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EN 2992363 PG 1 OF 11
LEANN H KILTS, WEBER COUNTY RECORDER
22-JUL-19 12:33 PM FEE 4.00 DEP DC
REC FOR: NORTH OGDEN CITY

DEVELOPER'S AGREEMENT WITH NORTH OGDEN CORPORATION

This Agreement entered into this 22 day of July, 2019, between **SEC 070, LLC**, County of Weber, State of Utah, or its assigns, hereinafter referred to as Developer, and **NORTH OGDEN CITY CORPORATION**, a municipal corporation of the State of Utah located in Weber County, hereinafter referred to as the City, hereby agrees as follows:

1. **FINAL.** Developer has obtained approval of a final plat from North Ogden City for the subdivision of, and construction of improvements on, certain land in North Ogden City to be known as **Barker Depot (formerly known as North Ogden Commercial Square)**. Developer has presented to the North Ogden City Planning Commission and the North Ogden City Council a proposed final plat for the subdivision of, and construction of improvements, on the subdivision. On **January 24, 2018**, a Notice of Decision was sent and is attached hereto for convenience as Exhibit "A" (the "Notice of Decision"). As consideration for the granting of said approval and acceptance, Developer has agreed and does now agree to the provisions hereof and all other ordinances of North Ogden City.

2. **COMPLIANCE WITH SUBDIVISION STANDARDS.** Developer agrees to comply with all of the ordinances, rules, regulations, requirements and standards of the City with respect to the construction and completion of said subdivision, and particularly to install and complete all of the off-site improvements required, within the time hereinafter stated, including but not limited to the following:

- A. Rough grading and finish grading and surfacing of streets.
- B. Curbs, gutters, waterways, and driveway approaches.
- C. Sanitary sewers, including laterals to property line of each lot.
- D. Street drainage and drainage structures.
- E. Water lines, including laterals to each property line of lot.
- F. Fire hydrants.
- G. Sidewalks and walkways.
- H. Traffic control signs.
- I. Street signs with numbers.
- J. Screening when required.
- K. Chip and seal coat on new streets.
- L. Monuments.
- M. Fencing.
- N. Pressure irrigation, including laterals to each property line of lot.
- O. 10% Contingency Fund.

Said improvements and any others designated shall be done according to the specifications and requirements of the City. All work shall be subject to the inspection of North Ogden City and any questions as to conformity with the City specifications or standards or as to the technical sufficiency of the work shall be decided by the City Engineer and his/her decision shall be final and conclusive. For convenience a plat map is attached as Exhibit "B".

Developer agrees as consideration for City issuing building permits after initial acceptance of improvements to allow the City to collect and retain utility fees for the time between initial and final acceptance of the utility lines.

Building permits will be issued on condition that all improvements necessary to satisfy fire code requirements have been installed and that enough security is held in escrow to complete all required improvements for the subdivision, including any repairs or replacement after initial installation.

3. TIME FOR COMPLETION AND EXTENSION OF TIME. All of the said off-site improvements shall be fully installed and completed within two (2) years from the date of the recordation of the Final Plat. If not completed within two (2) years, the Developer may apply to the Planning Commission and the City Council for an extension of time of one year with additional one-year extensions after the first extension if the Planning Commission and City Council agree. Said extensions shall be subject to adequate security for the completion of said improvements being made by increasing the amount of the escrow account.

4. SECURITY FOR COMPLIANCE. As security for compliance by Developer with the ordinance, rules, regulations, requirements and standards of the city and of Developer's agreements herein stated, Developer has delivered to the City an acceptable Escrow Agreement for **Barker Depot**, and agrees to hold \$ **404,195.00** (which represents the cost of all required improvements as determined by the City Engineer plus 10% contingencies) in escrow for the use of the city in the event of Developer's failure or refusal to install, complete, construct, repair, or replace any off-site improvements in accordance with the provisions of this agreement, the escrow agreement and all City codes and ordinances. For convenience the Escrow Agreement is attached as Exhibit "C". The decision of the City as to whether an improvement needs to be installed, constructed, completed or replaced will be final.

Should Developer fail or refuse to complete the said off-site improvements in accordance with the provisions hereof, and particularly within the time stated, or should Developer become insolvent before a completion thereof, then the City may, at its option, determine the cost of completing said off-site improvements on the basis of reliable estimates and bids and may apply all sums deposited in escrow against the said cost of completion and may proceed to legally obtain the escrow funds and use the proceeds therefrom to pay the cost of completing the said off-site improvements and to pay all related expenses including but not limited to court cost and attorney's fees.

The 10% of above stated, shall constitute a guarantee that the said off-site improvements are installed in accordance with the subdivision standards of the City as to quality and serviceability and shall be held by the City for a period of one (1) year from the time the last improvement is "conditionally accepted" by the City or until one (1) year after the time the

last improvements needing repair or placement is again accepted. At the end of the one year period the said 10% shall be returned to Developer provided the off-site improvements have proved to have been constructed or installed in accordance with the standards of the City as to quality and serviceability, otherwise, to be applied toward construction or installation of said improvements in accordance with City standards or the repair or replacing the same so as to bring them into conformity with City standards, Developer will pay the difference to the City on demand. The city shall not issue any building permits until the improvements needing repair, replacement, etc., are completed and again accepted.

5. APPLICABILITY OF ORDINANCE. This agreement does not supersede, but implements the North Ogden City Subdivision Ordinance and all other ordinances and regulations applicable to the subdivision of land and construction of improvements thereon, and Developer agrees to comply in all respects with the provisions of said ordinances. No provision of this agreement shall limit the City in its rights or remedies under said subdivision ordinance or other applicable building ordinances.

6. SUCCESSORS ENFORCEMENT. The terms of this agreement shall be binding upon the parties hereon, their heirs, executors, administrators, assigns or any parties legally acquiring the parties interest through foreclosure, trust deed, sale, bankruptcy or otherwise. In the event either party must take legal action to enforce the terms of this agreement, the prevailing party shall have costs of court, including a reasonable attorney's fee.

7. NO REVISION OF REQUIREMENTS. Except as set forth herein, the terms of this agreement shall not be construed as amending or modifying any requirements of the ordinances of North Ogden City, or supersede or supplement any conditions of approval by the City Staff, Planning Commission, Engineer, or any other approving or advisory body which has already given approvals of Barker Depot. Developer is still required to comply with any conditions previously imposed by the Planning Commission.

IN WITNESS WHEREOF, the undersigned parties have executed this agreement this 22 July, 2019.

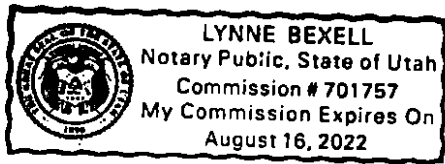
SEC 070, LLC
Company Name

Alexis Ryeys
Signature, Manager

ACKNOWLEDGEMENT OF DEVELOPER OF CORPORATION

State of Utah }
§
County of Weber }

On this 22nd day of July, 2019, personally appeared before me, Alexis Riggs, proved to me on the basis of satisfactory evidence to be the person (s) whose name(s) is/are subscribed to on this instrument, and acknowledged that he/she/they executed the same.



Lynne Bexell
Notary Public

North Ogden UT
Residing at:


My Commission Expires:
8/16/22

NORTH OGDEN CITY CORPORATION



WITNESST:


Mayor


City Recorder



NORTH OGDEN CITY

EH 2992363 PG 6 OF 11

SETTLED 1851

NOTICE OF DECISION

January 24, 2018

Ryan Forsyth
Leading Tech Construction
1835 South Highway 89
Perry, Utah, 84302

Re: North Ogden Commercial Square Subdivision, Final Approval

The North Ogden City Planning Commission met on January 24, 2018 and made a motion to grant final approval for the proposed North Ogden Commercial Square subdivision, located at the Southeast corner of 2600 North and the proposed 300 East.

The approval by the Planning Commission is subject to the following conditions, which were specified in their motion:

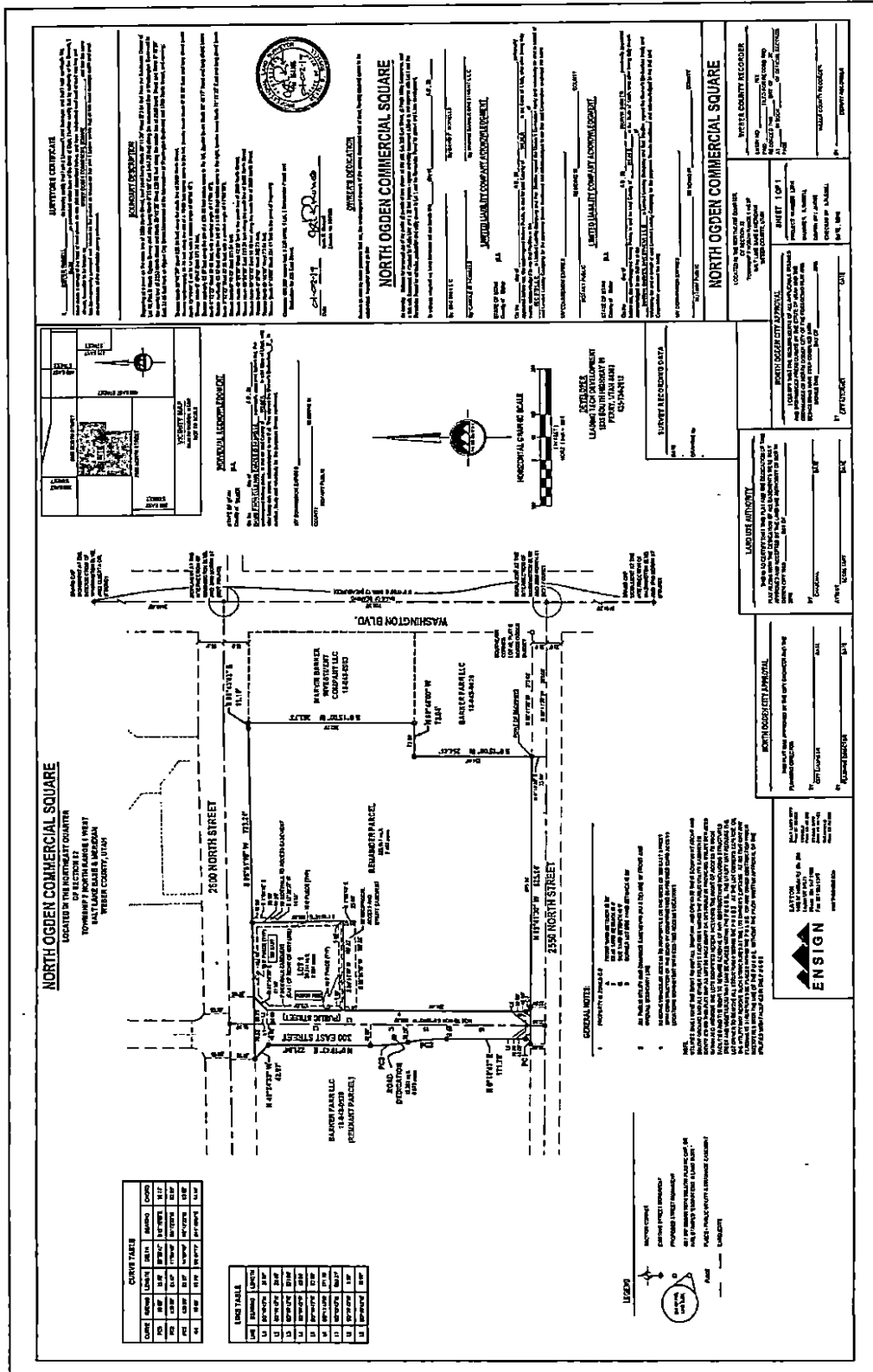
- Correcting ownership information for the parcel to the west of 300 East on the plat.
- The applicant providing record of approval from UDOT for the intersection of 300 East and 2600 North prior to recording of the plat.
- Conditions specified in the Technical Committee Review Meeting Letter (unless superceded by the Staff Report addressing final approval for this subdivision).
- Minor adjustments to the plat being allowed, if additional right of way is needed for any road widening required by UDOT, and that this issue be delegated to Staff.

Sincerely,

Brandon Bell, CNU-A

Associate Planner
505 East 2600 North
North Ogden, UT 84414
bbell@nogden.org
(801) 737-2216

EXHIBIT 'B' TO DEVELOPER'S AGREEMENT WITH NORTH OGDEN CORPORATION (Subdivision Plan)





NORTH OGDEN CITY

— SETTLED 1851 —

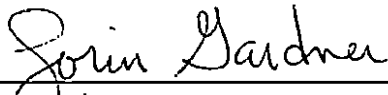
Lorin Gardner
 City Engineer
lgardner@nogden.org

North Ogden Commercial Square 1/02/2019 SUMMARY		
	Original Total	Remaining
<u>Mobilization</u>	\$3,000.00	\$3,000.00
		\$3,000.00
<u>SWPPP</u>		
Clear and Grub 300 East Street	\$2,000.00	\$2,000.00
Silt Fence	\$3,500.00	\$3,500.00
Truck Entrance	\$2,100.00	\$2,100.00
Inlet Protection	\$500.00	\$500.00
		\$8,100.00
<u>Sanitary Sewer</u>		
582 LF of 8" main	\$20,370.00	\$20,370.00
2-4' Manholes	\$5,000.00	\$5,000.00
1-5' Manhole (includes saw cut and patch)	\$7,500.00	\$7,500.00
1-6" lateral	\$800.00	\$800.00
		\$33,670.00
<u>Storm Drain</u>		
418 LF of 15" RCP	\$14,630.00	\$14,630.00
5-Catch Basins	\$10,000.00	\$10,000.00
1-4'x8' Tie in Clean out Vault	\$12,000.00	\$12,000.00
Remove exiting SD grate and replace w/lid (2600 North)	\$1,000.00	\$1,000.00
		\$37,630.00
<u>Culinary Water Line</u>		
725 LF of 8" main	\$15,950.00	\$15,950.00

Saw cut and patch UDOT Road	\$25,000.00	\$25,000.00
4 valves	\$6,400.00	\$6,400.00
1-Fire Hydrant	\$5,000.00	\$5,000.00
1-1" lateral	\$800.00	\$800.00
Tee in 2550 North Street	\$1,200.00	\$1,200.00
Hot Tap in 2600 North	\$1,200.00	\$1,200.00
		\$55,550.00
<u>Secondary Water</u>		
650 LF of 6" main	\$10,400.00	\$10,400.00
1-valve	\$1,500.00	\$1,500.00
1-blow off	\$1,000.00	\$1,000.00
1-connection	\$1,200.00	\$1,200.00
		\$14,100.00
<u>Curb and Gutter</u>		
1300 LF curb and gutter	\$32,500.00	\$32,500.00
		\$32,500.00
<u>Sidewalk</u>		
6 foot wide sidewalk - 700 LF	\$18,900.00	\$18,900.00
4- Handicap Ramps	\$14,000.00	\$14,000.00
		\$32,900.00
<u>Road Surface</u>		
18" Structural Fill	\$30,000.00	\$30,000.00
14" UBC	\$52,500.00	\$52,500.00
4" Asphalt	\$49,500.00	\$49,500.00
Remove existing curb and gutter on 2600 North	\$3,500.00	\$3,500.00
Remove existing sidewalk on 2600 North	\$3,000.00	\$3,000.00
		\$138,500.00
<u>Miscellaneous</u>		
Street Lights	\$6,500.00	\$6,500.00
Street Signage and Striping	\$5,000.00	\$5,000.00
		\$11,500.00
TOTAL IMPROVEMENT COSTS	\$367,450.00	\$367,450.00

10% GUARANTEE		\$36,745.00
TOTAL ESCROW AMOUNT		\$404,195.00

SUBDIVISION COST ESTIMATE APPROVAL



Lorin Gardner
City Engineer

1/2/2019
Date

July 22, 2019

To Whom It May Concern,

Alexis Riggs has authority to sign for and bind for SEC 070, LLC. with regards to the Development Agreement for 300 East in North Ogden, Utah. If you have any questions please call Ryan Forsyth (435) 730-0923, General Counsel.

Thank You,

A handwritten signature in black ink, appearing to read "Ryan W. Forsyth". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ryan W. Forsyth – General Counsel