

11-077-0088

FIRST AMENDMENT TO AGREEMENT FOR THE DEVELOPMENT OF LAND

This First Amendment to Agreement for the Development of Land (this "*First Amendment*") is made and entered into as of the 18th day of September, 2014 (the "*Effective Date*"), by and between the CITY OF LAYTON, a political subdivision of the State of Utah (the "*City*"), and IHC HEALTH SERVICES, INC., a Utah nonprofit corporation ("*Intermountain Healthcare*").

WHEREAS, the City and Intermountain Healthcare are parties to that certain Agreement for the Development of Land, dated as of June 19, 2008 (the "*Development Agreement*"), pertaining to the development of that certain real property located in the City of Layton, Davis County, Utah, as more particularly described in the Development Agreement (the "*Subject Area*");

WHEREAS, the City and Intermountain Healthcare are also parties to that certain Right of Early Entry and Supplement Agreement (the "*Right of Early Entry Agreement*"), executed and dated of even date herewith, pertaining to the City's construction of certain public thoroughfare improvements, as more particularly described in the Right of Early Entry Agreement;

WHEREAS, pursuant to Section 4.2 of the Development Agreement, and in connection with the development of the Subject Area, Intermountain Healthcare agreed to install, at its expense, a minimum 12-inch water line necessary for the use and development of the Subject Area, as more particularly described in Section 4.2 of the Development Agreement;

WHEREAS, due to the City's installation of a certain 12-inch water line and related improvements during construction of that certain public thoroughfare adjacent to the Subject Area and known as the Layton Parkway from Main Street to Flint Street, the City and Intermountain Healthcare now desire to amend Section 4.2 of the Development Agreement in order to modify the parties' respective obligations with respect to the installation of the water line and related improvements necessary for the use and development of the Subject Area, subject to the terms and conditions set forth below; and

WHEREAS, Section 7.5 of the Development Agreement provides, in relevant part, that any modification or amendment of the Development Agreement shall be executed in writing by the parties;

NOW, THEREFORE, in consideration of the covenants and agreements set forth in the Development Agreement and this First Amendment, together with the mutual benefits to be derived therefrom and herefrom, the City and Intermountain Healthcare hereby agree, and the Development Agreement shall be, and hereby is, amended, as follows:

1. Water Line Obligations; Water Line Reimbursement. Section 4.2 of the Development Agreement is hereby deleted in its entirety and replaced with the following:

4.2 **Culinary Water.** In connection with the City's undertaking and performance of certain work, as particularly described in the plans and specifications attached as *Exhibit "A"* (the "*Plans and Specifications*"), specifically being the installation of that certain water line and related improvements described in the Plans and Specifications (collectively, the "*Work*"), Intermountain Healthcare agrees to reimburse the City FOUR HUNDRED FORTY-NINE THOUSAND AND NO/100 DOLLARS (\$449,000.00) (the "*Water Line Reimbursement*") for the City's out-of-pocket costs and expenses paid in connection with the Work, which costs and expenses are set forth and described in attached *Exhibit "B"* and, by the execution and delivery hereof by the City, verified, certified and confirmed by the City; provided that, under the terms and conditions of that certain Right of Early Entry Agreement, dated as of the Effective Date (the "*Right of Early Entry Agreement*"), the City is indebted to Intermountain Healthcare in the amount of SIXTY-FOUR THOUSAND TWO HUNDRED TWENTY AND 63/100 DOLLARS (\$64,220.63), which amount shall be applied as a credit against the Water Line Reimbursement, with the result that the Water Line Reimbursement amount due and payable as of the

Effective Date, by Intermountain Healthcare shall be THREE HUNDRED EIGHTY-FOUR SEVEN HUNDRED SEVENTY-NINE AND 37/100 DOLLARS (\$384,779.37); and further provided that Intermountain Healthcare shall not have any liability or obligation to pay the balance of the Water Line Reimbursement until such time as Intermountain Healthcare commences development of the Subject Area, as evidenced by the request of Intermountain Healthcare in connection with its substantive development of the Subject Area, grading and site preparation excepted, and, then, the issuance of building permits for vertical improvements within the Subject Area by or at the direction of Intermountain Healthcare.

2. Right of Early Entry Agreement. The City and Intermountain Healthcare acknowledge, confirm and agree that the execution and delivery of the Right of Early Entry Agreement shall be, and hereby is, a condition precedent to the effectiveness of this First Amendment.

3. Miscellaneous. The above recitals and the attached exhibits are incorporated in and made a part of this First Amendment by this reference. Except as specifically modified by this First Amendment, all of the remaining terms and conditions set forth in the Development Agreement shall remain unchanged and in full force and effect. This First Amendment may be executed by facsimile or PDF and in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same original.

[signature page follows]

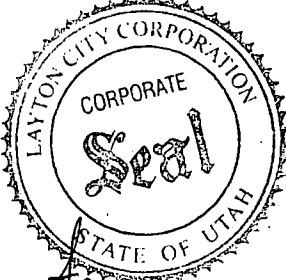
DATED to be effective as of the Effective Date.

IHC HEALTH SERVICES, INC., a Utah nonprofit corporation

By: [Signature]
Print Name: Clay C. Blodorn
Its: AVP

Dated this 24 day of September, 2014.

CITY OF LAYTON, a political subdivision of the State of Utah



By: [Signature]
Print Name: Bob Stevenson
Its: Mayor

Dated this 18th day of September, 2014.

ATTEST:

By: [Signature]
Print Name: Thieda Wellman
Its: City Recorder

Dated this 18th day of September, 2014

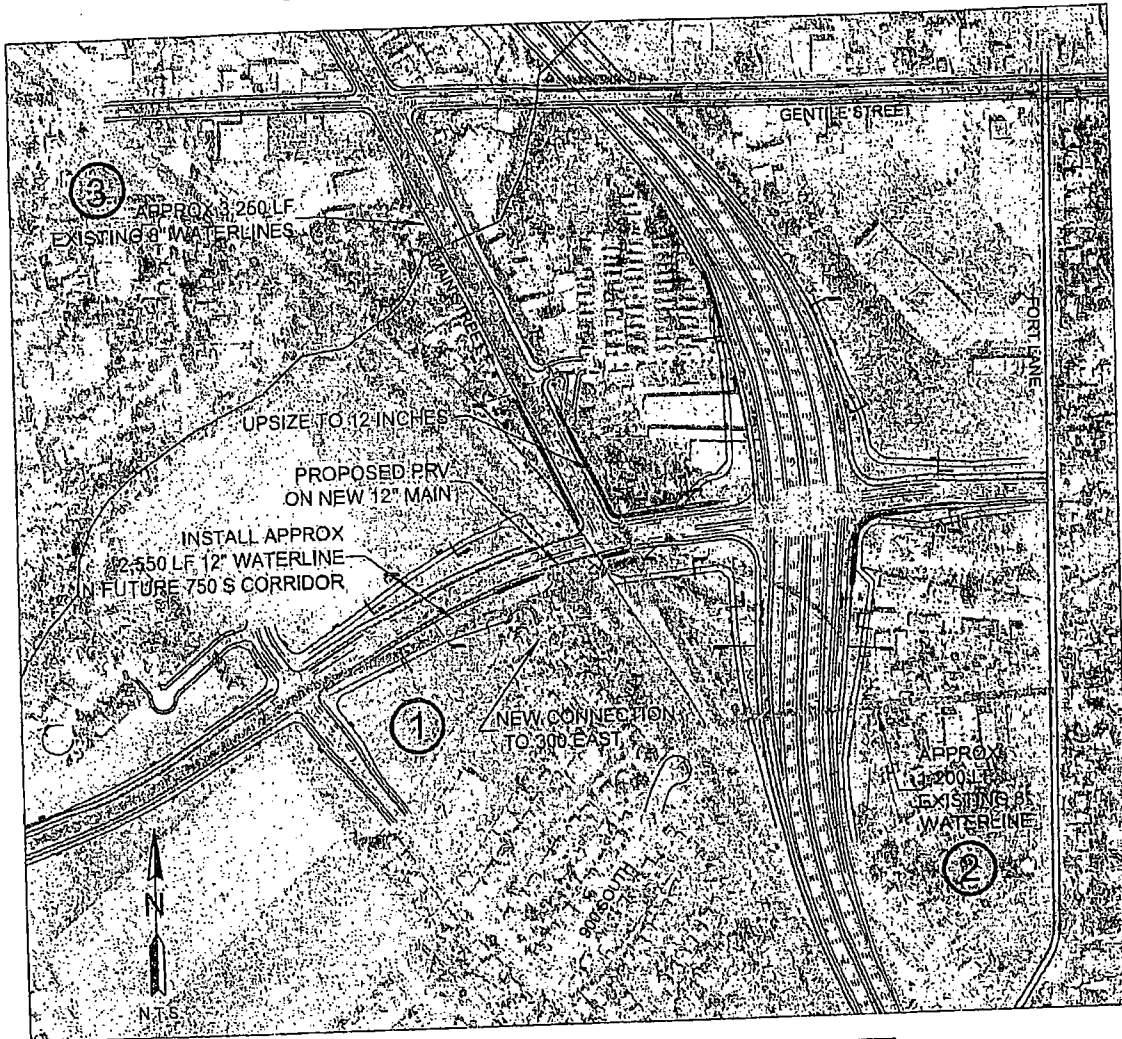
APPROVED AS TO FORM:

By: [Signature]
Print Name: Tyson Willis
Its: City Attorney

Dated this 11th day of September, 2014

EXHIBIT "A"
(Plans and Specifications)

MAP #2 I-15 SOUTH LAYTON INTERCHANGE CULINARY WATER IMPROVEMENTS



① 750 SOUTH, WEST OF I-15 - A NEW WATER LINE INCLUDING HYDRANTS, PRESSURE REDUCING VALVE, AND CONNECTION TO EXISTING LINE IN 300 EAST. BORE NEW LINE UNDER EXISTING UPRR/UTA RAILS.

② MORGAN STREET AND I-15 WATER LINE CROSSING - THE WATER MODEL INDICATES THE EXISTING 8 INCH WATER LINE SHOULD BE UPSIZED TO A 12 INCH LINE.

③ MAIN STREET - THE WATER MODEL INDICATES THE EXISTING 8 INCH LINE SOUTH OF THE INTERCONNECT NEEDS TO BE UPSIZED TO A 12 INCH LINE.

Pipeline Crossing 080808
Form Approved, AVP-Law

Folder No. 02557-19

PIPELINE CROSSING AGREEMENT

Mile Post: 804.2, Salt Lake Subdivision/Branch
Location: Layton, Davis County, Utah

THIS AGREEMENT ("Agreement") is made and entered into as of May 06, 2009, ("Effective Date") by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, ("Licensor") and **LAYTON CITY CORPORATION**, an Utah municipal corporation to be addressed at 437 N Wasatch Dr, Layton, Utah 84041 ("Licensee").

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. LICENSOR GRANTS RIGHT.

In consideration of the license fee to be paid by the Licensee and in further consideration of the covenants and agreements herein contained to be by the Licensee kept, observed and performed, the Licensor hereby grants to the Licensee the right to construct and thereafter, during the term hereof, to maintain and operate

one 13.2 inch pipeline for transporting and conveying water only

across Licensor's track(s) and property (the "Pipeline") in the location shown and in conformity with the dimensions and specifications indicated on the print dated May 04, 2009 and marked **Exhibit A**, attached hereto and hereby made a part hereof. Under no circumstances shall Licensee modify the use of the Pipeline for a purpose other than transporting and conveying water, and the Pipeline shall not be used to convey any other substance, any fiber optic cable, or for any other use, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement.

Article 2. LICENSE FEE.

Upon execution of this Agreement, the Licensee shall pay to the Licensor a one-time License Fee of **Two Thousand Dollars (\$2,000.00)**.

Article 3. CONSTRUCTION, MAINTENANCE AND OPERATION.

The grant of right herein made to the Licensee is subject to each and all of the terms, provisions, conditions, limitations and covenants set forth herein and in **Exhibit B**, attached hereto and hereby made a part hereof.

Article 4. DEFINITION OF LICENSEE.

For purposes of this Agreement, all references in this Agreement to the Licensee shall include the Licensee's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority. If a contractor is hired by the Licensee for any work performed on the Pipeline (including initial construction and subsequent relocation or maintenance and repair work), then the Licensee shall

provide a copy of this Agreement to its contractor and require its contractor to comply with all the terms and provisions hereof relating to the work to be performed. Any contractor or subcontractor shall be deemed an agent of Licensee for the purpose of this Agreement, and Licensee shall require such contractor or subcontractor to release, defend and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend and indemnify Licensor herein.

Article 5. INSURANCE.

A. Before commencement of the term of this Agreement and prior to any Pipeline construction, the Licensee or Licensee's contractor shall obtain the required Railroad Protective Liability insurance, at its sole expense, as specified in Section E on Exhibit C attached hereto and hereby made a part hereof. The Licensee, at its sole expense, shall also provide to the Licensor the other insurance binders, certificates and endorsements described in Exhibit C, and also require that its contractor or subcontractor maintain the insurance coverages as set forth in Exhibit C, naming Licensor as and additional insured.

B. Not more frequently than once every two years, Licensor may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

C. All insurance correspondence, binders, certificates and endorsements shall be directed to:

Union Pacific Railroad Company
Real Estate Department – Folder No. 02557-19
1400 Douglas Street STOP 1690
Omaha, NE 68179-1690

D. Failure to provide evidence as required by this section shall entitle, but not require, Licensor to terminate this License immediately. Acceptance of a certificate that does not comply with this Article shall not operate as a waiver of Licensee's obligations hereunder.

E. If the Licensee is a public entity subject to any applicable statutory tort laws, the limits of insurance described in Exhibit C shall be the limits the Licensee then has in effect or which is required by applicable current or subsequent law, whichever is greater, a portion of which may be self-insured with the consent and approval of Licensor.

F. The fact that insurance (including without limitation, self-insurance) is obtained by Licensee or its contractor/subcontractor shall not be deemed to release or diminish the liability of Licensee including, without limitation, liability under the indemnity provisions of this License. Damages recoverable by Licensor shall not be limited by the amount of the required insurance coverage.

Article 6. TERM.

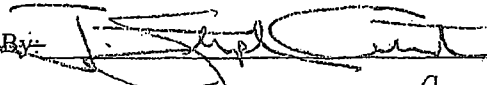
This Agreement shall take effect as of the Effective Date first herein written and shall continue in full force and effect until terminated as herein provided.

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

UNION PACIFIC RAILROAD COMPANY

LAYTON CITY CORPORATION

By: _____
Manager - Contracts

By: 
Name Printed: J. Stephen Curtis
Title: MAYOR

Approved as to Form


By: 
Date: 6/10/09

EXHIBIT "B"

(Water Line Reimbursement Costs and Expenses)

UTAH DEPARTMENT OF TRANSPORTATION
OFFICE OF THE COMPTROLLER
4501 SOUTH 2700 WEST
BOX 14150
SALT LAKE CITY, UT 84114-1510

BILL TO:
LAYTON CITY
437 N. WASATCH DR
LAYTON CITY, UT 84041

BILLING DATE: 11/23/2010

COOPERATIVE AGREEMENT #: 09-8564/10-8724 ACCOUNT NUMBER: 51018 44T
PROJECT NUMBER: S-15-8(211)332 PROJECT MANAGER: CHARLES MACE
PROJECT DESCRIPTION: I-15; SOUTH LAYTON INTERCHANGE CUSTOMER #: VC0000110814

PRELIMINARY BILLING FOR SHARE OF PROJECT COSTS INCURRED

BETTERMENT COSTS PARTIAL ESTIMATE NUMBER 15		PROJECT COSTS	LAYTON CITY SHARE OF COSTS
Item #	Description		
00573007	4M-CULINARY WATER	\$231,000.00	
00573008	4N-SANITARY SEWER	\$257,700.00	
00573009	4O-STORM DRAIN	\$0.00	
00573010	4P-DECORATIVE LIGHTING	\$90,915.00	
00221003	7D-LAYTON CITY - CULINARY WATER	\$216,000.00	
00221004	7E-LAYTON CITY - SANITARY SEWER	\$98,600.00	
00221005	7F-LAYTON CITY - STORM DRAIN	\$0.00	
00221006	7G-LAYTON CITY - LIGHTING	\$0.00	

TOTAL BETTERMENT COSTS

894,215.00

LAYTON CITY TOTAL SHARE OF BETTERMENT COST TO DATE
LESS AMOUNT PREVIOUSLY BILLED

894,215.00
(773,226.00)

AMOUNT OF CURRENT BILLING **120,990.00**

ACCOUNT STATUS

LAYTON CITY TOTAL SHARE OF BETTERMENT COST TO DATE	894,215.00
LESS AMOUNT OF DEPOSIT RECEIVED	0.00
LESS AMOUNT OF PAYMENT RECEIVED	(719,140.00)
TOTAL AMOUNT DUE TO DEPT OF TRANSPORTATION	175,075.00

PLEASE MAKE CHECK PAYABLE TO ABOVE ADDRESS AND REFER ACCOUNT NUMBER ON PAYMENT
FOR BILLING INQUIRIES PLEASE CALL (801) 965-4011

RECEIVED
DEC 09 2010
Layton City P.W.
ENGINEERING

BEGINNING AT A POINT ON THE EASTERLY RIGHT OF WAY LINE OF FLINT STREET, SAID POINT BEING SOUTH 00°04'16" WEST ALONG THE SECTION LINE 2638.44 FEET AND WEST 722.92 FEET FROM A FOUND DAVIS COUNTY NAIL & WASHER MARKING THE NORTHEAST CORNER OF SECTION 29, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, AND RUNNING THENCE NORTH 69°08'24" EAST 136.59 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY ALONG THE ARC OF A 3717.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 14°43'02" A DISTANCE OF 954.76 FEET (CHORD BEARS NORTH 61°46'53" EAST 952.14 FEET); THENCE NORTH 54°25'22" EAST 66.72 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY ALONG THE ARC OF A 3717.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 14°43'02" A DISTANCE OF 954.76 FEET (CHORD BEARS NORTH 61°46'53" EAST 952.14 FEET); THENCE NORTH 69°08'24" EAST 75.93 FEET, MORE OR LESS, TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF THE UNION PACIFIC RAILROAD, SAID POINT BEING ON THE ARC OF A 5630.00 FOOT NON-TANGENT RADIUS CURVE TO THE RIGHT (CENTER BEARS SOUTH 52°52'33" WEST); THENCE SOUTHEASTERLY ALONG SAID WESTERLY RIGHT OF WAY LINE AND ALONG THE ARC OF SAID 5630.00 FOOT RADIUS CURVE THROUGH A CENTRAL ANGLE OF 01°07'06" A DISTANCE OF 109.89 FEET (CHORD BEARS SOUTH 36°33'54" EAST 109.88 FEET) TO A POINT ON THE NORTHERLY LINE OF EASTVIEW SUBDIVISION NO.8, AS RECORDED WITH THE OFFICE OF THE DAVIS COUNTY RECORDER; THENCE SOUTH 33°08'42" WEST ALONG SAID NORTHERLY LINE AND LINE EXTENDED 1184.50 FEET TO THE NORTHWESTERLY CORNER OF EASTVIEW SUBDIVISION NO.6, AS RECORDED WITH THE OFFICE OF THE DAVIS COUNTY RECORDER; THENCE SOUTH 36°21'58" EAST ALONG THE WESTERLY LINE OF SAID EASTVIEW NO.6 A DISTANCE OF 333.21 FEET TO A POINT ON THE NORTHERLY LINE OF HERITAGE FIELDS SUBDIVISION, AS RECORDED WITH THE OFFICE OF THE DAVIS COUNTY RECORDER; THENCE SOUTH 50°14'48" WEST ALONG SAID NORTHERLY LINE 1358.99 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SAID FLINT STREET, THENCE NORTH 22°38'07" WEST ALONG SAID EASTERLY RIGHT OF WAY LINE 1302.83 FEET TO THE POINT OF BEGINNING.

CONTAINS 1,820,948 SQ. FT. OR 41.803 ACRES