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**MASTER DEVELOPMENT AGREEMENT  
FOR  
FITZGERALD PROPERTY**

THIS MASTER DEVELOPMENT AGREEMENT is made and entered into as of the 19<sup>th</sup> day of July, 2022, by and between Draper City, a Utah municipality and Ivory Development, LLC.

**RECITALS**

A. The capitalized terms used in this MDA and in these Recitals are defined in Section 1.2, below.

B. Master Developer is developing the Property.

C. Master Developer is the authorized agent of the Property's owners.

D. Master Developer and the City desire that the Property be developed in a unified and consistent fashion pursuant to the Master Plan.

E. The Parties acknowledge that development of the Property pursuant to this MDA will result in significant planning and economic benefits to the City and its residents by, among other things requiring orderly development of the Property as a single-family residential development known as Bainbridge and increasing property tax and other revenues to the City based on improvements to be constructed on the Property.

F. 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.

G. 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 (2018) *et seq.*

H. This MDA conforms with the intent of the City’s General Plan and the Zoning.

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” - “C” 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 (2022), *et seq.*

1.2.2. **Applicant** means a person or entity submitting a Development Application.

1.2.3. **Buildout** means the completion of all of the development on the entire Project in accordance with the approved plans and the sale of all residential lots to end users.

1.2.4. **City** means Draper City, a Utah municipality.

1.2.5. **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.

1.2.6. **City's Future Laws** means the ordinances, policies, standards, and procedures 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.

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

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

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

1.2.10. **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.

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

1.2.12. **Development Application** means an application to the City for development of a portion of the Project including a Subdivision or any other permit, certificate or other authorization from the City required for development of the Project.

1.2.13. **Final Plat** means the recordable map or other graphical representation of land prepared in accordance with Utah Code Ann. § 10-9a-603 (2022), or any successor provision, and approved by the City, effectuating a Subdivision of any portion of the Project.

1.2.14. **Master Developer** Ivory Development, LLC, and its assignees or transferees as permitted by this MDA.

1.2.15. **Master Plan** means the conceptual layout for Residential Dwelling Units and Public Infrastructure for the Project as depicted in Exhibit “B”.

1.2.16. **Maximum Residential Units** means the development on the Property of sixty-two (62) Residential Dwelling Units with fifty-nine (59) lots of at least 9,000 square feet and three (3) lots of at least 20,000 square feet.

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

1.2.18. **Notice** means any notice to or from any Party that is either required or permitted to be given to another party.

1.2.19. **Open Space** shall have the meaning specified in Section 9-3-040 of the City’s Vested Laws.

1.2.20. **Outsourc[e][ing]** means the process of the City contracting with City Consultants or paying overtime to City employees 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.

1.2.21. **Parcel** means a portion of the Property that is created by the Master Developer that is not an individually developable lot as specified in Section 5.9.

1.2.22. **Party/Parties** means, in the singular, Master Developer or the City; in the plural Master Developer and the City.

1.2.23. **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.

1.2.24. **Property** means the real property owned by and to be developed by Master Developer more fully described in Exhibit "A".

1.2.25. **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.

1.2.26. **Residential Dwelling Unit** means a structure or portion thereof designed and intended for use as a single-family residence as illustrated on the Master Plan.

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

1.2.28. **Subdivision** means the division of any portion of the Project into developable lots pursuant to State Law and/or the Zoning Ordinance.

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

1.2.30. **Zoning** means the zone for the Property adopted by the City on July \_\_\_\_, 2022.

1.2.31. **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 Master Plan 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 Master Plan and 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 of the type, size, and in the general location as shown on the Master Plan.

2.3. **Limitation and No Guarantee.** Master Developer acknowledges that the development of the Maximum Residential Units and every other aspect of the Master Plan requires that each Development Application comply with the City's Vested Laws including, without limitation, the City's geologic hazards requirements. The City's entry into this MDA does not guarantee that the Master Developer will be able to construct the Maximum Residential Units or any other aspect of the Project until and unless all the applicable requirements of the City's Vested Laws are complied with. The City agrees and acknowledges that if Master Developer submits a Development Application complying with the City's Vested Laws, the City has no legislative discretion to deny the development Application.

2.4. **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.

3. **Vested Rights.**

3.1. **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 Parties intend that this MDA grants Master Developer all rights to develop the Project in fulfillment of this MDA, the City's Vested Laws, the Zoning and the Master Plan except as specifically provided herein. The Parties specifically intend that this MDA grant to Master Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann. § 10-9a-509 (2022).

3.2. **Exceptions.** The restrictions on the applicability of the City's Future Laws to the Project as specified in Section 3.1 are subject to only the following exceptions:

3.2.1. Master Developer Agreement. City's Future Laws that Master Developer agrees in writing to the application thereof to the Project;

3.2.2. State and Federal Compliance. City's Future Laws which are generally applicable to all properties in the City and which are required to comply with state or federal laws and regulations affecting the Project;

3.2.3. Codes. Any City's Future Laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, fire, or similar construction 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;

3.2.4. 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;

3.2.5. 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;

3.2.6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, and imposed by the City and which meet all requirements of the U. S. Constitution, Utah Constitution, law and applicable statutes, including but not limited to Utah Code Ann. Section 11-36a-101 (2022) *et seq.*;

3.2.7. 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)(ii) (2022).

4. **Term of Agreement.** The effective date of this MDA shall be July \_\_\_\_, 2022. This MDA shall expire July \_\_\_\_, 2032. If Master Developer has not been declared to be currently in Default as of July \_\_\_\_, 2032, (and if any such Default is not being cured) then this MDA shall be automatically extended until July \_\_\_\_, 2037. This MDA shall also terminate



automatically at Buildout.

**5. Processing of Development Applications.**

**5.1. Outsourcing of Processing of Development Applications.** Within twenty-one (21) calendar days after receipt of a Development Application and upon the request of Applicant the City and Applicant will confer to determine whether the City desires to Outsource the review of any aspect of the Development Application to ensure that it is processed on a timely basis. If the City determines that Outsourcing is necessary to ensure the timely processing of the Development Application, then the City shall promptly estimate the reasonably anticipated differential cost of Outsourcing in good faith consultation with the Applicant (either overtime to City employees or the hiring of a City Consultant). If Applicant notifies the City that it desires to proceed with the Outsourcing based on the City's estimate of costs then Applicant shall deposit in advance with the City the estimated differential 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 Applicant) for the actual differential cost (whether by way of paying a City Consultant or paying overtime to City employees) of Outsourcing, Applicant shall, within thirty (30) calendar days pay or receive credit (as the case may be) for any difference between the estimated differential cost deposited for the Outsourcing and the actual cost differential.

**5.2. 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. 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.

**5.3. 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 with the actual and reasonable costs being the responsibility of Applicant. The City Consultant undertaking any review by the City required or permitted by this MDA 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 so long as at least three (3) qualified proposers remain for selection. The anticipated cost and timeliness of such review may be a factor in choosing the expert. The actual and reasonable costs being the responsibility of Applicant.

**5.4. City Denial of a Development Application.** 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 Zoning and/or the City's Vested Laws (or, if applicable, the City's Future Laws).

**5.5. Meet and Confer regarding Development Application Denials.** The City and Applicant shall meet within twenty-one (21) calendar days of any Denial to try to resolve the issues specified in the Denial of a Development Application.

**5.6. 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, Applicant shall appeal any such denial through the appropriate procedures for such a decision and not through the processes specified below.

**5.7. Mediation of Development Application Denials.**

5.7.1. Issues Subject to Mediation. Issues resulting from the City's Denial of a Development Application that the parties are not able to resolve by "Meet and Confer" shall be mediated

5.7.2. Mediation Process. If the City and Applicant are unable to resolve a disagreement subject to mediation, the parties shall attempt within fifteen (15) calendar days to appoint a mutually acceptable mediator with knowledge of the legal issue in dispute. If the City and Applicant are unable to agree on a single acceptable mediator they shall each, within fifteen (15) calendar days, appoint their own

representative. These two representatives shall, between them, choose the single mediator. Applicant and the City shall split the fees of the chosen mediator, each Party paying 50% of the fees. The chosen mediator shall within fifteen (15) calendar 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 ordinance that the mediator deems appropriate. The mediator's opinion shall not be binding on the parties.

**5.8. Arbitration of Development Application Objections.**

5.8.1. Arbitration Process. If the City and Applicant are unable to resolve an issue through mediation, the parties may then attempt within fifteen (15) calendar days to appoint a mutually acceptable arbitrator with knowledge of the legal issue in dispute. If the parties are unable to agree on a single acceptable arbitrator they shall each, within fifteen (15) calendar days, each Party shall appoint their own individual appropriate expert. These two experts shall, between them, choose the single arbitrator. Applicant and the City shall split the fees of the chosen arbitrator, each Party paying 50% of the fees. The chosen arbitrator shall within fifteen (15) calendar days, 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 and binding upon both parties. 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 may order the City or Applicant to pay the arbitrator's fees.

5.9. **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 create a parcel as is provided in Utah Code Ann., Section 10-9a-103(65)(c)(v) (2022) without seeking approval from the City or being subject to any requirement in the City's Vested Laws to complete or provide security for any Public Infrastructure at the time the creation of such a Parcel. The responsibility for completing and providing security for completion of any Public Infrastructure in the Parcel shall be that of the Master Developer or a Subdeveloper upon a subsequent re-subdivision of the Parcel that creates individually developable lots. However, construction of improvements shall not be allowed until the Master Developer or Subdeveloper complies with the City's Vested Laws.

6. **Application Under City's Future Laws.** Without waiving any rights granted by this MDA, Master Developer may at any time, choose to submit a Development Application for all or part of the Project under the City's Future Laws in effect at the time of the Development Application so long as Master Developer is not in current breach of this Agreement.

7. **Public Infrastructure.**

7.1. **Construction by and Master Developer.** Master Developer shall have the right and the obligation to construct or cause to be constructed and installed all Public

Infrastructure reasonably and lawfully required as a condition of approval of the Development Application pursuant to the City's Vested Laws.

7.2. **Bonding.** If and to the extent required by the City's Vested Laws and unless otherwise provided by Chapter 10-9a of the Utah Code as amended, Applicant shall provide security for any private or Public Infrastructure required by the City 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. Upsizing/Reimbursements to Master Developer.**

8.1. **"Upsizing".** The City shall not require Master Developer to "upsize" any future 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 reimbursement agreements, payback agreements, and impact fee credits and reimbursements.

**9. Default.**

9.1. **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.

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

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

9.2.2. 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;

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

9.2.4. 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 thirty (30) calendar days duration.

**9.3. 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 5.5 and 5.7. If the claimed Default is subject to Arbitration as provided in Section 5.8 then the parties shall follow such processes.

**9.4. 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 then the parties may have the following remedies, except as specifically limited in 9.9:

9.4.1. Law and Equity. All rights and remedies available at law and in equity, including, but not limited to, injunctive relief and/or specific performance.

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

9.4.3. Future Approvals. The right to withhold all further reviews, approvals,

licenses, building permits and/or other permits for development of the Project in the case of a default by Master Developer, or in the case of a default by a Subdeveloper, development of those Parcels owned by the Subdeveloper until the Default has been cured.

9.5. **Public Meeting.** Before any remedy in Section 9.4 may be imposed by the City the party allegedly in Default shall be afforded the right to attend a public meeting before the City Council and address the City Council regarding the claimed Default.

9.6. **Emergency Defaults.** Anything in this MDA notwithstanding, if the City Council finds on the record that a default materially impairs a compelling, countervailing interest of the City and that any delays in imposing such a default would also impair a compelling, countervailing interest of the City then the City may impose the remedies of Section 9.4 without the requirements of Sections 9.5. 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 Master Developer and/or any applicable Subdeveloper shall be allowed to address the City Council at that meeting regarding the claimed emergency Default.

9.7. **Extended Cure Period.** If any Default cannot be reasonably cured within thirty (30) calendar days then such cure period shall be extended so long as the defaulting party is pursuing a cure with reasonable diligence.

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

10. **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:**

Brad Mackay  
Ivory Development, LLC  
978 Woodoak Lane  
Salt Lake City, 84117  
[bradm@ivorydevelopment.com](mailto:bradm@ivorydevelopment.com)  
801-747-7000

**With a Copy to:**

Analise Wilson  
978 Woodoak Lane  
Salt Lake City, 84117  
[awilson@ivoryhomes.com](mailto:awilson@ivoryhomes.com)  
801-747-7000

**To the Master Developer:**

**To the City:**

Draper City  
Attn: City Manager  
David Dobbins  
1020 East Pioneer Road  
Draper, UT 84020  
[David.dobbins@draperutah.gov](mailto:David.dobbins@draperutah.gov)  
(801) 576-6500

**With a Copy to:**

Draper City  
Attn: City Attorney  
Mike Barker  
1020 East Pioneer Road  
Draper, UT 84020  
[Mike.barker@draperutah.gov](mailto:Mike.barker@draperutah.gov)  
(801) 576-6500

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

10.1.1. 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.

10.1.2. 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.

10.1.3. 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.

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

12. **No Third-Party Rights/No Joint Venture.** This MDA does not create a joint venture relationship, partnership or agency relationship between the City, or 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.

13. **Assignability.** The rights and responsibilities of Master Developer under this MDA may be assigned in whole or in part, respectively, by Master Developer with the consent of the City as provided herein.

13.1. **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 Master Developer.

13.2. **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 in Section 165), 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 fifteen (15) calendar days after the event has occurred. Such Notice shall include providing the City with all necessary contact

information for the newly responsible party.

13.3. **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.

13.4. **Time for Objection.** Unless the City objects in writing within ten (10) calendar days of notice, the City shall be deemed to have approved of and consented to the assignment.

13.5. **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 approved partial assignment, Master Developer shall not be released from any future obligations as to those obligations which are not assigned but shall remain responsible for the performance of any unassigned obligations herein.

13.6. **Denial.** The City may only withhold its consent if the City is not reasonably satisfied of the assignee's financial ability to perform the obligations of or Master Developer proposed to be assigned or there is an existing breach of a development obligation owed to the City by the assignee or related entity that has not either been cured or in the process of being cured in a manner acceptable to the City. Any refusal of the City to accept an assignment shall be subject to the "Meet and Confer" and "Mediation" processes specified in Sections 5.5 and 5.7. If the refusal is subject to Arbitration as

provided in Section 5.8 then the Parties shall follow such processes.

13.7. **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. That consent shall specifically acknowledge the provisions of Section 2.

14. **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 number of Residential Dwelling Units as applicable to such Parcel and be subject to the same limitations and rights of the City when owned by or Master Developer and as set forth in this MDA without any required approval, review, or consent by the City except as otherwise provided herein.

15. **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.

16. **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.

17. **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 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.

18. **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.

19. **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. The initial representative for Master Developer shall be Brad Mackay. 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.

20. **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.

21. **Venue.** Any action to enforce this MDA shall be brought only in the Third District Court for the State of Utah.

22. **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.

23. **Mutual Drafting.** Each Party has participated in negotiating and drafting this MDA and

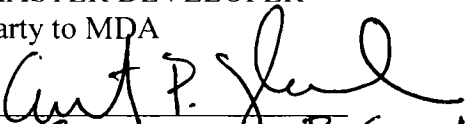
therefore no provision of this MDA shall be construed for or against any Party based on which Party drafted any particular portion of this MDA.

24. **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.


25. **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. ~~1551~~ adopted by the City on July 19, 2022.

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

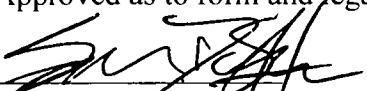
MASTER DEVELOPER  
party to MDA

  
By: CHRISTOPHER P. GAMPPOULAS  
Its: PRESIDENT  
Date: 7-27-22

CITY  
Draper City

  
By: David Dobbin  
Its: City Manager  
Date: 7-20-22

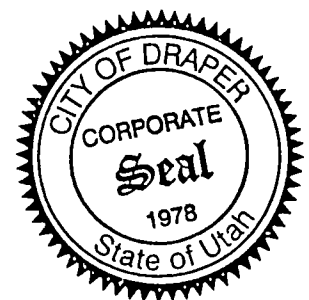
Approved as to form and legality:

  
City Attorney  
(ACTING)

Attest:

  
City Recorder

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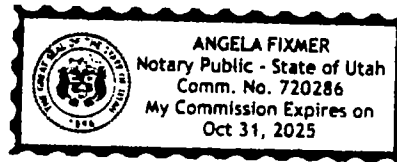
**CITY ACKNOWLEDGMENT**

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

On the 20<sup>th</sup> day of July, 2022 personally appeared before me David Dobbins who being by me duly sworn, did say that he is the City Manager of Draper 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.

Angela Fixmer  
NOTARY PUBLIC

My Commission Expires: 10/31/2025  
Residing at: Draper, UT



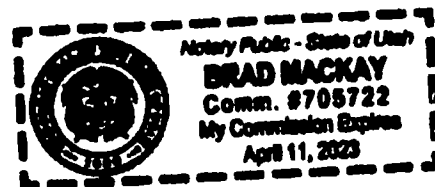
**MASTER DEVELOPER ACKNOWLEDGMENT**

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

On the 27<sup>th</sup> day of July, 2022, personally appeared before me Christopher P. Gamvroulas, who being by me duly sworn, did say that he/she is the President of Ivory Development, a Utah LLC 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.

Brad Mackay  
NOTARY PUBLIC

My Commission Expires: 4-11-2023  
Residing at: Reverton Utah





**ACKNOWLEDGEMENT AND CONSENT**

Each of the below listed owners is an owner of a portion of the Property and hereby acknowledges that Master Developer is authorized to enter into this Agreement and hereby provides its consent concerning the same.

**Sintra Investments, LLC** is an owner (Owner”) of a portion of the Property referenced in the agreement entitled “MASTER DEVELOPMENT AGREEMENT FOR FITZGERALD PROPERTY”, the Agreement to which this OWNER ACKNOWLEDGEMENT AND CONSENT is a part. By its signature below **Sintra Investments, LLC** (i) acknowledges that it has reviewed the terms and provisions of the Agreement (including exhibits and all material referenced in the Agreement), (ii) has had opportunity if so desired to review the Agreement with legal counsel, and (iii) acknowledges that Master Developer is authorized to enter into this Agreement.

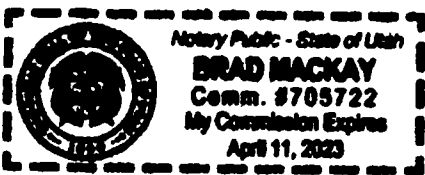
**Sintra Investments, LLC**, a Utah limited liability company

By: \_\_\_\_\_  
Its: Manager

**ACKNOWLEDGMENT**

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

On this 27<sup>th</sup> day of July, 2022, before the undersigned notary public in and for the said state, personally appeared Ryan Tesch, known or identified to me to be the Manager of **Sintra Investments, LLC**, a Utah limited liability company, 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.



Brad Mackay  
Notary Public  
Residing at: Riverton Utah  
My Commission Expires: 4-11-2023

**ACKNOWLEDGEMENT AND CONSENT**

Each of the below listed owners is an owner of a portion of the Property and hereby acknowledges that Master Developer is authorized to enter into this Agreement and hereby provides its consent concerning the same.

**Boyer Draper Pioneer, L.C.** is an owner (Owner”) of a portion of the Property referenced in the agreement entitled “MASTER DEVELOPMENT AGREEMENT FOR FITZGERALD PROPERTY”, the Agreement to which this OWNER ACKNOWLEDGEMENT AND CONSENT is a part. By its signature below **Boyer Draper Pioneer, L.C.** (i) acknowledges that it has reviewed the terms and provisions of the Agreement (including exhibits and all material referenced in the Agreement), (ii) has had opportunity if so desired to review the Agreement with legal counsel, and (iii) acknowledges that Master Developer is authorized to enter into this Agreement.

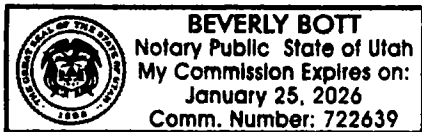
**Boyer Draper Pioneer, L.C.**, a Utah limited liability company

By: *Jacob L. Boyer*  
Its: *Jacob L. Boyer*

**ACKNOWLEDGMENT**

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

On this 28<sup>th</sup> day of July, 2022, before the undersigned notary public in and for the said state, personally appeared Jacob L. Boyer, known or identified to me to be the manager of **Boyer Draper Pioneer, L.C.**, a Utah limited liability company, 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.



*Beverly Bott*  
Notary Public  
Residing at: Salt Lake County  
My Commission Expires: 1/25/2026

## TABLE OF EXHIBITS

Exhibit "A"	Legal Description of Property
Exhibit "B"	Master Plan
Exhibit "C"	City's Vested Laws

Exhibit "A"  
Legal Description of Property

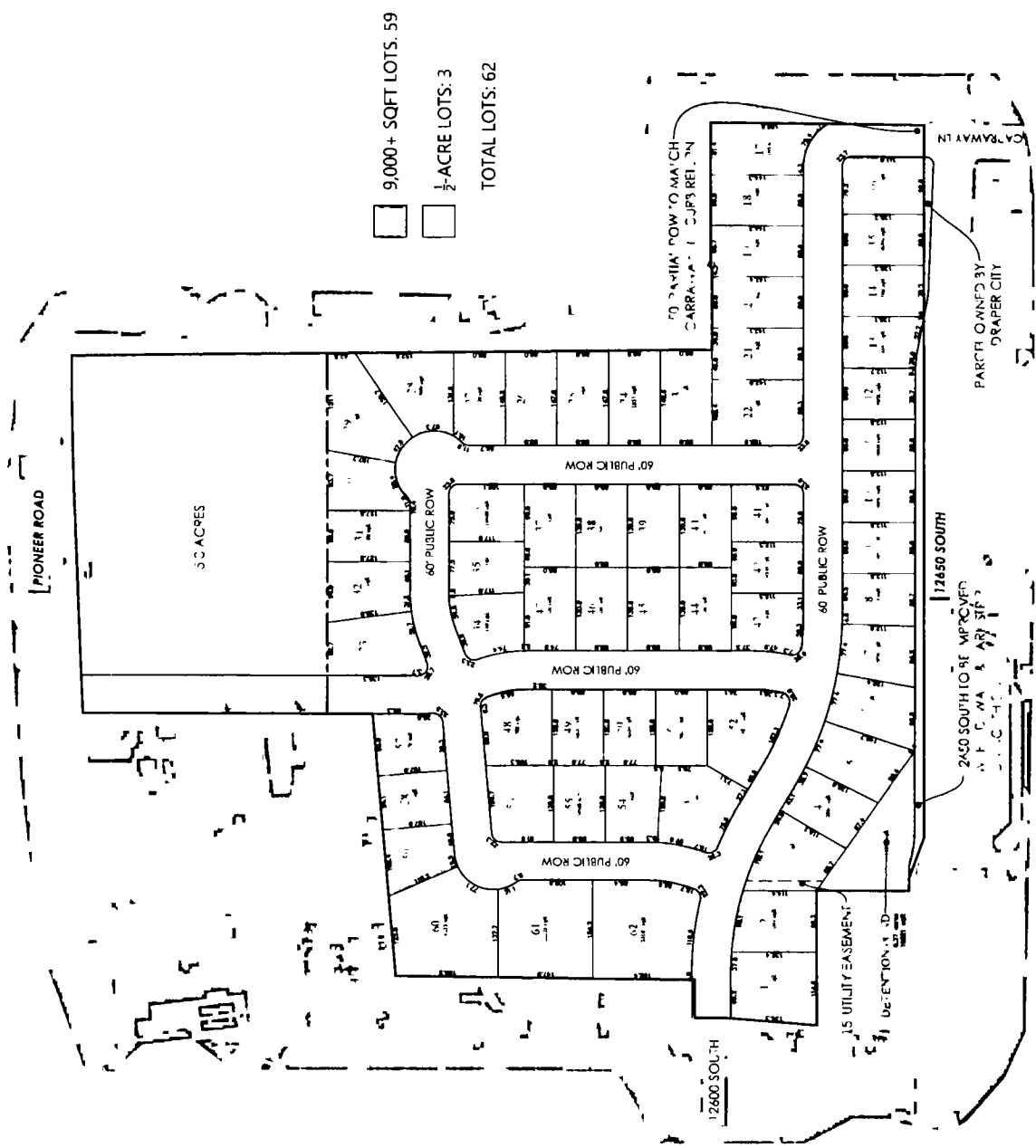
A tract of land located in the Southwest Quarter of Section 29 and the Northwest Quarter of Section 32, Township 3 South, Range 1 East, Salt Lake Base & Meridian, Draper, Utah. Entire tract of land comprised of six (6) parcels identified by Salt Lake County as Parcel No. 28-32-201-014, 28-29-452-009, 28-29-452-010, 28-29-452-012, 28-29-452-023 & 28-32-201-001, being more particularly described as follows:

Beginning at a point on a southerly line of CAROL LEE SUBDIVISION, according to the Official Plat thereof recorded September 4, 1998 as Entry No. 7078803 in Book 98-9 of Plats at Page 244 in the Office of the Salt Lake County Recorder, located N89°59'55"E 39.10 feet along the Section line and North 25.45 feet from the South 1/4 Corner of Section 29, T3S, R1E, SLB&M; running thence along said plat the following two (2) courses: (1) East 59.90 feet; thence (2) N00°45'00"E 462.24 feet to a fence line on the southerly boundary determined by that certain Quit Claim Deed recorded August 30, 1989 as Entry No. 4817375 in Book 6155 at Page 0393 in the Office of the Salt Lake County Recorder; thence along said fence line and boundary the following two (2) courses: (1) N85°02'54"E 412.52 feet ; thence (2) N00°06'52"E 69.9 feet; thence East 562.40 feet to a westerly line of a boundary determined by that certain Quit Claim Deed recorded November 11, 2002 as Entry No. 8429077 in Book 8688 at Page 2960 in the Office of the Salt Lake County Recorder; thence along said westerly boundary line to and along a westerly line of a boundary determined by that certain Corrective Warranty Deed recorded December 7, 2009 as Entry No. 10853079 in Book 9786 at Page 1214 in the Office of the Salt Lake County Recorder S00°35'07"E 595.25 feet; thence along said boundary line the following three (3) courses: (1) N89°51'01"E 128.28 feet; thence (2) N00°35'07"W 1.75 feet to the Section line; thence along the Section line (3) N89°59'55"E 227.14 feet to a westerly boundary line determined by that certain Quit Claim Deed recorded October 29, 2002 at Entry No. 8402013 in Book 8674 at Page 3196 in the Office of the Salt Lake County Recorder; thence along said westerly boundary line S00°36'00"W 330.44 feet to a northeasterly corner of RIVERMARK Subdivision, according to the Official Plat thereof recorded July 23, 2018 as Entry No. 12814899 in Book 2018 of Plats at Page 257 in the Office of the Salt Lake County Recorder; thence along said plat to and along a northerly line of a boundary determined by that certain Survey No. S2019-10-0772 certified October 21, 2019 on file in the Office of the Salt Lake County Surveyor S89°59'55"W 1,112.77 feet to a point on the northeasterly line of 12650 South Street, according to the Official Plat thereof recorded October 22, 1976 as Entry No. 2869313 in Book 76-10 of Plats at Page 226 in the Office of the Salt Lake County Recorder; thence along said plat the following two (2) courses: (1) N70°00'00"W 69.00 feet; thence (2) along said northerly right of way line West 20.00 feet to a southeasterly corner of a boundary determined by that certain Warranty Deed recorded January 27, 2021 as Entry No. 13545893 in Book 11106 at Page 5727 in the Office of the Salt Lake County Recorder; thence along said boundary line the following two (2) courses: (1) North 142.90 feet; thence (2) West 210.80 feet to a southeasterly corner of a boundary determined by Warranty Deed recorded March 26, 2013 as Entry No. 11604622 in Book 10120 at Page 8529 in the Office of the Salt Lake County Recorder; thence along the easterly line of said boundary N04°30'00"E 139.35 feet to a

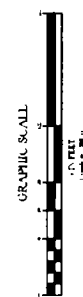
southeasterly corner of 12600 South Street; thence North 50.45 feet to the point of beginning.

Contains: 22.37 acres+/-

Exhibit "B"  
Master Plan



9,000+ SQFT LOTS: 59  
 1/2-ACRE LOTS: 3  
 TOTAL LOTS: 62



**PROPERTY OVERVIEW**

TOTAL ACREAGE	27.4 ACRES
CITY-OWNED ACREAGE	5.0 ACRES
DEVELOPMENT ACREAGE	22.4 ACRES
TOTAL LOTS	62
TOTAL DENSITY	2.8 UNITS/ACRE

**Bainbridge concept plan N**

DRAPER CITY, SALT LAKE COUNTY  
 6/13/2022  
 21-0173



Exhibit "C"  
City's Vested Laws