

Recording Requested By and
When Recorded Return to:
West Jordan City
Attention: City Clerk
8000 South Redwood Road
West Jordan, Utah 84088

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02/14/2014 12:12 PM \$0.00
Book - 10211 Pg - 3508-3515
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
WEST JORDAN CITY
8000 S REDWOOD RD
WEST JORDAN UT 84088
BY: TWA, DEPUTY - WI 8 P.

For Recording Purposes Do
Not Write Above This Line

AGREEMENT

This Agreement is made and entered into and made effective as of the date entered below (the "Effective Date"), by and among West Jordan City, a municipality and political subdivision of the State of Utah (the "City"), and Utah School Development WJ, LLC, a Utah limited liability company (the "Developer"), and Peterson Development Company, LLC, a Utah limited liability company for purposes of assignment only. The City and the Developer may from time to time be collectively referred to as the "Parties."

RECITALS

A. Developer has prepared and presented to the City a development application for the Clay Hollow Subdivision (the "Project") upon the property described in Exhibit A (the "Property").

B. On or about September 27, 2012, the City entered into a development agreement by and between City of West Jordan and Peterson Development Company, LLC (the "Master Developer"), entitled "Development Agreement The Highlands Sub-Areas Master Plan" (the "Master Development Agreement"), to which the Property is subject.

C. The City and Developer desire to acknowledge applicability of certain terms and conditions of the Master Development Agreement, including but not limited to acknowledgment of Developer's awareness of the City's creation of the assessment area envisioned in said agreement.

AGREEMENT

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

1. **Recitals and Exhibits.** The above Recitals and all Exhibits hereto are hereby incorporated by reference into this Agreement.
2. **Conditions Subsequent.** Each of the City and Developer is entering into this Agreement in anticipation of the satisfaction of certain conditions subsequent, which, if not satisfied, will frustrate the purposes of this Agreement. Accordingly, if the Conditions Subsequent are not satisfied or otherwise waived by the Parties within two years after the effective date of this

Agreement, this Agreement shall be rendered null and void and none of the Parties shall have any further obligation to the other arising out of this Agreement. For purposes of this Agreement, the following shall constitute the "Conditions Subsequent": (a) recordation of the final subdivision plat for Clay Hollow Subdivision.

3. Transfer/Assignment of Master Developer Obligations. Development of the Project shall comply with the Master Development Agreement. Sale of lots is not an assignment unless designated by the Master Developer. Pursuant to Section 1.4.1 of the Master Development Agreement, the following Master Developer obligations are assigned to and accepted by Developer: (a) Developer shall install 8 foot walking path on the west side of its Property as called out in the Clay Hollow Subdivision plat; (b) Developer shall complete required improvements, if any, along 8200 South, including but not limited to sidewalk, park strip, utility trenching and burial; and (c) Developer shall bury the power lines along 5600 West in front of the subject property.

4. Maintenance of Detention Basins, Planters, Trees and Other Landscaping in Street Median Spaces and Alongside Streets and Sidewalks Appurtenant to, or Within, the Project. The Developer understands that the Property is subject to An Ordinance Designating and Establishing the Highlands Assessment Area Encompassing the Highlands Master Development Area, recorded on 8/12/2013 with the Salt Lake County Recorder as entry number 11703231, Book 10168, Page 1714-1720.

5. Recordation; Effect on Master Development Agreement. After its execution, this Agreement shall be recorded in the office of the County Recorder at the expense of the Developer. Each commitment and restriction on development set forth herein: (a) shall be a burden on the real property constituting the Project; (b) shall be appurtenant to and for the benefit of the City and shall run with the land; and (c) shall be in addition to commitments and restrictions set forth in the Master Development Agreement, except as otherwise expressly stated herein.

8. General.

- a. **Amendments.** Any alteration or change to this Agreement shall be made only after complying with the same procedures followed for the adoption and approval of this Agreement.
- b. **Captions and Construction.** This Agreement shall be construed according to its fair and plain meaning and as if prepared by all Parties hereto. Titles and captions are for convenience only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates. Furthermore, this Agreement shall be construed so as to effectuate the public purposes, objectives and benefits set forth herein. As used in this Agreement, the words "include" and "including" shall mean "including, but not limited to" and shall not be interpreted to limit the generality of the terms preceding such word.
- c. **Laws and Forum.** This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns, and shall be construed in accordance with Utah law. Any action brought in connection with this Agreement shall be brought in a court of competent jurisdiction located in Salt Lake

County, Utah.

- d. **Legal Representation.** Each of the Parties hereto acknowledge that they either have been represented by legal counsel in negotiating this Agreement or that they had the opportunity to consult legal counsel and chose not to do so. In either event this Agreement has no presumptions associated with the drafter thereof.
- e. **Non-Liability of City Officials.** No officer, representative, agent or employee of a party hereto shall be personally liable to any other party hereto or any successor in interest or assignee of such party in the event of any default or breach by the defaulting party, or for any amount which may become due the non-defaulting party, or its successors or assigns, or for any obligation(s) arising under the terms of this Agreement.
- f. **No Third Party Rights.** Unless otherwise specifically provided herein, the obligations of the Parties set forth in this Agreement shall not create any rights in or obligations to any other persons or third parties.
- g. **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this Agreement 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, floods, earthquakes 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. Any party seeking relief under the provisions of this paragraph must have notified the other party in writing of a force majeure event within thirty (30) days following occurrence of the claimed force majeure event.
- h. **Notices.** All notices shall be in writing and shall be deemed to have been sufficiently given or served when presented personally or when deposited in the United States mail, by registered or certified mail, addressed as follows:

The City: West Jordan City
8000 South Redwood Road
West Jordan, Utah 84088
Attention: City Clerk

Master Developer: Peterson Development Company, LLC
225 South 200 East #200
Salt Lake City, Utah 84111
Attention: Justin Peterson

Developer: Utah School Development WJ, LLC
290 N. FLINT STREET
KANSVILLE, UT 84037


Attention: Sheldon Killpack

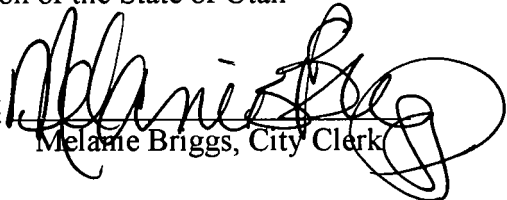
Such addresses may be changed by notice to the other party given in the same manner as above provided. Any notice given hereunder shall be deemed given as of the date delivered or mailed.

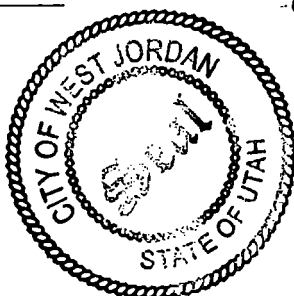
- i. **Entire Agreement.** This Agreement, together with the Exhibits attached hereto, documents referenced herein and all regulatory approvals given by the City for the Project, contain and constitute the entire agreement of the Parties with respect to the subject matter hereof and supersede any prior promises, representations, warranties, inducements or understandings between the Parties which are not contained in such agreements, regulatory approvals and related conditions. It is expressly agreed by the Parties that this Agreement and the additional agreements between the Developer and the City, as contemplated and referred to elsewhere in this Agreement, are intended to and shall govern the development. It is expressly acknowledged by the Parties that additional agreements may be entered into by or among the Parties.
- j. **Effective Date.** This Agreement shall be effective upon the signing and execution of this Agreement by all Parties which, upon its occurrence, shall be deemed to have occurred as of the Effective Date.
- k. **Termination.** This Agreement shall terminate upon mutual written agreement of the parties hereto, failure of the Conditions Subsequent to occur on or before two years after the Effective Date, whichever occurs first.
- l. **Further Action.** The Parties hereby agree to execute and deliver such additional documents and to take all further actions as may become necessary or desirable to fully carry out the provisions and intent of this Agreement.
- m. **Effect of Agreement; Release of Claims.** Nothing in this Agreement shall be construed to relieve Developer of any obligations imposed on Developer by Federal or State laws, City and County ordinances, regulations, or standards. It is the intent of the Parties that this Agreement serve as a complete release and waiver by Developer of any and all claims Developer has or may claim to have with respect to the City's application of the 2009 City Code to the development or the imposition of any requirement expressly set forth in this Agreement, the Master Development Agreement or the Development Documents. Moreover, Developer hereby releases and waives any and all claims Developer may have against the City with respect to any land use application submittals, acceptances, approvals, denials or processing with respect to the Project occurring prior to the Effective Date.

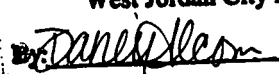
IN WITNESS WHEREOF, the Parties have executed this Agreement.

WEST JORDAN CITY, a municipality and political subdivision of the State of Utah

By: 
 Kim V. Rolfe, Mayor

ATTEST: 
 Melanie Briggs, City Clerk



APPROVED AS TO LEGAL FORM
 West Jordan City Attorney
 By:  Date: 2-13-14

Utah School Development WJ, LLC,
a Utah limited liability company

By: [Signature]

Its: Manager

Print Name: Sheldon Killpack

DEVELOPER ACKNOWLEDGEMENT

STATE OF UTAH)
 : ss.
County of Salt Lake)

On this 13th day of February, 2014, before the undersigned notary public in and for the said state, personally appeared Sheldon Killpack, known or identified to me to be the Manager of Utah School Development WJ, LLC, and the person who executed the foregoing instrument and acknowledged to me that said company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

[Signature]

Notary Public for Utah

Residing at: Hogover, UT

My Commission Expires: 7/26/17

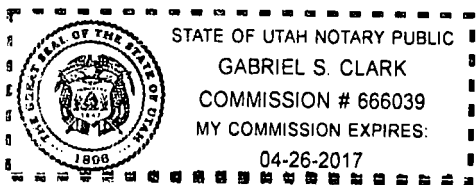


EXHIBIT "A"

Legal Description of the Property

