensure that Master Developer and/or Subdevelopers are reimbursed pursuant to such reimbursement agreement.

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

10. **Design Guidelines.** Portions of the Property subject to the Preliminary PUD shall be subject to the Design Guidelines. Prior to the issuance of any building permits for residential or recreational use but excluding infrastructure, the design review committee as set forth in the Design Guidelines, if any, shall certify to the City that the proposed permit complies with the Design Guidelines and is approved by such design review committee.

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

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

11.2. **Amendments to Impact Fee Facility Plans.** To the extent that any Impact Fee Facility Plan is currently inconsistent with the Preliminary PUD and the System Improvements exhibit attached to this MDA, the City shall promptly commence and use good faith efforts to diligently pursue to completion an amendment to each such Impact Fee Facility Plan such that each such plan will be consistent with the Preliminary PUD and any other plan for the Property set forth in this MDA and use good faith efforts to cause each such plan to be so amended within twelve (12) months of the date hereof. Such amendments shall include, without limitation, (a) amending the City's transportation master plan and any related transportation capital facilities plan to reflect the inclusion of each Capital Improvement Road with the alignment of such road consistent with the Preliminary PUD and the System Improvements exhibit attached to this MDA, (b) including the Open Space identified on the Preliminary PUD within the applicable parks Impact Fee Facility Plan, which will assume that the Open Space located within the Property will be improved with parks that qualify for reimbursement under such plan, it being understood that portions of the Open Space (such as the parks noted as "H" and "F" on the Preliminary PUD) that cannot qualify for inclusion in the parks Impact Fee Facility Plan shall be excluded from the requirements of this clause (b), (c) amending the water IFFP to include the requirements for water as set forth in the System Improvements exhibit attached to this MDA and otherwise herein; (d) amending the storm sewer IFFP to include the requirements for storm sewer as set forth in the System Improvements exhibit attached to this MDA and otherwise herein and (e) including any other portion of the improvements contemplated on the Preliminary PUD or in the System Improvements exhibit attached to this MDA that are legally permissible to include in an IFFP, including any "system improvements", within the applicable Impact Fee Facility Plan. If the City fails to so amend any of the IFFP plans as provided above, Master Developer may elect to refile a complaint objecting to the annexation of the Property is such refiling is permissible under applicable state law. The System Improvements located on the Property shall be designed and constructed in accordance with the Transportation Master Plan, the Water Master Plan and the Storm Drainage Master Plan (each as updated as required herein) to accommodate the Maximum Residential Units as shown on the Preliminary PUD that can be developed within the Property, along with the development and use of other adjacent property that may use the infrastructure improvements

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

12. **Default.**

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

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

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

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

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

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

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

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

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

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

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

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

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

12.6. **Emergency Defaults.** Anything in this MDA notwithstanding, if the Council finds on the record that a default materially impairs and creates a compelling, countervailing interest of the City and that any delays in imposing such a default would also result in a compelling, countervailing interest of the City then the City may impose the remedies of Section 11.4.3 and 11.4.4 without the requirements of Sections 11.3. The City shall give Notice to Master Developer and/or any applicable Subdeveloper of any public meeting at which an emergency default is to be considered and the Developer and/or any applicable Subdeveloper shall be allowed to address the City Council at that meeting regarding the claimed emergency Default.

12.7. **Extended Cure Period.** If any Default cannot be reasonably cured within sixty (60) days, then such cure period shall be extended so long as the defaulting party is pursuing a cure with reasonable diligence, but in no case longer than one-hundred twenty (120) days.

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

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

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

To the Master Developer:

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

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

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

To the City:

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

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

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

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

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

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

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

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

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

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

18. **Assignability**. The rights, responsibilities, benefits, obligations, and burdens of Master

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

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

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

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

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

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

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

18.7. **Release of Master Developer.** Master Developer represents and the City

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

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

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

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

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

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

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

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

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

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

28. **Entire Agreement.** This MDA, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all Parties. In the event that a material amendment to this MDA is requested by Master Developer, Master Developer acknowledges that, as a requirement for entering into any such material amendment, the City will require that Master Developer agree that the City's Vested Laws be updated to the then existing ordinances, policies, standards and procedures of the City in effect as of the date of such amendment.

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

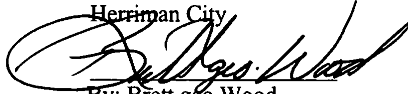
30. **Authority.** The Parties to this MDA each warrant that they have all of the necessary authority to execute this MDA. Specifically, on behalf of the City, the signature of the City Manager of the City is affixed to this MDA lawfully binding the City pursuant to Ordinance No. 2018-10 adopted by the City on February 14, 2018.

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

MASTER DEVELOPER
Dansie Land, LLC

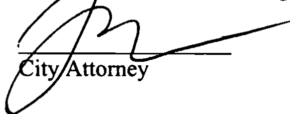
By: Richard P. Dansie
Its: Manager

CITY
Herriman City



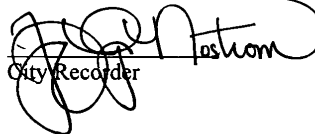
By: Brett geo Wood,
Its: City Manager

Approved as to form and legality:



City Attorney

Attest:

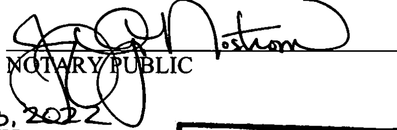


City Recorder

CITY ACKNOWLEDGMENT

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

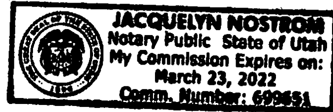
On the 15th day of August 2018, personally appeared before me Brett geo Wood who being by me duly sworn, did say that he is the City Manager of Herriman City, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the City by authority of its City Council and said City Manager acknowledged to me that the City executed the same.



NOTARY PUBLIC

My Commission Expires: March 23, 2022

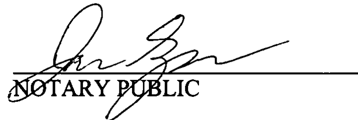
Residing at: Herriman



MASTER DEVELOPER ACKNOWLEDGMENT

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

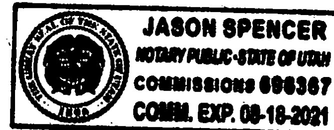
On the 11th day of July, 2018, personally appeared before me Richard P. Dansie, who being by me duly sworn, did say that he is the Manager of Dansie Land, LLC, a Utah limited liability company, and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.



NOTARY PUBLIC

My Commission Expires: 8-8-2021

Residing at: 6375 W 13400 S Herriman UT 84096



4813-8166-4080

TABLE OF EXHIBITS

Exhibit "A"	Legal Description of Property
Exhibit "B"	Capital Improvement Roads
Exhibit "C"	City's Vested Laws
Exhibit "D"	General Plan
Exhibit "E"	MDA Ordinance
Exhibit "F"	Preliminary PUD
Exhibit "G"	System Improvements on Property
Exhibit "H"	Zoning Map
Exhibit "I"	Traffic Study
Exhibit "J"	Storm Drain Requirements
Exhibit "K"	Form of Reimbursement Agreement
Exhibit "L"	Design Guidelines
Exhibit "M"	Certain Fencing Locations

Exhibit "A"
Legal Description of Property

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

Beginning at the South ¼ Corner of Section 34, T3S, R2W, SLB&M; thence N89°53'28"W along the Section line 1,208.30 feet; thence N0°14'55"W 892.87 feet to the centerline of Herriman Highway; thence along said centerline the following 2 (two) courses and distances: S75°27'00"W 1,252.37 feet; thence S76°37'00"W 238.88 feet; to the Section line; thence N0°18'05"W along the Section line 803.76 feet to the Southeast Corner of the NE1/4 of the SE1/4 of Section 33, T3S, R2W, SLB&M; thence N89°55'34"W along the 1/16th (40 acre) line 3984.36 feet; thence N0°38'23"W along the 1/16th (40 acre) line 1,323.55 feet to the 1/4 Section line; thence S89°55'59"E along the 1/4 Section line 3992.18 feet to the East ¼ Corner of Section 33; thence S89°51'43"E along the 1/4 Section line 1,329.78 feet to the West 1/16th Corner of Section 34; thence N0°14'07"W along the 1/16th (40 acre) line 1,326.55 feet to the Center 1/16th Corner of the NW1/4 of Section 34; thence S89°49'23"E along the 1/16th (40 acre) line 2,661.98 feet to the Center 1/16th Corner of the NE1/4 of Section 34; thence S0°07'34"E along the 1/16th (40 acre) line 1,342.76 feet to the Northerly line of Plat "B", WESTERN CREEK Subdivision, according to the Official Plat thereof on file in the Office of the Salt Lake County Recorder; thence S79°59'39"W along said plat 6.09 feet; thence S0°12'42"E along said plat 779.78 feet; thence N89°59'57"W 132.48 feet; thence South 187.10 feet; thence N71°29'13"E 140.30 feet to the west line of said plat; thence South along said plat 37.63 feet; thence N71°07'20"E 4.93 feet to the 1/16th (40 acre) line; thence S0°07'34"E along the 1/16th (40 acre) line 82.51 feet; thence N89°55'05"W 165.00 feet; thence S0°07'34"E 264.36 feet to the north line of CHRISTOFFERSEN ESTATES Subdivision, according to the Official Plat thereof on file in the Office of the Salt Lake County Recorder; thence N89°51'03"W along said plat 1,163.36 feet to the 1/4 Section line; thence S0°10'55"E 1,322.27 feet to the point of beginning.

LESS AND EXCEPTING COLTON Subdivision, according to the Official Plat thereof on file in the Office of the Salt Lake County Recorder and Tracts Previously Conveyed.

ALSO LESS AND EXCEPTING that Real Property described in Deed Bool 7011 Page 1538 of the Official Records of Salt Lake County described by deed as follows:

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

ALSO LESS AND EXCEPTING that Real Property described in Deed Bool 8700 Page 1265 of the Official Records of Salt Lake County described by deed as follows:

Commencing 1,075 feet South and 1,749.69 feet West from the East 1/4 Corner of Section 34, T3S, R2W, SLB&M; thence S71°29'W 100 feet; thence North 459.41 feet; thence N71°29'E 100 feet; thence South 459.41 feet to the point of beginning.

'Net' Area: 371.97± acres

4813-8166-4080

Exhibit "B"
Capital Improvement Roads

(see attached)

4813-8166-4080

DANSIE PROPERTY

HERRIMAN CITY, SALT LAKE COUNTY, UTAH

STREET PLAN

Pod 1, Pod 2, Pod 3, Pod 4, Pod 5, Pod 6, Pod 7, Pod 8, Pod 9, Pod 10, Pod 11, Pod 12, Pod 13, Pod 14, Pod 15, Pod 16, Pod 17, Pod 18

12600 SOUTH · 13400 SOUTH · 6000 WEST · 6300 WEST · 7300 WEST · 7600 WEST · HERRIMAN HIGHWAY

FOCUS

4813-8166-4080

Exhibit "C"
City's Vested Laws

Not attached for recording purposes. See Section 29.

Exhibit "D"
General Plan

4813-8166-4080

Exhibit "E"
MDA Ordinance

(see attached)

4813-8166-4080

HERRIMAN, UTAH
ORDINANCE NO. 2018-10

AN ORDINANCE OF THE CITY COUNCIL OF HERRIMAN APPROVING A MASTER DEVELOPMENT AGREEMENT FOR HIDDEN OAKS WITH RESPECT TO APPROXIMATELY 371.97 ACRES OF REAL PROPERTY LOCATED AT APPROXIMATELY 7000 WEST HERRIMAN MAIN STREET

WHEREAS, the Herriman City Council ("*Council*") met in regular meeting on February 14, 2018, to consider, among other things, an ordinance of the City Council of Herriman approving a Master Development Agreement for Hidden Oaks (the "Development Agreement") with respect to approximately 371.97 acres of real property located at approximately 7000 West Herriman Main Street owned or controlled by Dansie Land, LLC ("Dansie Land"); and

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

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

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

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

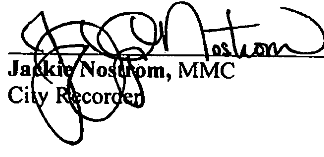
BE IT FURTHER ORDAINED that the City Manager may make formal, nonsubstantive changes in the Development Agreement as may be agreed to by the City Manager and Dansie Land, including without limitation to the exhibits thereto, insofar as it is necessary to bring the document into conformance with the intent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

PASSED AND APPROVED by the Council of Herriman, Utah, this 14th day of February, 2018.

HERRIMAN

Mayor David Watts

ATTEST:



Jackie Nostrom, MMC
City Recorder

Site Summary

Total Site Area	371.97	acres
Total Site Area without Schools & churches	326.52	acres
Total Open Space Area	67.08	ac (20.54%)
Total Residential Units w/o schools & churches in place	1,006	units
Gross Density without schools & churches in place	2.70	du/ac
Total Residential Units w/ schools & churches in place	**799**	**units**
Net Density with schools & churches in place	**2.45**	**du/ac**

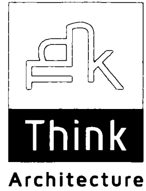
Land Use Summary

Pod	Land Use	Acres	W/o Schools & Churches	With Schools & Churches	Max with Density Transfer**
1	Single-family Residential	17.03	64	64	77
2	Charter School	7.78	24	0	29
3	Church	3.65	6	0	7
4	Single-family Residential	19.43	90	90	108
4A	Church	3.72	8	0	10
5	Single-family Residential	6.39	34	34	41
6	Single-family Residential	9.32	40	40	48
7	Single-family Residential	14	66	66	79
7A	Seminary Building	0.32	2	0	2
8	Middle School	20.55	107	0	128
9	Elementary School	10.97	60	0	72
10	Single-family Residential	13.02	70	70	84
11	Single-family Residential	8.85	43	43	52
12	Single-family Residential	19.92	69	69	83
13	Single-family Residential	22.98	80	80	96
14	Single-family Residential	7.09	12	12	14
15	Single-family Residential	11.29	28	28	34
16	Single-family Residential	24.78	57	57	76
17	Single-family Residential	17.94	53	53	57
18	Single-family Residential	4.75	8	8	10
19	Single-family Residential	8.61	2	2	16
20	Single-family Residential	18.82	83	83	100
	Totals	271.21	1,006	799	

** See MDA Section 2.4

Open Space Summary

Pod	Land Use	Acres	Ratio	Weighted
A	Main Street Open Space	2.07	100%	2.07
B	6900 West Trail System	1.76	100%	1.76
C	Park (Pod 4)	0.28	100%	0.28
D	Trail Corridor (East of 6900 W)	5.32	100%	5.32
E	12900 South Trail System	0.09	100%	0.09
F	Park (Pod 12)	1.04	100%	1.04
G	Trail Head Park	15.09	100%	15.09
H	Park (Pod 13)	0.68	100%	0.68
I	7300 West Trail System	0.83	100%	0.83
J	Park (Pod 14)	0.83	100%	0.83
K	Sports Park	6.62	100%	6.62
L	Trail Corridor	6.78	100%	6.78
M	7900 West Trail System	0.37	100%	0.37
N	Park (Pod 16)	0.30	100%	0.30
O	Park (Pod 18)	0.23	100%	0.23
P	Natural Open Space	1.33	25%	0.33
Q	Natural Open Space	18.10	25%	4.53
R	Natural Open Space	5.35	25%	1.34
S	Natural Open Space	1.99	25%	0.50
T	Natural Open Space	4.93	25%	1.23
U	Natural Open Space	0.93	25%	0.23
V	Trail System Connectors	2.47	100%	2.47
W	Common Open Space Pod 15/17 (40%)	11.69	100%	11.69
X	Parks/Trails (Pod 20)	0.25	100%	0.25
Y	Open Space	2.16	100%	2.16
Z	Open Space	0.06	100%	0.06
	Total	91.55		67.08



Land Use Plan

Dansie Property, Herriman, Utah

February 14, 2018

7900 West
68' Right-of-way Width

7300 West
90' Right-of-way Width

6900 West
68' Right-of-way Width

12900 South
68' Right-of-way Width

13400 South

Blayde Dr

Herriman Main Street
80' Right-of-way Width

Pod 1
17.03 AC

Charter School
Pod 2
7.78 AC

Pod 3
3.65 AC

Pod 4
23.16 AC

Pod 4A
3.72 AC

Pod 5
6.30 AC

Pod 6
8.91 AC

Pod 7
14.00 AC

Pod 7A
0.32 AC

Middle School
Pod 8
20.55 AC

Elementary School
Pod 9
10.97 AC

Pod 10
13.02 AC

Pod 11
8.85 AC

Pod 12
19.92 AC

Pod 13
22.98 AC

Pod 14
7.42 AC

Pod 15
11.29 AC

Pod 16
26.31 AC

Pod 17
17.94 AC

Pod 18
4.75 AC

Pod 19
8.61 AC

Pod 20
18.82 AC

Exhibit "G"
System Improvements on Property

(see attached)

4813-8166-4080

N
S

GRAPHIC SCALE

PARCEL #26-34-100-001
PARCEL #26-34-100-003
PARCEL #26-34-100-002
PARCEL #26-33-100-001
PARCEL #26-33-452-001

Pod 10
13.02 AC

Pod 9
10.87 AC

Pod 8
20.53 AC

Pod 7
14.31 AC

6900 WEST

12900 SOUTH

Pod 11
8.83 AC

Pod 6
11.30 AC

Pod 5
8.29 AC

Pod 12
13.88 AC

Pod 13
22.29 AC

Pod 3
14.61 AC

Pod 4
22.74 AC

Pod 18
22.67 AC

Pod 17
7.15 AC

Pod 14
31.87 AC

Pod 15
29.23 AC

Pod 16
4.44 AC

7900 WEST

7300 WEST

HERRIMAN HIGHWAY

TURNER PLACE SUBDIVISION

Pod 1
16.82 AC

Pod 2
7.44 AC

13400 SOUTH

VALLEY VIEW WEST PLAT

JOSIE ACRES PLAT

PARCEL #32-03-100-001
PARCEL #32-04-227-001
PARCEL #26-33-475-002

FOCUS
ENGINEERING AND SURVEYING, LLC

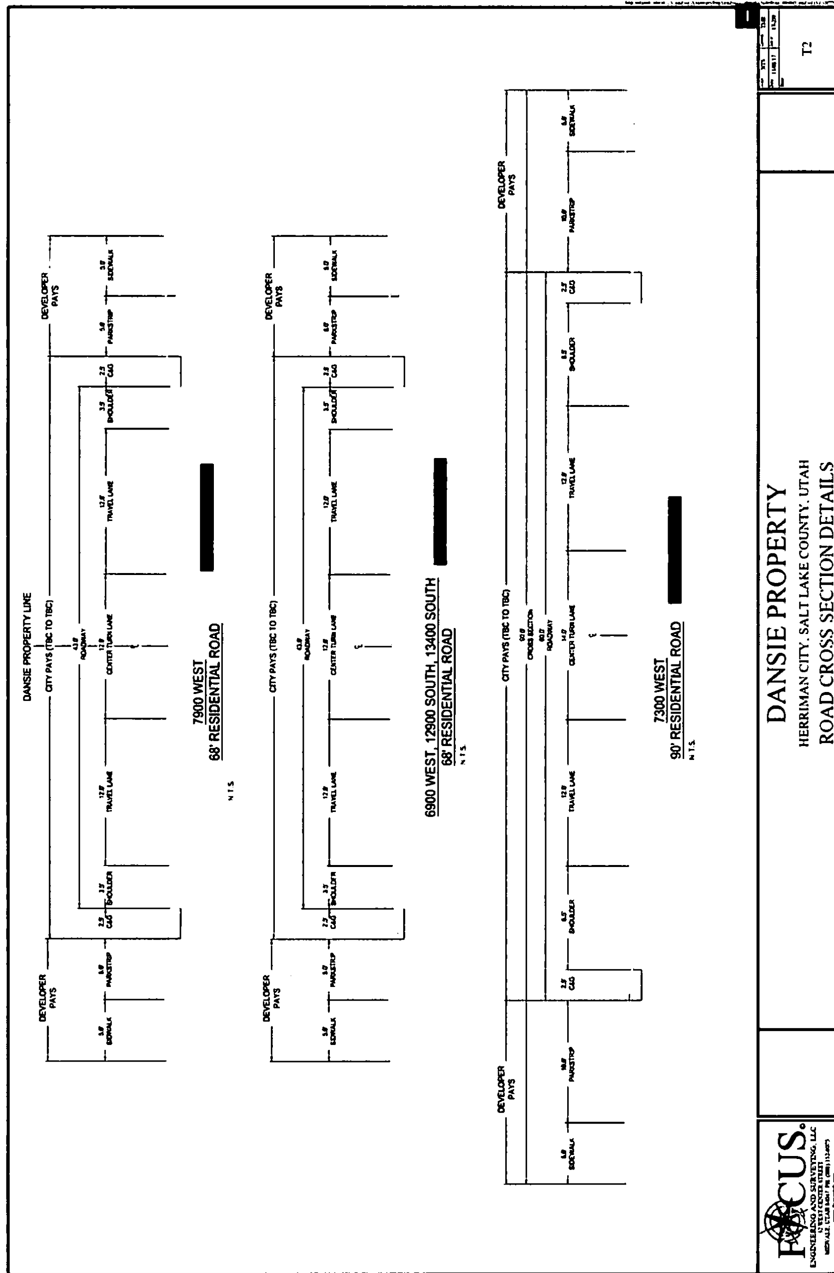
DANSIE PROPERTY

HERRIMAN CITY, SALT LAKE COUNTY, UTAH

STREET PLAN

T1

4813-8166-4080



4813-8166-4080

DEVELOPER PAYS
CITY PAYS (TBC TO TBC)
DEVELOPER PAYS
80.0' CROSS SECTION
55.0' ROADWAY
5.0' SIDEWALK
5.0' PARKSTRIP
2.5' C&G
9.0' SHOULDER
12.0' TRAVEL LANE
13.0' CENTER TURN LANE
12.0' TRAVEL LANE
9.0' SHOULDER
2.5' C&G
5.0' SIDEWALK
5.0' PARKSTRIP

HERRIMAN MAIN ST.
80' RESIDENTIAL ROAD
N T S

DEVELOPER PAYS
CITY PAYS (TBC TO TBC)
DEVELOPER PAYS
240.0' RIGHT-OF-WAY
27.5' PARKSTRIP & SIDEWALK
2.5' C&G
25.0' TRAVEL LANE
130.0' ISLAND
25.0' TRAVEL LANE
2.5' C&G
27.5' PARKSTRIP & SIDEWALK

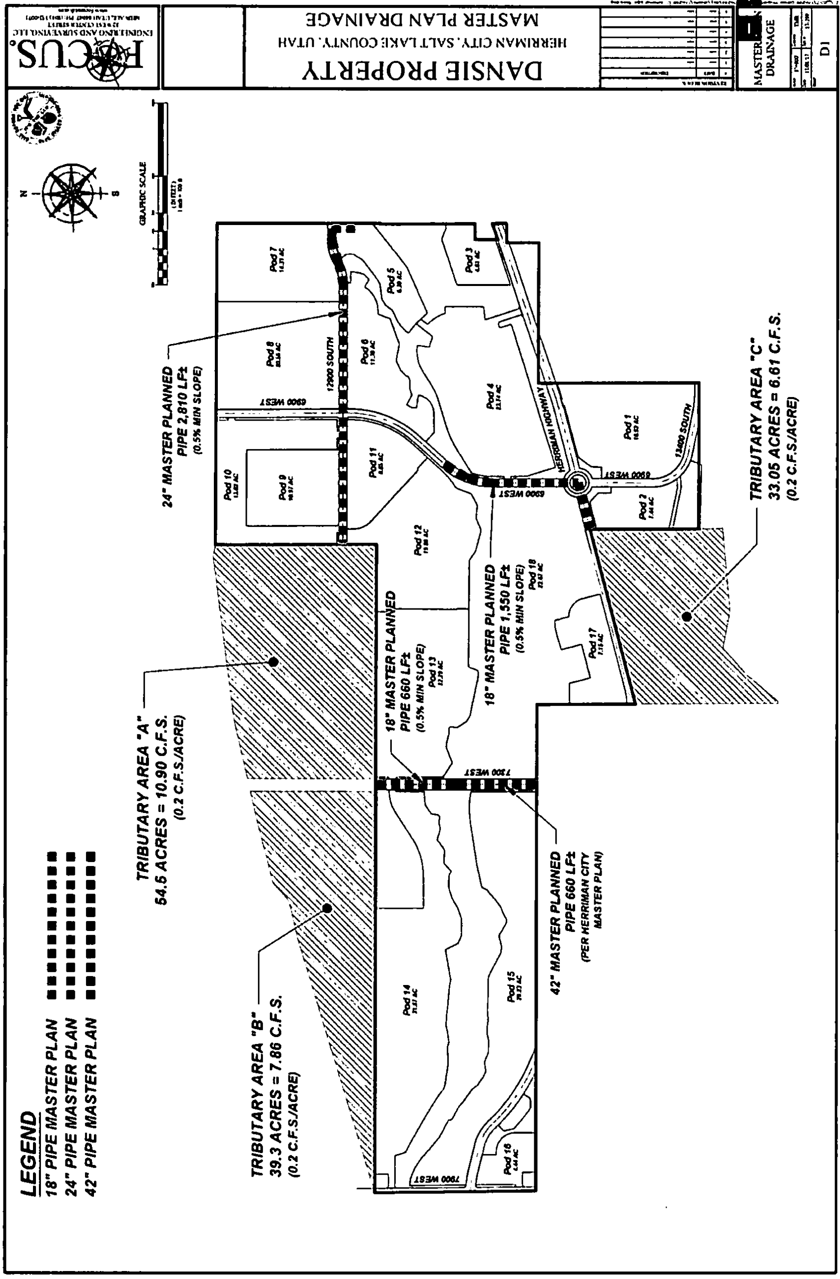
HERRIMAN HIGHWAY, 6900 WEST
240' ROUNDABOUT
N T S

FOCUS
ENGINEERING AND SURVEYING, LLC

DANSIE PROPERTY
HERRIMAN CITY, SALT LAKE COUNTY, UTAH
ROAD CROSS SECTION DETAILS

T3

4813-8166-4080



4813-8166-4080

LEGEND

EXIST. 100 YEAR FLOOD PLAIN TO BE RE ROUTED IN A PROPOSED CHANNEL

6900 WEST

12900 SOUTH

7900 WEST

7300 WEST

6800 WEST

HERRIMAN HIGHWAY

13400 SOUTH

DRAINAGE CHANNEL #1
36" RCP OR
12.5' CHANNEL WIDTH (116 CFS ±)
PER CROSS - SECTION.

DRAINAGE CHANNEL #1

DRAINAGE CHANNEL #2
42" RCP OR
18.0' CHANNEL WIDTH (274 CFS ±)
PER CROSS - SECTION.

DRAINAGE CHANNEL #2

DRAINAGE CHANNEL #3
42" RCP OR
20.0' CHANNEL WIDTH (311 CFS ±)
PER CROSS - SECTION.

DRAINAGE CHANNEL #3

N

S

GRAPHIC SCALE

NOTES:
THE PIPE SIZES OR CHANNEL SIZES MAY BE REDUCED DURING FINAL DESIGN WHEN THE FINAL DRAINAGE FLOWS AND SLOPES ARE DETERMINED.

FOCUS
ENGINEERING AND SURVEYING, LLC

DANSIE PROPERTY
HERRIMAN CITY, SALT LAKE COUNTY, UTAH
FLOOD PLAIN EXHIBIT

FLOOD PLAIN EXHIBIT

D2

4813-8166-4080

Exhibit "H"
Zoning Map

Zoning Exhibit
Dansie Property, Herriman, Utah
February 14, 2018

Think
Architecture

R-1-15/PUD Overlay Zone
299.25 Acres

R-1-21/PUD Overlay Zone
72.77 Acres

4813-8166-4080

Exhibit "I"

Traffic Study

Not Attached for recording purposes; copy on file with the City

Document Description: Dansie Property Traffic Impact Study dated August 15, 2018 prepared by Hales Engineering as project No. UT17-1137

4813-8166-4080

Exhibit "J"
Storm Drain Requirements

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

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

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

- Storm Drain Discharge locations shall be approved by the governing entity and reasonably approved by the City Engineer.

- The storm drain piping shall be designed at a minimum 0.5% slope unless approved by the city engineer.

Exhibit "K"

Form of Reimbursement Agreement

(see attached)

Revised Reimbursement Agreement

This Reimbursement Agreement ("Agreement") is made this ______ day of ____ ______, 2018, by and between **Herriman**, a Utah municipality ("City"), and , a Utah Limited Liability Company ("Developer") (collectively, the "Parties").

RECITALS:

A. Developer developed a project known as __________ that is located at approximately___________ .

B. As part of such development, Developer installed or caused to be installed approximately ____________ ("Improvements")

C. Developer has dedicated or intends to dedicate the Improvements and appurtenant real property ("Real Property") if any to the City and City intends to reimburse Developer for the cost of the Improvements and Real Property.

D. The locations of Improvements and Real Property are illustrated on exhibit "A."

AGREEMENT:

NOW, THEREFORE, in consideration of the premises, mutual covenants, and undertakings, the Parties hereby agree as follows:

Section 1. **Real Property**. The Developer hereby represents and warrants to the City that it is the fee owner of the Real Property and that upon request, the Developer will transfer title of the Real Property to the City, free and clear of all liens and encumbrances.

Section 2. **Improvements**. The Developer hereby represents and warrants to the City that it is the owner of the Improvements and that upon request, the Developer will transfer title of the Improvements to the City, free and clear of all liens and encumbrances.

Section 3. **Condition of Improvements**. Developer has caused the installation and construction of the Improvements (the "Work") to be completed at Developer's sole cost and expense by qualified licensed contractors. Prior to City's acceptance of ownership of the Improvements, Developer shall provide evidence satisfactory to the City that all labor, materials, equipment, rental, and other costs incurred in performing the Work have been paid in full and that the City will receive the Improvements free and clear of all liens, claims, and encumbrances.

Section 4. **Conveyance to the City**. At the City's discretion, at any time following the date of this Agreement, Developer shall convey the Improvements and Real Property to the City free and clear of all liens and encumbrances by executing and delivering to the City such easements, deeds, bills of sale, or other conveyance documents as the City may require in its sole and absolute discretion.

Section 5. **Indemnification and Warranty**. To the fullest extent allowed by law, Developer shall indemnify, defend, and hold harmless the City, its affiliates, agents, employees, and elected and appointed officials from and against any and all actions, claims, losses, damages, and expenses (including reasonable attorneys' fees) arising out of or connected in any way to Developer's acts or omissions in connection with the design, fabrication, construction, installation, operation, maintenance, or testing of the Improvements. If any claim is made against the City to which the City's claims right of indemnification from Developer, the City shall have the right, but not the obligation, to assume the entire control of the defense and/or settlement of the claim, through attorneys selected by the City, and Developer shall cooperate fully with the City in connection with the same. If the City elects to assume control of the defense and/or settlement of the claim, Developer shall be liable for all City's related costs and expenses, including, without limitation, reasonable attorneys' fees, all judgments or verdicts, and all monies paid in settlement. Further, Developer represents, warrants, and certifies to the City that all work performed and materials used in connection with the Improvements are free from defect and material or workmanship; and all work performed and materials used shall conform to approve City specifications and applicable construction codes and local laws and ordinances regarding the construction of similar facilities; and that the material used is free from defect in design or otherwise suitable for their intended purpose. The warranty set forth in this section shall extend for one year from the date on which the City accepts conveyance of the Improvements. Developer shall indemnify and hold the City harmless for breach of any warranties hereunder. Notwithstanding anything to the contrary contained herein, the City agrees to exhaust its available remedies against the contractor constructing the Improvements, pursuant to any warranty, guaranty or otherwise, for the facts and circumstances giving rise to any liability arising under this Section 5 prior to pursuing remedies against Developer hereunder, provided that the forgoing shall not prevent the City from delaying future disbursements under this Agreement until such facts and circumstances are resolved.

Section 6. **Reimbursement**. The Improvements are system improvements as that term is defined by the City and Utah Code Ann. § 11-36-101, *et seq.* and are subject to reimbursement. City shall reimburse Developer for the cost of the Improvements and Real Property in an amount not to exceed $ for the improvements and related facilities. As full and complete reimbursement of the cost of the improvements, the City will pay to the Developer one hundred percent (100%) of the ___________ impact fees generated and collected from within the area identified on exhibit "B," provided that the forgoing shall not prohibit Developer from applying for other impact fees that may be available in the City. All amounts so collected shall be paid to the Developer without interest within thirty (30) days after the end of the quarter in which the referenced impact fees were received by the City.

Section 7. **Offset Rights**. Developer agrees that, in addition to any other rights and remedies available under this Agreement, at law, or in equity, the City may set off against any payments otherwise due and owing to Developer under Section 6 of this Agreement any amount that City may be entitled pursuant to indemnification under Section 5 of this Agreement or otherwise. Neither the exercise nor the failure to exercise such right of setoff will constitute an election of remedies or limit any of City's indemnifications pursuant to Section 5 of this Agreement.

Section 8. **Impact Fees**. The Developer acknowledges and agrees that development of the ________________ was subject to certain impact fees imposed by the City. Developer acknowledges and agrees and as an essential element of consideration for this Agreement, that the impact fees imposed on the Developer by The City meet all requirements of law, is valid and binding, and does not violate any constitutional provisions.

Section 9. **Miscellaneous Provisions**.

(a) *Binding Agreement*. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto.

(b) *Captions*. The headings used in this Agreement are inserted for reference purposes only and shall not be deemed to define, limit, extend, describe, or affect in any way the meaning, scope, or interpretation of any of the terms or provisions of this Agreement or the intent hereof.

(c) *Counterparts*. This Agreement may be signed in any number of counterparts with the same effect as if the signatures upon any counterpart were upon the same instrument. All signed counterparts shall be deemed to be one original.

(d) *Severability*. The provisions of this Agreement are severable, and should any provision hereof be void, voidable, unenforceable or invalid, such void, voidable, unenforceable, or invalid provision shall not affect the other provisions of this Agreement.

(e) *Waiver of Breach*. Any waiver by either party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of, or consent to, any subsequent breach of this Agreement.

(f) Cumulative Remedies. The rights and remedies of the parties hereto shall be construed cumulatively, and none of such rights and remedies shall be exclusive of, or in lieu or limitation of, any other right, remedy, or priority allowed by law.

(g) *Amendment*. This Agreement may not be modified except by an instrument in writing signed by the parties hereto.

(h) *Interpretation*. This Agreement shall be interpreted, construed, and enforced according to the substantive laws of the state of Utah. This Agreement shall be interpreted in an absolutely neutral fashion, and ambiguities herein shall not be construed against any party as the "drafter" of this Agreement.

(i) *Attorneys' Fees*. In the event any action or proceeding is taken or brought by either party concerning this Agreement, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees, whether such sums are expended with or without suit, at trial, on appeal or in any bankruptcy or insolvency proceeding.

(j) *Notice*. All notices provided for herein shall be in writing and shall be given by first class mail, certified or registered, postage prepaid, addressed to the parties at their

respective addresses set forth above or at such other address(es) as may be designated by a party from time to time in writing.

Developer
Address
City state zip

Herriman City
Attn: Gordon Haight
5355 West Herriman Main Street
Herriman, UT 84096

(k) *Time of Essence*. Time is the essence of this Agreement.

(l) *Assignment*. Applicant may not assign its rights, or delegate its duties, hereunder without City's prior written consent. City may freely assign its rights and delegate its duties under this Agreement, whereupon the assignee shall succeed to, and City shall be correspondingly released from, all of City's rights, duties, and liabilities hereunder.

(m) *Exhibits and Recitals*. The recitals set forth above and all exhibits to this Agreement are incorporated herein to the same extent as if such items were set forth herein in their entirety within the body of this Agreement.

IN WITNESS WHEREOF, the undersigned have signed this Agreement on the day and year last below written.

HERRIMAN

By______________________________
Brett geo Wood, City Manager
Dated: ____________________________

ATTEST:

____
Jackie Nostrom, City Recorder

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

The foregoing instrument was acknowledged before me this _______ day of ____________________, 2018, by **Brett geo. Wood** and **Jackie Nostrom**, as the City Manager and City Recorder, respectively, of **HERRIMAN**, a Utah municipality.

____
Notary Public

DEVELOPER

Developer

By ______________________________________
Its: _____________ Manager _____________
Dated: __________________________________

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

The foregoing instrument was acknowledged before me this _______ day of ____________________, 2018, by ______________________________, as the ____________________ of the ______________________________________.

____
Notary Public

4846-0735-1127

Exhibit "L"

Design Guidelines

(see attached)

4813-8166-4080

Design Guidelines

Hidden Oaks, Herriman, Utah

BK 10704 PG 999

Table of Contents

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BK 10704 PG 1000

A. Introduction

The following is a summary of the major points describing the project:

1. ***Project area***–The project area is approximately 371.97 acres.

2. ***Project Zoning***–The project is zoned R-1-15 and R-1-21 with an approved Preliminary PUD overlay.

3. ***Density***–The project is approved with an underlying zone of R-1-15 and R-1-21 with a PUD overlay, which allows a maximum density of approximately 3.0 units per acre. The total allowed residential units for the project shall be 1,006 units.

4. ***Major Streets***–The major and minor arterial streets servicing the property (i.e., Herriman Main Street, 6900 West, 7300 West, 7900 West, 12900 South, etc.) shall be as per the approved Preliminary PUD as adopted by the City. The interior street network will be determined upon approval of final plat applications.

5. ***Open Space***—The PUD overlay requires a dedication of 20% open space for the total property zoned R-1-15 and R-1-21. Based on the projected area of the zones, the project would be required to allocate approximately 67 acres of open space. Open space is defined by the Master Development Agreement entered into between the City and the master developer.

BK 10704 PG 1001

B. Project Guidelines

1. **Purpose & Intent**
   The purpose of this document is to establish project standards which shall govern the site development, architectural, and landscape concepts for neighborhoods within the property boundaries that are unique to this property. The City will use these standards as the basis for review of each individual application as outlined in Section C. Anything not addressed by the standards in Section C will be subject to the conditions of the Herriman Municipal Code at the time of preliminary PUD approval.

2. **Design Review Committee**
   Property Owner will establish a Design Review Committee (DRC), which DRC will make decisions by referring to the design guidelines but shall have the ability to reject any land use, building type or architectural elevations at its own discretion in accordance with the terms and conditions of the the MDA and these Design Guidelines. The DRC review of any project application will be the property owner's review prior to application to the City for Final Plat approval. The intent of the DRC is to ensure that the property is developed in a way that meets the standards established by the City and to ensure a cohesive and quality development.

3. **Modification of Design Guidelines**
   The Design Guidelines (as administered by the DRC and property owner) are subject to change when the owner determines such changes are in the best interest of the property, so long as such changes comply with applicable law and the terms of the MDA. Any change in these guidelines shall be in writing or documented and shall be at the sole discretion of the property owner, so long as such changes comply with applicable law and the terms of the MDA.

BK 10704 PG 1002

C. Building & Site Standards

1. **Scope & Authority**
   Planning Commission shall review all applications for development within the project according to the standards outlined in this section. Any items not addressed in this section shall be reviewed in accordance with the current Herriman City Code at time of Preliminary PUD approval, subject to the terms and conditions of the MDA. Planning Commission shall require a written statement of approval from the Design Review Committee (DRC) stating compliance and approval.

2. **Density Distribution**
   The project is approved with underlying zones of R-1-15 and R-1-21 with a PUD overlay. The total allowed residential units for the project shall be 1,006 units.

3. **Lot Widths & Setbacks**
   Minimum lot widths and setbacks shall be as follows (unless otherwise approved by the Planning Commission):

Dwelling type	*Front-yard Setback*	*Rear-yard Setback*	*Corner Setback*	*Side-yard Setback*	*Lot Frontage*
Pods within R-1-21 zone	All setback requirements shall be dictated per the R-1-21 zone				90' Minimum
Pods within R-1-15 zone	12' for porches & living areas 24' from face of garage to prop. line	15' Minimum 10' min deck/patios	15' corner setback	5' Minimum (Minimum 10' between adjacent homes)	45' Minimum

   a. *Accessory Building Setback Standard*—Accessory buildings (detached garages, workshops, sheds, granny flats, etc.) shall be a minimum of 5' setback from all property lines and shall not impose hardship on a neighboring property (eg. storm water runoff from roof overhangs).

4. **Architectural Character**
   a. Architectural styles should be varied including representations of the following styles. The styles shown below are representative of housing styles and do not reflect actual houses.:

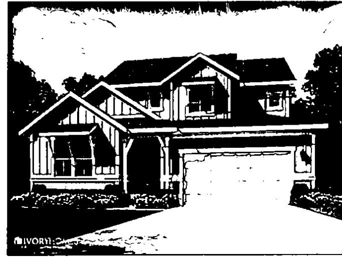
Mountain Style

Traditional Style

4. **Architectural Character** *(continued)*

Prairie Style

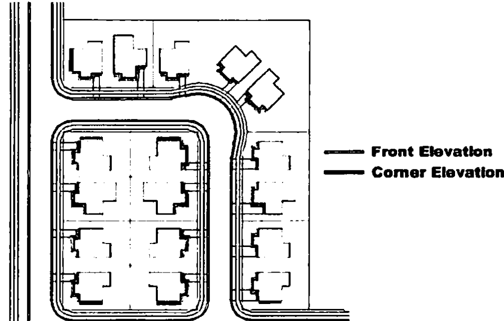
Farmhouse Style



Craftsman Style

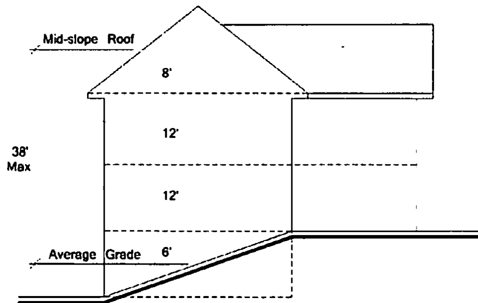
5. Lot Character

a. ***Façade zones*** — Front and corner lot elevations (or façades) and, in some situations rear elevations, that are visible from public areas are important to community character. It is imperative for these façades to be articulated to improve the street scene and aesthetics of the neighborhood. Façade zones will be identified as applicable front elevations, corner lots, and/or visible edges in establishing the level of architectural detail required.



6. Building Heights

Building height restrictions shall be as follows (unless otherwise approved by the Planning Commission):



Note: Floor-to-floor and roof dimensions are illustrative and will vary from house to house

*** This building height set forth above is an illustration only and shall be subject to any applicable maximum building height pursuant to the City's Planned Development Overlay Zone ordinance unless and until the City's Planned Development Overlay Zone ordinance is amended to permit applicable building heights of this height (or the discretion to approve heights of this height), provided that any necessary adjustments for differences between the measurement points in the above illustration and the measurement points used in the City's Planned Development Overlay Zone ordinance shall be made, following which the above illustrated building heights shall apply.*

7. **Exterior Building Materials**
   Building materials for single-family developments shall conform, at a minimum, to Herriman City Design Standards and shall meet all conditions of the Design Review Committee. Applicants will be required to obtain DRC approval and submit to Herriman City all architectural elevations required by City standards.

8. **Parking**
   Parking requirements shall be as follows (unless otherwise reduced by the Planning Commission):

Dwelling type	*Parking Required/unit*	*Notes*
Single-family detached	2 garage spaces 2 additional spaces in driveway or other	Tandem parking to meet required parking is allowed behind garage spaces provided the space does not encroach into sidewalks or public rights-of-way

9. **Landscape & Plant Materials**
   Plant Materials shall be consistent with the Herriman City Approved Tree and Shrub List (§4.17.03 Herriman Development Standards).

   Applicants will be required to submit landscape plans for review for each individual site within the project boundary. Special care will be taken in reviewing the landscape for areas visible from public rights-of-way within any front or side setback.

   Front and side yards, visible from the street, shall be installed prior to occupancy per Herriman City standard.

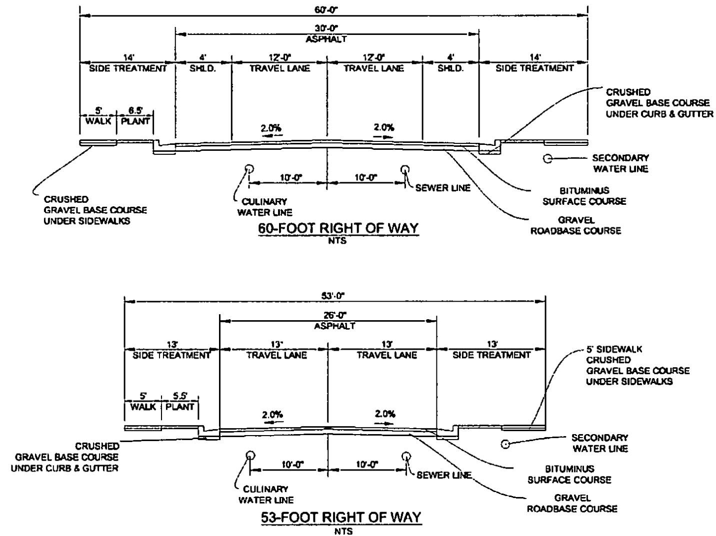
10. Street Layouts

Major street and street connections shall be consistent with the terms and conditions of the MDA and the infrastructure plans and mutually agreed upon by Herriman City and the master developer. Widths of streets shall be consistent with these Project Guidelines and consistent with the appropriate street classifications as identified in traffic studies and the Master Transportation Plan adopted by Herriman City.

11. **Roadway design**

a. **Road Cross-sections**

Typical road cross-sections shall be modified as shown below. Additional width of park strips may be counted as open space toward the required open space amount.



b. **Engineering cross-section** (asphalt profile)

Road profile cross-section (i.e. thickness of asphalt profile and depth of gravel base) shall be determined based on the recommendation of a geotechnical engineer and location-specific conditions & criteria.

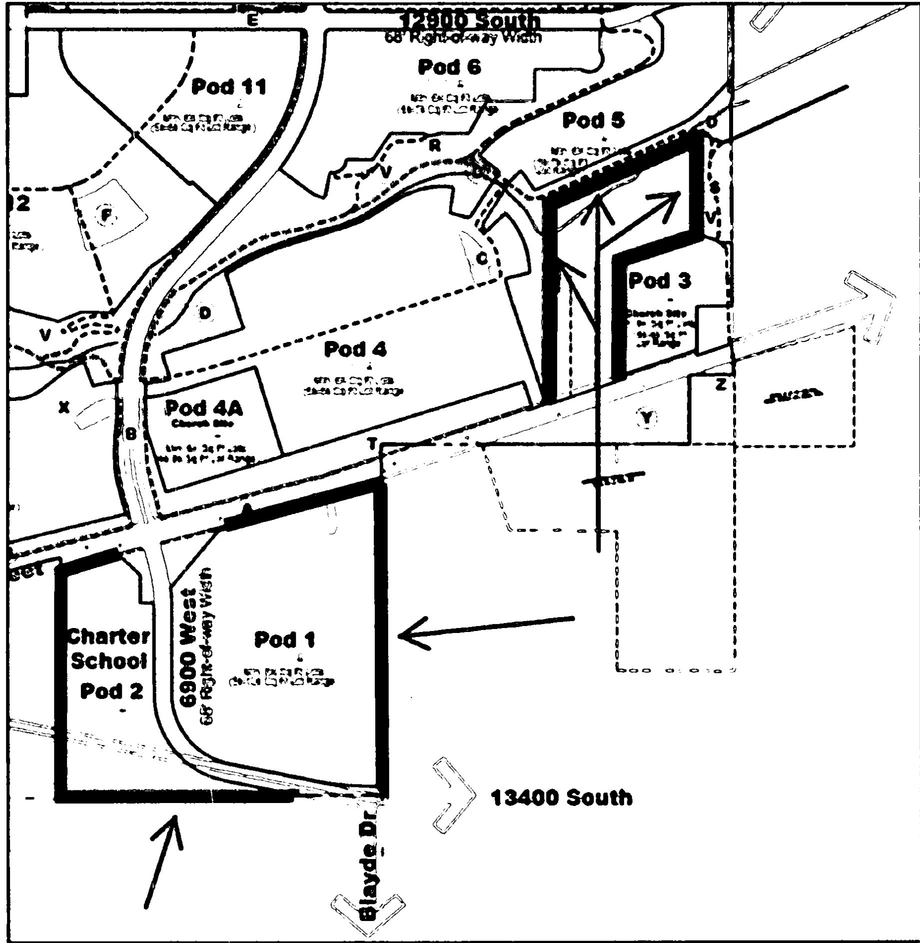
12. **Open Space**

a. ***Publicly Accessible Open Space*** – Individual Builders or Developers within the project will be required to accommodate the need for additional open space within subareas of the development (beyond that dedicated as part of the designated trail and park areas and as required by the PUD ordinance to dedicate or grant access to 20% of the total PUD property). Such open space may be incorporated into other functions pursuant to the terms of the MDA.

b. ***Public Trails***—Individual Builders or Developers within the project will be required to accommodate the trail system as identified on the approved Preliminary PUD plan. Trails will be required to connect to any existing adjacent trails to accommodate the trail system concept identified in the Project Plan. Trails may be relocated through or around proposed projects provided they allow for a continuous trail system as shown on the Project Plan.

Exhibit "M"

Certain Fencing Locations



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