

When Recorded Mail To:

MIDA Executive Director
450 Simmons Way, Suite 400
PO Box 112
Kaysville, UT 84037

Ent 471667 Bk 1274 Pt 1864-1871
Date: 05-DEC-2019 1:50:03PM
Fee: \$40.00 Check Filed By: TC
PEGGY FOY SULSER, Recorder
WASATCH COUNTY CORPORATION
For: WESTERN STATES VENTURES LLC

PRE-CERTIFICATE OF OCCUPANCY PAYMENT CONTRACT

THIS PRE-CERTIFICATE OF OCCUPANCY CONTRACT (“Contract”) is entered into as of the 4th day of December 2019 (“**Effective Date**”), by and between the MILITARY INSTALLATION DEVELOPMENT AUTHORITY, a body politic of the State of Utah (“**MIDA**”), organized and governed under §§63H-1-101 et. Seq. Utah Code Annotated 1953, as amended or any successor or replacement provisions (the “**Act**”) and Western States Ventures, LLC, a Utah limited liability company (“**Property Owner**”). MIDA and the Property Owner are occasionally referred to herein individually as a “**Party**” and collectively as the “**Parties**”.

BACKGROUND

WHEREAS, pursuant to the Act, MIDA designated certain property located in the State of Utah as the Military Recreation Facility Project Area (“**MRF Project Area**”); and

WHEREAS, the Property Owner owns certain property in Wasatch County, Utah (“**Property**”) within the MRF Project Area, which Property is identified and legally described in Exhibit A attached hereto, and which Property may now, or in the future, be subdivided into multiple separate parcels of land (each, a “**Parcel**”); and

WHEREAS, §63H-1-501(2) of the Act provides that “Improvements on a parcel within [the MRF Project Area] become subject to property tax on January 1 immediately following the day on which [MIDA] or an entity designated by [MIDA] issues a certificate of occupancy with respect to those improvements.”

WHEREAS, §63H-1-501(3)(a) of the Act provides that if a certificate of occupancy for improvements on a private parcel within the MRF Project Area has not been issued, “the private parcel owner shall enter into a contract with [MIDA] to make an annual payment to [MIDA]: (i) that is equal to 1.2% of the taxable value of the parcel above the base taxable value of the parcel” (“**Pre-CO Payment**”); and that the annual Pre-CO Payment shall continue until the improvements on the Parcel become subject to property taxes pursuant to §63H-1-501(2) of the Act; and

WHEREAS, this Contract is the contract required by §63H-1-501(3)(a) of the Act and shall be recorded and run with the land such that it is binding on all future owners of the Property and any Parcels therein, and payment of the Pre-CO Payment, including any late penalties or interest, shall be required for all years prior to the January 1 after a certificate of occupancy is issued for the Parcel;

TERMS AND CONDITIONS

NOW, THEREFORE, for and in consideration of the mutual promises and performances set forth in this Contract, the Parties agree as follows:

- 1. Annual Invoice for Pre-CO Payment.** When MIDA receives the taxable value from the Wasatch County Assessor for a Parcel that is subject to the Pre-CO Payment, MIDA shall prepare and send an invoice to the owner of such Parcel in the amount of such Pre-CO Payment. Depending on when MIDA receives the taxable value of each Parcel from the Wasatch County Assessor, MIDA will make commercially reasonable efforts to send the invoice within 60 days of receipt of the taxable value, but no later than November 1 each year; provided, that failure of MIDA to send an invoice or failure of the Parcel owner to receive the invoice sent shall not relieve the Parcel owner of the obligation to pay the Pre-CO Payment.
- 2. Payment of the Pre-CO Payment.** The Pre-CO Payment is due November 30 each year. The payment must be received by November 30 or be U.S. Post Office postmarked by November 30. Late payment shall be subject to the same interest and penalties as are late payments of property taxes in Wasatch County.
- 3. Recording and Run with the Land.** This Contract, including but not limited to the obligation of Parcel owners hereunder to pay the Pre-CO Payment, shall be recorded against the Property, shall run with the land, and shall bind the Property Owner and all of Property Owner's successors and assigns (including but not limited to the owner of each Parcel within the Property) just as if such successors or assigns had signed the Contract.
- 4. Term.** This Contract shall be binding upon the Parties as of the Effective Date, and shall remain in full force and effect with regard to the entire Property until such time as a certificate of occupancy has been issued for any Parcel in accordance with §63H-1-501(2) of the Act, at which time this Contract shall terminate with respect to such Parcel without need of further action by either Party; provided, that (i) the owner of such Parcel shall remain obligated to pay any Pre-CO Payments payable for such Parcel accruing prior to the issuance of such occupancy permit, including any interest or late penalties associated therewith, and (ii) this Contract shall remain in full force and effect with regard to the remainder of the Property and any Parcels located therein for which a certificate of occupancy has not yet been issued in accordance with §63H-1-501(2) of the Act.
- 5. Lien Rights.** The annual Pre-CO Payment, together with interest thereon, and the expenses of any proceedings related thereto, including, without limitation, reasonable attorneys' fees, shall be a lien against the Property and shall be subject to foreclosure by MIDA according to applicable law. MIDA's rights and remedies under this Section 5 shall survive the expiration or termination of this Contract.

6. **Notices.** A notice or communication given under this Contract by any Party to another Party shall be sufficiently given or delivered if given in writing by personal service, express mail, FedEx, DHL or any other similar form of courier or delivery service, or mailing in the United States mail, postage prepaid, certified, return receipt requested and addressed to such other Party as follows:

- (a) In the case of a notice or communication to MIDA:

MIDA Executive Director
450 Simmons Way, Suite 400
PO Box 112
Kaysville, UT 84037

- (b) In the case of a notice or communication to a Parcel owner:

The address provided by the Parcel owner in writing to MIDA or if not provided, the address of the Parcel owner as shown on the records of Wasatch County

Notice to any Party may be addressed in such other commercially reasonable way that such Party may, from time to time, designate in writing and deliver to the other Parties.

7. **Exhibit and Background.** Exhibit A to this Contract and the Background section are incorporated in this Contract and made a part of this Contract as if set forth in full and are binding upon the Parties to this Contract.
8. **Headings.** Any titles of the several parts and sections of this Contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
9. **Successors and Assigns.** This Contract shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.
10. **Governing Law.** This Contract shall be interpreted and enforced according to the laws of the State of Utah.
11. **Cost and Attorney's Fees.** The non-prevailing party in any dispute over this Contract or in any action to enforce the terms of this Contract shall pay all costs, expenses and attorney fees that may be incurred or paid by the prevailing party in enforcing the covenants and agreements of this Contract, whether or not litigation is commenced.
12. **Counterparts.** This Contract may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.
13. **Time.** Time is of the essence of this Contract.

14. **Complete Contract.** This Contract and its exhibit contain the complete agreement of the Parties, and supersede all prior and contemporaneous negotiations, representations and contracts of the Parties with respect to the subject matter hereof. This Contract may be amended or modified only in writing, executed by both Parties.

(Signatures appear on the following page)

IN WITNESS WHEREOF, the Parties have duly executed this Contract, on or as of the date first above written.

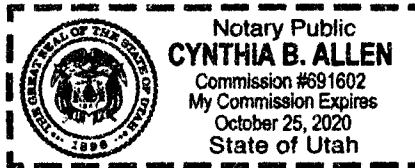
MIDA: MILITARY INSTALLATION DEVELOPMENT AUTHORITY

By: [Signature]
Paul Morris
Acting Executive Director

STATE OF UTAH
COUNTY OF Salt Lake

On the 4th day of December, 2019, personally appeared before me Paul Morris who, being by me duly sworn, did say that he executed the foregoing Contract.

[Signature]
Notary Public



Parcel Owner: Western States Ventures LLC

By: [Signature]
Name: Nathan A Brockbank
Title: Manager

STATE OF UTAH
COUNTY OF _____

On the 27 day of November, 2019, personally appeared before me ~~NATHAN BROCKBANK~~ who, being by me duly sworn, did say that he executed the foregoing Contract.

[Signature]
Notary Public

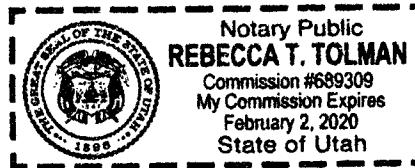


EXHIBIT A

**Wasatch County Parcel Tax ID Numbers
and Legal Description
Parcel Id Numbers: 1. 00-0020-8390 2. 00-0020-8391**

PARCEL 1:

That portion of the following described land lying outside of the Jordanelle Special Service District:

A tract of land situate in the East half of Section 7 and in the West half of the Southwest quarter of Section 8, Township 2 South, Range 5 East, Salt Lake Base and Meridian. The boundaries of said tract of land are described as follows:

Beginning at a point on the Westerly right of way and L/A line of Highway US 189, 160.00 feet perpendicularly distant Westerly from the centerline of said highway approximately opposite Engineer Station 185+66.20, which point is 3017.11 feet North 00°22'39" West along the section line, and 460.13 feet West from the Southeast corner of Section 7, Township 2 South, Range 5 East, Salt Lake Base and Meridian and running thence South 25°33'00" East 522.87 feet along said highway right of way and L/A line; thence South 27°08'13" East 361.07 feet to the Southerly right of way and L/A line of "X" line at a point 150.00 feet perpendicularly distant Westerly from the centerline of said highway approximately opposite Engineer Station 194+50 and running along "X" line access road right of way line the following 10 courses and distances; (1) South 64°27'00" West 95.18 feet; (2) South 16°32'01" East 292.79 feet; (3) South 27°51'49" East 128.70 feet; (4) Southerly 246.37 feet along the arc of a 1245.92 foot radius curve to the right (Note: Chord for said curve bears South 22°11'55" East for a distance of 245.97 feet); (5) South 16°32'00" East 494.45 feet; (6) South 73°28'00" West 150.15 feet; (7) North 16°30'16" West 287.93 feet; (8) North 33°04'10" West 419.52 feet; (9) North 27°51'49" West 362.18 feet; (10) Northerly 152.31 feet along the arc of a 410.82-foot radius curve to the right to the North line of Bureau of Reclamation property (Note: Chord for said 410.82 foot radius curve bears North 17°14'30" West for a distance of 151.44 feet; thence South 85°48'20" West 108.18 feet along said North line to the prior West right of way and L/A line of US Highway 40; thence North 03°56'00" West 693.79 feet along said prior West right of way and L/A line to a point of tangency with the arc of a 3709.72-foot radius curve to the left; thence Northerly 797.05 feet along the arc of said 3709.72-foot radius curve and prior West right of way and L/A line to the existing Westerly right of way and L/A line of said Highway US-189 to a point 160.00 feet perpendicularly distance Westerly from said highway centerline approximately opposite Engineer Station 179+15.42 (Note: Chord for said 709.72-foot radius curve bears North 09°58'38" West for a distance of 795.52 feet); thence South 25°33'00" East 572.05 feet along said Westerly highway right of way and L/A line to a point designated as Point "A" at a point 160.00 feet perpendicularly distance Westerly from said highway centerline approximately opposite Engineer Station 184+87.46; thence Southerly 278.25 feet along the arc of a 237.50-foot radius curve to the left (Note: Chord for said curve bears South 16°20'30" West for a distance of 262.61 feet); thence North 72°46'16" East 75.00 feet; thence Northerly 170.55 feet along the arc of a 162.50-foot radius curve to the right to a point designated as Point "B" (Note: Chord for said curve bears North 12°50'16" West for a distance of 162.83 feet) to the point of beginning.

LESS AND EXCEPTING THEREFROM any portion thereof located within the bounds of the following described property:

A parcel of land lying and situate in the East half of Section 7, Township 2 South, Range 5 East, Salt Lake Base and Meridian.

Commencing at the Southeast corner of said Section 7; thence North 00°19'58" West 2682.51 feet coincident with the East line of the Southeast quarter of said Section 7; thence South 89°40'02" West 300.92 feet to a point on the West right of way line of State Road 248 and the true point of beginning; thence South 86°07'20" West 293.42 feet to a 3 1/2" BLM aluminum cap; thence North 03°52'40" West 160.74 feet to the beginning of a 3709.55 foot non-tangent curve to the left; thence Northerly 797.06 feet along the arc of said curve (center bears South 86°14'01" West) through a central angle of 12°18'40" to a point on the West right of way line of said SR 248; thence the following five (5) courses coincident with said right of way line 1) South 25°29'40" East 572.06 feet to the beginning of a 237.50 foot radius non-tangent curve to the left; 2) Southerly 278.25 feet along the arc of said curve (center bears South 40°02'21" East) through a central angle of 67°07'38"; 3) North 72°49'36" East 75.00 feet to the point of beginning of a 162.50 foot non-tangent curve to the right; 4) Northeasterly 170.55 feet along the arc of said curve (center bears North 72°49'34" East) through a central angle of 60°08'04"; 5) South 25°29'54" East 373.09 feet to the point of beginning.

ALSO LESS AND EXCEPTING land conveyed to Jordanelle Special Service District by that certain Special Warranty Deed recorded October 12, 2018 as Entry No. 457058 in Book 1236 at Page 547 of official records:

A parcel of land lying and situate in the East half of Section 7, Township 2 South, Range 5 East, Salt Lake Base and Meridian. Being a portion of that particular parcel of land described in that certain Warranty Deed recorded as Entry No. 438580 in Book 1191 at Page 796 of the Wasatch County Records. Basis of Bearing for subject parcel being North 00°19'58" West 2736.86 feet coincident with the East line of the Southeast quarter of said Section 7. Subject parcel being more particularly described as follows:

Commencing at the 1994 BLM aluminum monument monumentalizing the Southeast corner of said Section 7; thence North 00°19'58" West 2736.86 feet coincident with the East line of the Southeast quarter of said Section 7 to the 1994 BLM aluminum monument monumentalizing the East quarter corner thereof; thence departing said quarter section line South 79°25'47" West 305.79 feet to a point on the Westerly right of way line of SR 248; thence South 86°07'20" West 160.15 feet coincident with the South line of said exception parcel to the true point of beginning; thence Southerly 37.72 feet along the arc of a 219.00 foot curve to the right (center bears South 53°08'25" West) through a central angle of 09°52'06"; thence North 37°32'33" East 41.19 feet; thence North 05°24'37" East 2.39 feet to a point on said exception parcel line; thence South 86°07'20" West 45.35 feet coincident with said exception line to the point of beginning.

PARCEL 2:

That portion of the following described land lying inside of the Jordanelle Special Service District.

A tract of land situate in the East half of Section 7 and in the West half of the Southwest quarter of Section 8, Township 2 South, Range 5 East, Salt Lake Base and Meridian. The boundaries of said tract of land are described as follows:

Beginning at a point on the Westerly right of way and L/A line of Highway US 189, 160.00 feet perpendicularly distant Westerly from the centerline of said highway approximately opposite Engineer Station 185+66.20, which point is 3017.11 feet North 00°22'39" West along the section line, and 460.13 feet West from the Southeast corner of Section 7, Township 2 South, Range 5 East, Salt Lake Base and Meridian and running thence South 25°33'00" East 522.87 feet along said highway right of way and L/A line; thence South 27°08'13" East 361.07 feet to the Southerly right of way and L/A line of "X" line at a point 150.00 feet perpendicularly distant Westerly from the centerline of said highway approximately opposite Engineer Station 194+50 and running along "X" line access road right of way line the following 10 courses and distances; (1) South 64°27'00" West 95.18 feet; (2) South 16°32'01" East 292.79 feet; (3) South 27°51'49" East 128.70 feet; (4) Southerly 246.37 feet along the arc of a 1245.92 foot radius curve to the right (Note: Chord for said curve bears South 22°11'55" East for a distance of 245.97 feet); (5) South 16°32'00" East 494.45 feet; (6) South 73°28'00" West 150.15 feet; (7) North 16°30'16" West 287.93 feet; (8) North 33°04'10" West 419.52 feet; (9) North 27°51'49" West 362.18 feet; (10) Northerly 152.31 feet along the arc of a 410.82-foot radius curve to the right to the North line of Bureau of Reclamation property (Note: Chord for said 410.82 foot radius curve bears North 17°14'30" West for a distance of 151.44 feet); thence South 85°48'20" West 108.18 feet along said North line to the prior West right of way and L/A line of US Highway 40; thence North 03°56'00" West 693.79 feet along said prior West right of way and L/A line to a point of tangency with the arc of a 3709.72-foot radius curve to the left; thence Northerly 797.05 feet along the arc of said 3709.72-foot radius curve and prior West right of way and L/A line to the existing Westerly right of way and L/A line of said Highway US-189 to a point 160.00 feet perpendicularly distance Westerly from said highway centerline approximately opposite Engineer Station 179+15.42 (Note: Chord for said 709.72-foot radius curve bears North 09°58'38" West for a distance of 795.52 feet); thence South 25°33'00" East 572.05 feet along said Westerly highway right of way and L/A line to a point designated as Point "A" at a point 160.00 feet perpendicularly distance Westerly from said highway centerline approximately opposite Engineer Station 184+87.46; thence Southerly 278.25 feet along the arc of a 237.50-foot radius curve to the left (Note: Chord for said curve bears South 16°20'30" West for a distance of 262.61 feet); thence North 72°46'16" East 75.00 feet; thence Northerly 170.55

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