



When Recorded Return to:

City of St. George
Attn: Legal Department
175 East 200 North
St. George, Utah 84770

SG-6-2-28-2110	SG-6-2-34-1003	SG-6-2-34-1008	SG-6-2-34-1016
SG-6-2-27-428	SG-6-2-34-1004	SG-6-2-27-236	SG-6-2-35-3002
SG-6-2-27-330	SG-6-2-34-241	SG-6-2-34-1013	SG-6-2-34-1010
SG-6-2-27-3311	DEVELOPMENT AGREEMENT		
SG-6-2-34-411	for		
SG-6-2-34-412	<i>The Lakes at St. George</i>		

THIS DEVELOPMENT AGREEMENT (herein "Agreement") is entered into this 9th day of January, 2014, by and between St. George 730, L.L.C., a Nevada limited liability company, (herein "Developer") for the land to be included in or affected by the project known as "The Lakes at St. George" (herein the "Planned Community"), and the City of St. George, a municipal corporation and political subdivision of the State of Utah (herein "City").

RECITALS

WHEREAS, Developer has real property located within the City limits of the City of St. George, Utah, hereinafter "Development Property," and which is described in *Exhibit "A"*; and

WHEREAS, Developer has contemplated development of this land for residential and commercial purposes; and

WHEREAS, City and Developer desire public streets, trails, parks, water features, public buildings and open space within the Planned Community; and

WHEREAS, City and Developer will be engaged in construction and development on adjacent and intertwined land within the Planned Community in concurrent time frames, and cooperation will be required to coordinate the construction of public roadways and utilities, extension of utilities and timing of improvements; and

WHEREAS, Developer has voluntarily represented to the St. George City Council that it will enter into this binding development agreement; and

WHEREAS, Developer will dedicate a portion of the Development Property for public streets, trails, parks, and open space purposes, and may also for water features (including lakes), and public buildings, and make certain improvements on its real property in a manner that is in harmony with the objectives of the City's general plan, standards, ordinances and long-range development objectives and which addresses the more specific planning issues set forth in this agreement and is willing to abide by the terms of this Agreement; and

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WHEREAS, The City, acting pursuant to its authority under UTAH CODE ANNOTATED 10-9a-101, et seq. and its ordinances, resolutions, and regulations and in furtherance of its land use policies, has made certain determinations with respect to the proposed Planned Community, and, in the exercise of its legislative discretion, has elected to approve this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **Recitals.** The Recitals above are hereby incorporated into this agreement.
2. **Definitions.**
 - A. **Community Park.** "Community Park" means and refers to the area of approximately twenty-five (25) acres designated on the Master Plan as a Community Park, which property Developer shall donate to the City as public park land in conjunction with the initial records of survey approved by the City pursuant to section 8.A.i. below. A one (1) mile radius around said community park area shall encompass all of the Planned Community, thus satisfying City requirements for a community park to provide park service to the entire Planned Community.
 - B. **Developer.** "Developer" means and refers to the initial owner of the Planned Community, which is anticipated to create the Planning Areas and convey the same, through sale or otherwise, to the Secondary Developers. Developer is currently St. George 730, LLC, a Nevada limited liability company, but this definition extends to successors and assigns of the same or portions thereof, provided such successors and assigns acquire all of the rights to the master development of the Planned Community which are currently held by St. George 730, LLC.
 - C. **Development Property.** "Development Property" means and refers to the parcels of real property located in St. George, Washington County, State of Utah, which are subject to this Agreement and which are more particularly described with the legal descriptions set forth in *Exhibit "A"* hereto.
 - D. **Improvable Open Space.** "Improvable Open Space" means and refers to those areas of open space indicated generally upon the Master Plan and labeled as such, which Developer has agreed to develop as improved open space as such property, and adjoining properties, are platted for subdivision and development. Improvable Open Space is more specifically defined and described in Section 8.N. of this Agreement. The Improvable Open Space excludes the area set aside on the Master Plan for the Community Park described in Section 4, and for the Neighborhood Park described in Section 10 of this Agreement below.
 - E. **Master Association.** "Master Association" means and refers to an association of all the private owners of lots and parcels in the Planned Community which will have,

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as the ultimate successor to the Developer, certain responsibilities including but not limited to: preserving and maintaining common areas, facilities and amenities which are retained and developed for the common use and benefit of all the owners, including commonly owned streetscapes; the developing and enforcing of architectural and landscaping design guidelines for development of individual lots and parcels in the Planned Community; developing and enforcing rules and regulations for the continuing operation of the Planned Community; and collecting regular and special assessments from all the owners in the Planned Community to finance said responsibilities. The Master Association shall be created by the Developer as a non-profit corporation organized under the laws of the State of Utah. It is anticipated that other "sub-associations" may also be created with respect to the distinct Planning Areas and/or Secondary Phases of the Planned Community, but all shall be subject to the Master Association. The Master Association and sub-associations shall be responsible for repairing, restoring, or replacing landscaping or other common nonpublic improvements upon property in the Planned Community owned or controlled by the Master Association or sub-associations. In addition to annual, usual and special assessments for maintenance of common nonpublic improvements in the Planned Community, the Master Association and sub-associations shall levy such assessments as may be necessary from time to time to repair, restore or replace landscaping, or other common nonpublic improvements, when necessitated by the installation, maintenance, repair, or replacement of public water, sewer, power, and drainage infrastructure.

- F. Master Declaration. "Master Declaration" means and refers to a declaration of covenants, conditions and restrictions for the entire Planned Community which shall be recorded in the Washington County Recorder's Office against the entire Planned Community and shall run with the land in the Planned Community. The Master Declaration shall set forth the rights and obligations of the Developer, the Secondary Developers, the Master Association, and the individual owners in the Planned Community with respect to one another, and shall establish a lien for the collection of assessments and serve other purposes common to declarations in similar projects. It is anticipated that other "sub-declarations" may also be recorded with respect to the distinct Planning Areas and/or Secondary Phases of the Planned Community, but all shall be subject to the Master Declaration.
- G. Master On-site Improvements. "Master On-site Improvements" means and refers to all sewer, storm and culinary water, natural gas, underground utility systems, streets, streetscapes, curbs and gutters, sidewalks, parks, trails, or other improvements which are required to be developed within the boundaries of the Planned Community, but outside the boundaries of the distinctively defined Planning Areas, as a condition of approval and permitting of the Planned Community or distinct sub-parts thereof, as set forth in this Agreement.
- H. Master Plan. "Master Plan" means and refers to the City-approved Land Use Plan for the Planned Community, dated January 15, 2009, attached to this Agreement as

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Exhibit "B" and incorporated herein with this reference; and to the City-approved Open Space/Parks Plan for the Planned Community, dated January 15, 2009, attached to this Agreement as *Exhibit "C"* and incorporated herein with this reference. The originals of these exhibits shall be dated and signed by Developer's engineer.

- I. Minor Subdivision. "Minor Subdivision" means and refers to subdivisions which are divided without using the formal platting process as outlined in Utah Code Ann. 10-9a-605 "Exemptions from Plat Requirement", St. George City Code 11-4-5 and this Agreement.
- J. Neighborhood Park. "Neighborhood Park" means and refers to a park dedicated to public use and servicing residents within a one-half (1/2) mile radius of the same, and meeting the City's minimum Neighborhood Park Standards. Developer—and when appropriate, a Secondary Developer—shall be deemed to have met all applicable City requirements and standards with respect to Neighborhood Parks in the Planned Community provided said Developer or Secondary Developer complies with this Agreement.
- K. Off-site Improvements. "Off-site Improvements" means and refers to all sewer, storm and culinary water, natural gas, underground utility systems, streets, curbs and gutters, sidewalks, traffic signals, or other improvements which are required to be developed by Developer outside the boundaries of the Planned Community, as a condition of approval and permitting of the Planned Community or distinct sub-parts thereof, as set forth in this Agreement.
- L. Parks Department. "Parks Department" means and refers to the St. George City Leisure Services Department, which is responsible for the development, operation and maintenance of parks within the City, or its future equivalent in the administrative structure of the City.
- M. Planned Community. "Planned Community" means and refers to the project known as "The Lakes at St. George," anticipated to be developed upon the Development Property pursuant to the terms of this Agreement and the Master Plan incorporated herein. The Developer, in its sole discretion, may change the name of the Planned Community, provided that all subdivision plats within the Planned Community comply with the naming requirements of paragraph 8.E. herein below.
- N. Planning Area. "Planning Area" means and refers to a defined parcel of land within the Planned Community, and a sub-part of the larger Development Property, which is to be created and established by metes-and-bound descriptions, by a record of survey prepared by a licensed surveyor, approved by the City and the record of survey and deeds consistent with the same filed for public record in the office of the Washington County Recorder's map depository. The Planning Areas anticipated to be created within the Planned Community are depicted in the Land

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Use Plan portion of the Master Plan attached hereto as *Exhibit "B."* It is anticipated that three (3) or more records of survey, each approved individually by the City as a "minor subdivision" containing less than ten (10) parcels pursuant to the exemption from plat requirements found in Utah Code Ann. § 10-9a-605(1) (2007) and St. George City Code § 11-4-5, shall be required to complete the division of the Subject Property into the anticipated Planning Areas depicted in the Master Plan. The Planning Areas within the boundary of the Planned Community are anticipated to be offered for sale by the Developer, and to be purchased by Secondary Developers, which will subsequently take each Planning Area individually through the formal subdivision approval process with the City. Each of the Planning Areas shall be developed only after proper zone change approval (if required), and subdivision approvals by the City for a given Planning Area, or for distinct Secondary Phase(s) of the same. Each Planning Area may consist of two or more Secondary Phases, in the event a Secondary Developer determines to seek subdivision approval of the Planning Area in multiple phases. No Planning Area shall be sold in smaller parcels by Developer or any Secondary Developer unless (1) the Master Plan contemplates the creation of such smaller parcel or is amended, with City approval, to contemplate such smaller parcel and the necessary record of survey and "minor subdivision" has been approved by the City; or (2) the Planning Area or Secondary Phase has been platted such that the smaller parcel being sold is part of a final plat approved by the City and recorded as required by law.

- O. Secondary Developer. "Secondary Developer" means and refers to an individual or entity which submits a subdivision plat for approval for the development of a Planning Area or a smaller portion thereof (a Secondary Phase). The Developer and/or any third party developer which is a successor-in-interest to the Developer in a given Planning Area may meet this definition of Secondary Developer for purposes of this Agreement.
- P. Secondary On-site Improvements. "Secondary On-site Improvements" means and refers to all sewer, storm and culinary water, natural gas, underground utility systems, streets, curbs and gutters, sidewalks, traffic signals, parks, trails, or other improvements which are required to be developed within the boundaries of each of the distinctive Planning Areas in the Planned Community, as a condition of approval and permitting of development of individual Planning Areas or sub-parts thereof, as set forth in this Agreement.
- Q. Secondary Phase. "Secondary Phase" means and refers to a portion of any given Planning Area for which a Secondary Developer files a plat for development approval, should a Secondary Developer elect to develop a Planning Area in multiple phases.
- R. Traffic Impact Study. "Traffic Impact Study" means and refers to the Traffic Impact Study completed on behalf of Developer by Hoskins Engineering and dated August 2006, reviewed by City and incorporating the comments made by City

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staff in the memorandum dated September 26, 2006 from Aron Baker, City Traffic Engineer, to Jay Sandberg, Assistant City Engineer, and as may be updated, supplemented, amended, or replaced as provided herein. Such updates, supplements, amendments, or replacements of the Traffic Impact Study shall include information from the City public works department regarding the cost allocation of traffic improvements.

S. Unimproved Open Space. "Unimproved Open Space" means and refers to each of those parcels of land designated in the Master Plan as such, which Developer has agreed to convey to the City for the purpose of preservation for public access and use of the same. Because of the unique and natural features of such parcels, including but not limited to natural or existing hiking and bicycling trails, canyons, and rock climbing areas, all Unimproved Open Space shall be encumbered with a conservation easement restricting its use accordingly. Developer shall donate said property in conjunction with the initial records of survey approved by the City pursuant to section 8.A.i. below. The Unimproved Open Space is more specifically defined and described in Section 8.N. of this Agreement.

3. Affected Property. The legal description of the Development Property is as follows:

See Exhibit "A" attached hereto and incorporated with this reference.

No additional property may be added to this description for the purposes of this Agreement except by written amendment to this Agreement executed and approved by Developer and the City.

4. Vested Rights and Reserved Legislative Powers. With the recording for public record of this Agreement, Developer's right to develop the Planned Community as described herein is hereby vested, subject to the provisions hereof allowing for modification of specific requirements as development of the Planned Community progresses toward completion. Nothing in this Agreement shall limit the future exercise of the police power by the City in enacting zoning, subdivision, development, transportation, environmental, open space and related land use plans, policies, ordinances and regulations after the date of this agreement provided that the adoption and exercise of such power shall not restrict Developer's vested rights to develop the Planned Community as provided herein. In order to preserve the rights vested to Developer herein, Developer must reasonably pursue the development of the Planned Community, including the creation of the individual Planning Areas as contemplated herein and the completion of improvements to infrastructure which development shall from time to time require. This Agreement is not intended to and does not bind the City Council in the independent exercise of its legislative discretion with respect to such zoning regulations, except to the extent specifically covenanted as set forth herein, the provisions of this Agreement by recording intended to run with the land to the benefit and burden of Developer and its successors and assigns.

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5. **Compliance with City Design and Construction Standards.** Developer acknowledges and agrees that unless expressly stated otherwise nothing in this Agreement shall be deemed to relieve it from the obligation to comply with all applicable laws and requirements of the City necessary for development of the Planned Community, including the payment of fees and compliance with the City's design and construction standards for public improvements which are approved at the time of construction, except as may be specifically set forth otherwise herein.
6. **Secondary Developer Compliance with Planned Community Design Standards.** Developer anticipates the creation of architectural and landscape design guidelines for development and construction of lots and parcels in the Planning Areas, and said standards may be more restrictive than those set forth by the City. The City agrees that it will, as a part of the City Attorney's review of any final plat for a Planning Area or Secondary Phase, require the submission by the Secondary Developer of a letter from the Developer (or from the Master Association, after its creation) stating that the Secondary Developer is in compliance with all project design standards in existing subdivisions created by the Secondary Developer, if any, and that the Developer (or Master Association, if applicable) anticipates that the Secondary Developer will develop the pending subdivision in compliance with all project design standards. Developer agrees that it shall hold harmless and indemnify the City, and its employees and agents, against any and all loss, liability, damage, claim, cost, charge, demand, or expense (including any direct, indirect or consequential loss, liability, damage, claim, cost, charge, demand, or expense, including attorney's fees) arising from City's approval of any final plat for which the City did not, for whatever reason, receive a letter from Developer stating that the final plat is in compliance with Developer's project design standards.
7. **Time for Construction and Completion of the Planned Community.** Except as otherwise provided in this Agreement, Developer shall have the discretion as to the time of commencement, construction, phasing and completion of any and all development of the Planned Community. Developer's discretion shall be confined within the time limitations set forth in City Code such as final plat expiration, and Planned Development (PD) zone expiration dates. Regional trails which are located throughout the Development Property shall be constructed simultaneous with the construction of adjacent roadways, unless alternative timing for construction is agreed to by the City.
8. **General Obligations.** The parties shall do the following:
 - A. **Road Dedications; Record of Survey and Master Street and Utility Plan.**
 - i. *Road Dedications and Records of Survey.* City and Developer shall cooperate in development and approval first of Road Dedications, and next of Records of Survey intended for the division of the Development Property into the distinct Planning Areas and the parcels to be dedicated at no cost to the City as public parks, open space and other public facilities. City and Developer shall also cooperate in the development of street and utility master plans to service the Planned Community. Developer shall

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coordinate with City through Developer's third party engineer designated by Developer for purposes of development. One or more Road Dedications sufficient to identify the public roadways within the Planned Community but outside of individual Planning Areas shall be submitted for approval to the City, and if approved by the City shall be recorded for public record. The several Records of Survey required to divide the Subject Property into the Planning Areas and parcels to be dedicated to the City shall be submitted to the City for approval, consistent with state and local law governing the approval of "minor subdivisions" of less than ten (10) parcels, and as the same are approved the Record of Survey map and deeds consistent with the same shall be filed for public record in the office of the Washington County Recorder's map depository. The submission, consideration and approval of the one or more Road Dedications may occur in parallel with the submission, consideration and approval of the Records of Survey, provided that an approved Road Dedication establishing the master planned roads to service the Planning Areas in a given Record of Survey shall in all cases be recorded prior to the recordation of such Record of Survey. After recording, each Record of Survey map may be amended with the filing of an appropriate amendment thereto and deeds reflecting the same. The approval of the City shall be required to amend the Record of Survey if a) the amendment results in a change of more than 25% gross acreage, or b) if parcels to be dedicated to the City, including but not limited to park parcels, and undisturbed open-space parcels, are affected by the amendment.

- ii. *Master Street and Utility Plan.* The street and utility plans prepared for each Road Dedication shall together serve as a Master Street and Utility Plan for the Development Property and shall contain construction standards at a level sufficient to ensure consistent quality throughout the development phases of the Development Property.
- iii. *Level of Detail in Street and Utility Plans.* The Street and Utility Plans must satisfy the design approval requirements as set forth by the City at the time the plans are submitted to the City for approval.
- iv. *Developer Responsibility for Dedications and Improvements Not Yet Accepted.* Developer acknowledges that dedication of any public roadway or utility right-of-way or the like shall not relieve Developer or any Secondary Developer, if applicable for responsibility for the same, including completion of all improvements required to be constructed upon such roadway or right-of-way to service the Planned Community. City reserves the right to review and accept all such improvements. Pursuant to City Ordinance, Developer, Secondary Developer or the Master Association where applicable shall warranty all public improvements for one year after the City has approved and accepted the construction of the improvements. After acceptance of a public improvement by the City, the

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City shall assume responsibility for repair, maintenance and upkeep of the same pursuant to accepted City standards.

- B. Sale of Individual Planning Areas.** City and Developer agree that, following approval and official filing for a Record of Survey map and associated deeds creating a particular Planning Area or Areas within the Planned Community, Developer may proceed with sale of the individual Planning Area(s) so created thereby, to Secondary Developers.
- C. Master Plan; Existing and Required City Approvals.** City agrees that Developer will be permitted to carry out the development of the Planned Community in accordance with the densities set forth in the Master Plan and Section 13.B.i.: Residential Density of the Planned Community, subject to the terms and conditions of this Agreement. Pursuant to the terms of this Agreement and subject to Developer's public infrastructure obligations set forth in this Agreement, and subject also to re-zoning and/or subdivision plat approvals which may be required before the development of any particular Planning Area, development of the Planned Community may proceed in conformance with the Master Plan. City and Developer agree that the Master Plan sets forth a degree of flexibility, but Developer may not increase the densities and types of use beyond the maximum set forth in the Master Plan without City approval. Developer and its successors or assigns hereby recognize the City's requirement for each residential and commercial subdivision proposed within the Planned Community to subsequently obtain zoning approvals from the City, if applicable, prior to obtaining residential or commercial plat approvals, which plat approvals shall further be required before the issuance of any building permits in a given subdivision. Developer further recognizes that the City may, through the General Plan amendment procedure as outlined in applicable City code sections, change the Master Plan and the uses and densities set forth therein prior to the Developer (or a successor or assign) obtaining vested zoning approval for a part or all of the Planned Community. City agrees that in the event the City, independent of any request from Developer, changes the Master Plan and its associated uses and densities in such manner, that Developer, at its sole discretion, may elect to terminate this Agreement and to be released from all further obligations set forth herein.
- D. Notice of Zoning Actions.** City acknowledges that Developer has made and will make substantial investments in reliance on the Master Plan, subject to future zoning and subdivision approvals. City agrees to use its best efforts to provide written notice to Developer at least ninety (90) days prior to considering any proposed amendment to the Master Plan.
- E. Requirements for Subdivision Names in the Planned Community.** In order to simplify the identification of subdivisions located within the Planned Community, each subdivision for which a preliminary plat and final plat is filed for approval by the City shall be named as follows: the name of the subdivision shall be

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followed by the name of the Planned Community, and if the name of the subdivision is not unique from the name of another subdivision in the Planned Community, the name shall also be followed with numbering or lettering designating the subdivision as a unique phase of development. The preliminary and final plats submitted to the City for approval shall clearly indicate the subdivision name in such format.

- F. **Improvement Costs.** Developer, Secondary Developer or Master Association where applicable will bear the cost of all development and improvement necessitated by development of the Planned Community, and City will bear the cost of any City-requested upsizing or additional capacities or additional improvements, consistent with City policy, including improvements specifically related to City owned trails, parks and public buildings to be constructed, unless otherwise specifically agreed to be borne by Developer.
- G. **Easement and Right of Way Dedication.** The Record of Survey filed at the Washington County Recorder's office with respect to the entire Planned Community shall designate the street and utility master plan easements and/or dedicated public rights of way as are reasonably necessary for service of each individual Planning Area and which shall be located to minimize impact on the servient property. Easements and public rights of way shall be granted or dedicated at no cost to the City as a part of the Record of Survey to benefit each Planning Area in an overall comprehensive plan for the Planned Community. City and Developer shall grant cross easements as may be shown on the Record of Survey. The Developer shall reserve such easements as are reasonably necessary for drainage of the Planned Community's runoff and irrigation tail waters. Such easements shall be located as to minimize impact on the servient property. Developer shall bear the cost of installing drainage and detention facilities across City property within the boundaries of the Planned Community. Developer shall reserve to itself, and dedicate to the City when appropriate; such easements as shall be reasonably necessary to accommodate City's irrigation system water and reuse system water.
- H. **City Facilities and Landscape Improvements.** City may permit and cooperate in Developer's efforts to ameliorate the landscaping and design impact of City's irrigation system, water, drainage, and reuse system, including water feature design on City-owned property. In addition, City may permit and cooperate in Developer's efforts to enhance and improve landscaping features on any City owned property within the Planned Community. Developer, Secondary Developer and/or the Master Association will be responsible for the maintenance of the landscaping features which it installs on rights-of-way and easements which are dedicated to the City.
- I. **Cliff Line Setbacks.** In those areas of the Planned Community which are anticipated to be subdivided into private lots adjacent to the Gap Wash and Box Canyon Wash, Developer agrees that it shall, in the Record(s) of Survey creating

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the Planning Areas anticipated to contain such lots, establish a setback boundary from vertical cliff lines as follows:

- i. *Gap Wash Setbacks.* Setbacks shall be established on the cliff top on the north side of Gap Wash such that no private property line shall be less than one hundred feet (100') from the cliff top, and the property between the cliff top and private property lines shall be included in property to be dedicated to the City as part of the Gap Wash trail. On the south side of Gap Wash, no private property line shall extend to within fifty feet (50') from the cliff top line. The space between private property lines and the south cliff top shall be preserved as undisturbed natural open space, and public access shall be strictly prohibited so as to preserve the undisturbed nature of the space as well as the privacy of adjacent residential properties.
- ii. *Box Canyon Wash Setbacks.* Similar setbacks shall be established along the Box Canyon Wash trail; however, the Box Canyon Wash setbacks shall be established on either side of the canyon as City and Developer agree after visiting the site for such purpose, and prior to subdivision of any adjacent property.

All of said setbacks shall be reviewed by and established to the satisfaction of City staff. Said setbacks, once established on the filed Record(s) of Survey, shall be preserved in each subdivision plat which is submitted to the City for approval within the Planned Community, consistent with the provisions of this Agreement governing the dedication and preservation of open space. The establishment of the foregoing setbacks is not intended to prevent the setback areas from being applied to satisfy hillside slope non-disturbance area requirements, as appropriate, and Developer shall receive acre-for-acre credit accordingly.

- J. **Utility Improvements, Extensions and Upsizing.** Certain improvements and utility extensions or upsizing which shall be designated in the Master Street & Utility Plan shall be installed on a joint and cooperative basis by City and Developer or Secondary Developer to avoid conflicts in construction and to achieve economies of scale. The Developer's Engineer and City representative(s) shall meet together in the development phase of such Record of Survey and associated Master Street and Utility Plan and ensure that the improvements and development contemplated therein are coordinated and that to the extent possible such improvements are developed in cooperation, and the allocation of costs for such improvements is on a fair and reasonable basis, consistent with existing law, the other provisions of this Agreement, and other agreements for sharing costs of power, water, and other improvements between and among City, Developer, and third parties (if any). In the event that upsizing of utility improvements is required, City shall participate in the cost of such upsizing consistent with City policy regarding upsizing. City may, at the time that Developer is installing and/or constructing public improvements, elect the form of compensation to the

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Developer for upsizing, including but not limited to paying cash, granting impact fee credit, or through a reimbursement agreement.

- K. **Impact Fee Credits.** Where Developer designs and constructs City parks and trails and other public facilities, either because of a requirement of this Agreement or by separate agreement with the City, such design and construction shall be completed as may be required to develop the Planned Community and as contemplated by the City's various capital facilities plans which would normally be financed through Impact Fees. Developer shall receive reimbursement of or credit for park Impact Fees and other fees as may be normally assessed by the City for said public facilities when said facilities are designed and constructed by Developer. Developer agrees that costs associated with dedication and improvement of neighborhood parks to the City's adopted neighborhood park standards shall not be eligible for reimbursement or credit of impact fees, but additional improvements beyond such standards shall be eligible as set forth herein. City and Developer agree that specific details with respect to the mechanisms and timing of reimbursement or credit of impact fees, as well as timing for completion of public park improvements, may be set forth in a separate agreement between the parties as stated in section 10 below.
- L. **City Parks.** Developer shall donate to the City land for the development of a Neighborhood Park and a Community Park as outlined in this Agreement. Developer shall be responsible for the construction of the Neighborhood Park improvements as outlined in this Agreement. In the event that Developer desires to design and construct improvements to the Community Park prior to the City's timetable for the same, then Developer shall notify City of that desire and Developer and City may, at their discretion, enter a subsequent agreement governing design and construction of the Community Park, and the mechanisms for reimbursement of impact fees to Developer for said design and construction. City acknowledges that as currently master planned, the property designated for public parks planned to be donated at no cost to the City by Developer meet the Neighborhood Park dedication requirements in as set forth in Chapter 2 of the City's Park, Recreation, Arts & Trails Master Plan. Developer shall, at its cost, construct improvements to the master planned neighborhood park to meet the City's adopted basic neighborhood park standards. Developer shall not be obligated to provide Park improvements in excess of the impact fee equivalent, but may receive additional concessions from the City, including impact fee reimbursement if the parties agree in writing to such concessions for providing such additional improvements prior to the additional improvements being constructed. Developer shall develop a grading plan for the public parks and open space which, where appropriate, and concurrent with the platting of adjacent Planning Areas by Secondary Developers, shall utilize the soil on Developer's property, moving the same, as reasonably required and reasonably available, so long as the soil is suitable for construction of said parks and acceptable to City, to locations on City Park sites while meeting the needs of the Developer to remove soil to facilitate development.

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- M. **Open Space Credit.** The parties agree that any credit or benefit given to Developer by the City, or any requirement of the City, which is based upon the total amount of Open Space in the Planned Community or within a given Planning Area, including but not limited to the requirement to preserve thirty percent (30%) of a given subdivision as open space in accordance with PD zoning requirements, shall include but shall not be limited to the following features: dedicated or donated community parks, neighborhood parks, trails, and open space parcels; areas preserved to protect sensitive habitat, plants or animals; common nonpublic parks and trails; lakes and streams; cliff line setbacks; transmission lines where such are located on property which is already designated as open space; and any additional setbacks or frontage on roadways or along natural features which are voluntary and exceed city requirements or as otherwise recognized by City ordinance, whether dedicated or donated to the City or retained in common nonpublic or private ownership.
- N. **Open Space Requirements.** The parties acknowledge that at the outset, the approved Master Plan for the Planned Community reflects thirty percent (30%) maximum open space based on the total Development Property gross acreage. The parties also acknowledge that open space requirements apply to all Planned Development (PD) zoning approvals in the City. In keeping with the intent of the Planned Community, the open space has been aggregated in the Master Plan, in large part, outside of the Planning Areas in order to provide a cohesive, usable open space and to preserve the natural canyons, trails, and arroyos, benefiting the entire Planned Community and the public at large. The Open Space anticipated to be preserved in the Planned Community shall be preserved in one of two forms on the Master Plan as follows:
- i. *Unimproved Open Space.* All of the Open Space in the Planned Community which is intended to remain undisturbed, including several of the trails and canyons and other areas not to be improved by Developer or by the City shall be referred to as "Unimproved Open Space." All Unimproved Open Space as designated on the Master Plan shall be divided from the remainder of the Development Property as agreed to by City representatives and in the same manner as for the Planning Areas, and created for donation to the City. All Unimproved Open Space shall be encumbered with a restricted use and conservation easement for the purpose of preservation for public access and use of the same, because of the unique and natural features of such parcels, including but not limited to natural or existing hiking and bicycling trails, canyons, and rock climbing areas, upon the Records of Survey used to divide the Development Property. Said parcels of Unimproved Open Space shall then be donated at no cost to the City with the initial records of survey approved by the City as described in section 8.A.i herein.

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- ii. *Improvable Open Space.* All of the Open Space in the Planned Community which is not Unimproved Open Space, or intended to be donated and/or improved as programmable City Parks or passive common areas owned and controlled by Developer, Secondary Developer or Master Association where applicable, shall be referred to as “Improvable Open Space.”
 - a. All Improvable Open Space shall be designated on the Master Plan. That portion of the Improvable Open Space which is intended for the Community Park shall be designated as a separate parcel to be created in metes and bounds with Record(s) of Survey, and donated to City in conjunction with said Record(s) of Survey. That portion of the Improvable Open Space which is intended for the Neighborhood Park shall be designated as a separate parcel to be created in metes and bounds and to be improved and donated to the City with a Record of Survey consistent with Section 10 below.
 - b. Because of the possibility that the actual location and boundaries of the Improvable Open Space may change as development progresses in the Planned Community, the Improvable Open Space exclusive of the City Community Park and Neighborhood Park shall not be designated as a separate parcel to be created in metes and bounds when the Development Property is first divided with Record(s) of Survey, but instead each area of Improvable Open Space shall be indicated in the Record(s) of Survey as overlapping one or more of the Planning Areas so created. The Improvable Open Space is anticipated to be retained in part by the Master Association as common area open space. The intent of this provision is so that Developer will have the maximum amount of flexibility to determine the final location and boundaries of the Improvable Open Space, while still allowing the City to have ample review over the final location and boundaries of the Improvable Open Space to ensure general compatibility with the Master Plan and compliance with the City’s minimum Open Space requirements.
- iii. *Use of planned Open Space to satisfy subdivision requirements.* In order that PD zone open space requirements can be met in any part of the Planned Community for which PD zoning approval is sought, and so that neighborhood park requirements will also be met, the City agrees that a Secondary Developer, when developing an individual Planning Area or a portion thereof, with the written consent of Developer, may draw from or receive credit for a portion of the aggregated open space set aside in the Master Plan for the Planned Community in order to meet a part or all of its own open space requirements. In this manner, the open space donated by Developer to the City as part of the Master Plan shall act as an “open

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space bank” which may be drawn on or referred to by a Secondary Developer to meet any open space requirements in an individual Planning Area as approved in writing by Developer. Developer agrees that no particular acreage of open space may be utilized to satisfy the open space requirements of more than one subdivision plat, and that Developer shall certify to the same with the filing of each subdivision plat which includes open space for approval. Furthermore, Developer anticipates that the open space shown on the Master Plan is in excess of that required to meet the City's requirements for the Planned Community as a whole, and Developer reserves the right to adjust the boundaries of the improvable open space as set forth in paragraph 8.N.ii. above provided the overall density for the Planned Community as set forth in the Master Plan is not exceeded and the percentage of open space shown on the Master Plan is not reduced below the thirty percent (30%) open space provided on the originally approved Master Plan. Developer recognizes that the terms of this subsection do not relieve it from its obligation to comply with state local subdivision and platting requirements as outlined in this Agreement. Developer or a Secondary Developer filing a subdivision plat for approval shall be required to report on the status of the “Open Space Bank” as set forth in paragraph 9.A.vi.

- O. **Public Parks and Trails Operation and Maintenance.** Developer reserves the right but not the obligation to maintain City parks, Unimproved Open Space and paved surfaces of regional trails within the Planned Community pursuant to entering into a License and Maintenance Agreement with the City. In the event Developer or its successors and assigns does not maintain the City park(s) pursuant to the License and Maintenance Agreement to the standards acceptable to the City, City may, upon ninety (90) days written notice, take over maintenance; at which time the License and Maintenance agreement shall be terminated. At any time that the City is maintaining City park properties within the Planned Community, Developer, and following Developer the Master Association, reserves the right to enter upon the same for maintenance and repair pursuant to a License and Maintenance Agreement if the City's own maintenance proves to be insufficient. The License and Maintenance Agreement would be negotiated and executed between the City and Developer or, if applicable, Master Association, if such an instance arises.
- P. **Mitigation of Off-site Traffic Impacts.** Developer agrees that the off-site access roads identified in this Agreement and the Traffic Impact Study must be constructed to provide ingress and egress to and from the Planned Community. In addition to constructing off-site access roads as specified in the Traffic Impact Study, Developer and City agree to the creation of an “Off-site Traffic Cost Pro-ration” (or “OTC Pro-ration”) based on the total cost of off-site traffic impact mitigation improvements, excepting access roads, to include the traffic signal participation costs more specifically described herein below, right turn lane improvements, additional lane improvements and other mitigation costs as

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required by the Traffic Impact Study. Prior to issuance of any residential building permit within the Planned Community, Developer or its successor and assigns, including any Secondary Developer seeking subdivision plat approval, shall pay the OTC Pro-ration on a per unit basis determined by taking the agreed upon total cost of the off-site traffic mitigation improvements divided by the lesser of 1) the total number of residential units within the Planned Community as shown on the Master Plan or 2) the projected actual number of residential units as may be determined by Developer. Unless otherwise required by this Agreement, Developer shall have no further obligation to the City to participate in, pay, contribute or otherwise construct or provide any off-site traffic mitigation improvements unless an update to the Traffic Impact Study is required to address changes in the Master Plan within the Planned Community boundaries. Developer's obligation for off-site access road improvements shall be limited to travel lanes as required to mitigate the off-site traffic impacts identified in the Traffic Impact Study. Travel lane improvements are exclusive of median islands, curb, gutter, sidewalks, street lighting, and any right-of-way acquisition, except for those features reasonably required by the impacts created by the Planned Community.

- Q. **Street Lights and Signage.** Developer may elect to use decorative street lights and street signage within the Planned Community, including flags and banners, as long as such are approved by the City's Energy Services Department and are in compliance with all applicable City ordinances regarding lighting and signs, within dedicated public rights-of-way, provided all traffic control devices and signs are in conformance with the requirements of the Manual on Uniform Traffic Control Devices and City standards. If alternate poles or other components are approved by the City's Energy Services Standards Group other than those previously approved by the City for other properties or projects, then Developer agrees to enter a separate agreement governing maintenance, stockpiling of replacements, and other issues relative to the City's ongoing management of street light components.
- R. **Aggregate Processing.** City acknowledges that Developer may develop or permit development of an aggregate processing plant and sell the products of such operation within and outside the Planned Community, subject to obtaining a conditional use permit and complying with other requirements for such operation as set forth in City ordinances and other applicable law.
- S. **Cooperation in Obtaining Available Funding.** Developer intends to explore all available sources of financing for the development of the Planned Community and completion of the improvements required, including private and public sources, wherever available. City agrees to use its best efforts, consistent with the City's best interests, to assist the Developer, and sponsoring Developer's requests when appropriate, in obtaining and using any state, regional or federal funds, including but not limited to grants, funds for nature trails, or other monies that may be available or become available for the acquisition, construction, or

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maintenance of public facilities within the Planned Community. Furthermore, without being bound to the creation or implementation of the same, the parties agree to discuss the possibility of utilizing one or more Special Improvement Districts (SIDs) or other similar public financing to finance public improvements within the Planned Community, to the extent authorized by applicable state law.

T. **Regulatory Matters.** City and Developer shall cooperate in all regulatory matters, which affect both parties. Other requirements of law and processes typical to the development process are not waived by this Agreement, but all such processes shall proceed consistent with this Agreement.

9. **Donation of and Improvements to the Community Park.** In order to facilitate the development of a Community Park within the Planned Development as contemplated herein, Developer shall donate to the City the real property for the Community Park in conjunction with the initial records of survey approved by the City pursuant to section 8.A.i. above, so that design and construction can be completed by the City in the normal course of park development, the cost to be borne by the City. Developer and City may later enter an agreement for construction of the park by Developer in advance of the City's timetable, which agreement may address such matters as park design, park construction, financing, impact fee credits or reimbursement for design and construction costs, and so forth. City further recognizes that through Developers donation of real property for the Community Park, Developer is reliant upon the City's desire to locate the Community Park within the Planned Community and agrees to design and construct the Community Park in substantial conformance with the City approved Concept Plan attached as Exhibit "E".

10. **Satisfaction of Developer's Neighborhood Park Obligations.** Pursuant to City ordinances and the terms of this Agreement, and independent of Developer's obligation to donate land for a Community Park and Developer's option to design and improve the same, Developer has an obligation to meet certain requirements with respect to the development of Neighborhood Parks in the Planned Community. Developer and the City agree that provided Developer satisfies the obligations set forth in this Agreement below, the City shall accept Developer's performance with respect to neighborhood parks (or by Secondary Developer) as fully satisfying all of Developer's obligations, and in compliance with applicable City requirements.

A. **Unimproved Open Spaces.** The City acknowledges that Developer, pursuant to this Agreement, shall convey to the City a large number of acres of open space that, although they shall remain unimproved, are already usable by the public as a result of certain unique existing and natural features, including hiking and biking trails, canyons, and rock climbing locations. Developer shall donate said property to the City in conjunction with the initial records of survey approved by the City pursuant to section 8.A.i. above. For this reason, the City agrees that Developer's obligation to develop and dedicate Neighborhood Parks can be satisfied in the manner set forth in this Section.

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- B. Neighborhood Public Park. Developer shall donate a minimum of four (4) acres of land for a Neighborhood Park, which shall be required to be improved to the City's minimum Neighborhood Park Standards. The Neighborhood Park shall be located in the approximate location designated on the Master Plan, which location has been selected by Developer and the Parks Department as meeting the following criteria:
1. *Access to Unimproved Open Space.* The Neighborhood Park shall be located adjacent to an area of Unimproved Open Space to be conveyed to the City, which contains pedestrian and bicycle trail access to a minimum of eight (8) acres of usable Unimproved Open Space designated as such on the Master Plan.
 2. *Vehicle access from public roadway.* The Neighborhood Park shall be in a location such that it is adjacent to a public roadway or such that the Neighborhood Park and its parking facilities are easily accessible from a nearby public roadway. Parking requirements for the Neighborhood Park shall be subject to approval by the Parks Department.
 3. *Pedestrian and bicycle access across public roadway.* The Neighborhood Park may be separated from the adjacent Unimproved Open Space by a public or private roadway, provided improvements are made under or upon the roadway such that pedestrian and bicycle access satisfactory to the Parks Department is provided between the two areas.
 4. *Pedestrian connectivity to Community Park.* The Neighborhood Park shall also have pedestrian access to the Community Park across a dedicated public trail easement a minimum of twenty feet (20') in width.

As the alternative locations indicated on the Master Plan are approximate, Developer may slightly adjust the final location of the Neighborhood Park with approval from the Parks Department as set forth in this agreement, provided all of the above criteria for park location are met, and the minimum applicable City Neighborhood Park Standards can be satisfied upon such final location.

- C. Compliance with Minimum Neighborhood Park Standards. Developer shall design and construct all improvements to the four acre Neighborhood Park in accordance with the City's minimum Neighborhood Park Standards, except as may be specifically modified or waived by this Agreement, at no cost to the City and without credit toward Park Impact Fees.
- D. Timing, Review and Acceptance of Design and Construction. Developer shall commence design and construction of the Neighborhood Park upon approval and issuance of the five hundredth (500th) residential building permit within the Planned Community. Review and approval of the design and improvements by the Parks Department shall be required consistent with the procedure typically

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required for Neighborhood Parks in the City. At the time of completion of Neighborhood Park improvements, Developer shall comply with the City's then-current policy for closeout, final inspection, and dedication of the Neighborhood Park to the City.

- E. **Balance of the Improvable Open Space.** Developer shall design and construct improvements to the remainder of the Improvable Open Space as designated on the Master Plan as adjacent parcels or parcels included in such subdivision plats receive final subdivision plat approval, but in no event shall Developer be obligated to design or construct improvements within the Improvable Open Space in less than ten (10) acre phases (with the exception of the four acre Neighborhood Park, which may be designed and constructed independent of any other adjacent Improvable Open Space). Developer shall have sole discretion over design and construction of improvements to the Improvable Open Space outside of the four acre Neighborhood Park, provided Developer complies with the terms and provisions of this Section 10.
- F. **Public Access to Unimproved Open Space.** Developer shall maintain public access to the Unimproved Open Space to be conveyed to the City at all times during development and construction of the Planned Community, except where considerations of safety, convenience and efficiency temporarily and reasonably require the restriction of public access or passage across said lands, in order to allow the development of and improvement to the improvable portions of the Planned Community.
- 11. **Compliance with City Design and Construction Standards.** Developer acknowledges and agrees that unless expressly stated otherwise nothing in this Agreement shall be deemed to relieve it from the obligation to comply with all applicable laws and requirements of the City necessary for development of the Planned Community, including the payment of fees and compliance with the City's design and construction standards for public improvements which are approved at the time of construction, except as may be specifically set forth otherwise herein.
- 12. **Time for Construction and Completion of the Planned Community.** Except as otherwise provided in this Agreement, Developer shall have the discretion as to the time of commencement, construction, phasing and completion of any and all development of the Planned Community.
- 13. **Parties' Obligations.** The parties shall do the following:
 - A. **Developer:** The Developer shall meet the following requirements in the times and manner set forth herein below.
 - i. ***Master Commitment of Developer.*** The obligations of Developer described by this Agreement and the Master Plan are intended by the parties to be comprehensive of all obligations required of Developer by

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the City. However, Developer acknowledges that additional Off-Site Improvements may be required based on final engineering of public infrastructure serving the Planned Community; in that event, Developer agrees to participate in the construction of such additional Off-site Improvements in percentages agreed to by the parties but generally representing the Planned Community's share of the impacts requiring said improvements to be made.

ii. *Construction of Off-site Improvements.*

a. Off-site Road and Traffic Improvements.

1. Developer Contributions. Developer and/or Secondary Developer(s) shall be responsible to pay the percentages of the engineer's estimated costs for all off-site traffic and road improvements as set forth in the Traffic Impact Study incorporated herein, as supplemented, updated or amended. Developer agrees that its contributions to the improvements contemplated in the Traffic Impact Study shall be made in advance of any new impacts projected to be caused by development of the Planned Community, and as the same are anticipated to require such improvements. City shall, in its sole discretion, require Developer to pay the required percentage to the City not later than the events or deadlines set forth in the Traffic Impact Study, as amended consistent with the terms of this Agreement. If City builds any off-site improvement before impacts from the Planned Community occur, Developer shall pay its required percentage by the method set forth in section 8.P. above.
2. Canyon View Drive Connection to Dixie Drive. In the event that the City is able to obtain the dedication of the right of way required to complete the connection of Canyon View Drive with Dixie Drive, and associated intersection improvements, then Developer shall be obligated to complete the initial surface street improvements required for said connection.
3. Developer's Obligation. Developer's obligation shall be limited to two lanes of travel and associated intersection improvements and does not include curb & gutter, sidewalks, street lights or landscape improvements with the exception of any interim drainage improvements as may be required to ensure the safety of the traveling public (collectively the "Canyon View Improvements"). Developer shall complete the Canyon View Improvements

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at the earlier of i) upon completion of the subdivision improvements to the first final plat in PA-3, or ii) one (1) year after the date which the City obtains the right of way dedication. In the event the City constructs the Canyon View Improvements before Developer is required, then Developer shall instead reimburse to the City its proportionate cost for the Canyon View Improvements on the same timeline.

4. Alternate to Canyon View Drive. In the event that the City is unable to acquire the necessary right of way for the Canyon View Drive extension as described in the foregoing paragraph, and notwithstanding the recommendations of the Traffic Impact Study, in order to provide an alternative route to and from Dixie Drive, Developer shall, prior to approval of the first final plat in Planning Area 3 ("PA-3") of the Planned Community, provide northbound-southbound paved access on Alienta Drive southward to Plantations Drive consistent with the standards of Subsection 8.P. of this Agreement.
5. Plantations Drive and Canyon View By-Pass. Completion of the Canyon View By-Pass or Plantations Drive access as identified in the Traffic Impact Study, shall be required as a condition of approval of any final plat within the Planned Community with the exception of PA-3 and Planning Areas 12 through 18, unless otherwise required by the Traffic Impact Study.
6. Not later than the final plat approval for the 1,966th unit in the Planned Community, Developer shall complete an updated traffic impact study to compare how the previous assumptions and actual development growth have matched with the original Traffic Impact Study incorporated herein, and make adjustments to assumptions and timing of impacts, as necessary. Upon completion of the updated traffic impact study, and review and acceptance of the same by the City, and agreement of the City and Developer the same shall be substituted for and shall become the Traffic Impact Study as the same is referred to and incorporated herein.

b. Sewer Improvements.

1. Special Improvement District (SID). Developer has participated in the development of off-site sewer

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improvements through the adoption of a Special Improvement District (SID) by the City of St. George and pursuant to a private agreement with neighboring developer(s). The City anticipates that Developer's participation in the SID provides sufficient sewer infrastructure capacity to develop the Planned Community consistent with the Master Plan as incorporated herein. However, the Parties recognize that the infrastructure capacity needs of the Planned Community may change as development occurs. Therefore Developer's participation in the SID does not relieve Developer or Secondary Developer of their obligation to construct sewer improvements as required by City ordinance to develop the Planned Community.

- c. Power. Off-site power improvements shall be completed pursuant to the agreement dated May 3, 2007, to which Developer is a party. Said agreement defines said parties' respective obligations to bear the costs to bring power service up Plantations Drive, including the construction of service and transmission lines and construction or relocation of substations, and also sets forth the deadlines for completing said improvements.
 - d. Water. Developer has participated in the development of off-site culinary water improvements through the adoption of a Special Improvement District by the City of St. George. The City anticipates that Developer's participation in the SID provides sufficient water infrastructure capacity to develop the Planned Community consistent with the Master Plan as incorporated herein. However, the Parties recognize that the infrastructure capacity needs of the Planned Community may change as development occurs. Therefore Developer's participation in the SID does not relieve Developer or Secondary Developer of their obligation to construct water improvements as required by City ordinance to develop the Planned Community.
- iii. ***Construction of Master On-site Improvements.*** The Master On-site Improvements servicing each Planning Area, as set forth in the Street and Utility Master Plan, shall be completed, or security for the completion of the same shall be posted by Developer, or Secondary Developer as a condition of approval for any subdivision final plat within a Planned Community requiring the Master On-site Improvements or portions thereof.
 - iv. ***Construction of Secondary On-site Improvements.*** Secondary On-site Improvements shall be completed and bonded for as required for all other

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subdivisions in the City and as set forth in the City ordinances and standards. Said completion and/or bonding shall be the responsibility of each individual Secondary Developer in the course of developing individual subdivisions each comprising a single Planning Area or Secondary Phase of the Planned Community.

- v. ***Deadlines and Requirements Dependent on Approved Studies for Particular Infrastructure.*** The deadlines, requirements, and cost share percentages set forth for each of the required infrastructure improvements described in the foregoing sections are dependent on the approved studies for the infrastructure described. Where appropriate, the current approved study is referenced above. Updates to any approved study which are not required as a result of Developer-desired changes to the Master Plan, but simply to update with respect to the actual progress of development of the Planned Community, shall be automatically applied to update the requirements of this Agreement with respect to the infrastructure to which the study relates. Should any approved study need to be amended, supplemented, or replaced because of Developer-desired changes to the Master Plan, then upon the approval of said amendment, supplement, or replacement by the City, the provisions of the foregoing paragraphs describing the Developer's responsibilities shall be deemed modified to incorporate and be consistent with the approved study as amended, supplemented, or replaced.
- vi. ***Monitoring and Reporting Density and Open Space as Development Progresses.*** With the filing of each subdivision plat in the Planned Community for approval with the City, Developer or the Secondary Developer filing such plat shall submit with the same a report on density which: (a) identifies the number of units and the density of units per acre proposed for the subdivision for which the plat is filed, (b) identifies the total number of units already platted and approved for development in the Planned Community, and (c) identifies the maximum number of units that may be platted in the remainder of the Planned Community if the current subdivision plat is approved as submitted. Developer or the Secondary Developer filing such plat shall also submit with the same a report on open space which: (x) identifies by map or description the Master Planned open space (and total acreage of the same) in the "open space bank" proposed to be utilized to meet open space requirements for the subdivision for which the plat is filed; (y) identifies by map or description the Master Planned open space (and total acreage of the same) in the "open space bank" already utilized to meet open space requirements for plats previously approved; and (z) identifies any remaining Master Planned open space (and total acreage of the same) in the "open space bank" which may be used to satisfy open space requirements in future subdivision plats in the Planned Development. The intent of this requirement is to allow the efficient review by the City of the overall density and open space usage of

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the Planned Community as development of the same progresses, and further to assist the parties to ensure that later-platted parcels have sufficient density available to ensure marketability and viability of each Planning Area, and the development of the Planned Community throughout consistent with the Master Plan as approved, and as may be modified by this Agreement.

- vii. ***Procedure for Hillside Review.*** Developer acknowledges that portions of the Planned Community are subject to review by the Hillside Review Board pursuant to St. George City Code section 10-13A-1 *et seq.* The City has permitted Developer to review the Planned Community in aggregate with the Hillside Review Board to determine which Planning Areas will be subject to full Hillside Review Board approval and be required to obtain a permit as required by St. George City Code. As a result of such review, City and Developer agree that ***Exhibit "D,"*** attached hereto and incorporated with this reference, shall designate specific slope areas which shall be required to apply for and obtain a hillside development permit as required by St. George City Code and which areas are not required to obtain such a permit.

B. **City:** The City shall do the following:

- i. ***Residential Density of the Planned Community.*** The City acknowledges that the Master Plan, as the same may be amended and adjusted pursuant to this Agreement, is in substantial conformance to the City's General Plan as amended on October 6, 2006, with the exception of the total number of planned units for which this Agreement supplements the General Plan accordingly. The parties agree that the overall conceptual maximum residential unit count of the Planned Community may equal but shall not exceed 3196 units unless a greater number is approved through the City's general plan amendment process, which approval if granted shall not require amendment of this Agreement. This conceptual maximum limit of 3196 dwelling units shall not be considered an entitlement number and shall be subject to any zoning ordinances including, but not limited to, hillside development regulations, setback and open space requirements. Densities in each individual Planning Area shall be as set forth in the Master Plan; however, Developer shall have the right to shift units from one Planning Area to another, thus modifying the relative densities in the affected Planning Areas, without being required to get City approval or to amend the Master Plan, provided that the overall maximum density for the Planned Community is not exceeded, and provided that the maximum density in any one Planning Area does not exceed the maximum density permitted in any given Planning Area in the Master Plan attached hereto. The development of the Planned Community to less than the full maximum residential unit density permitted shall not release Developer from any obligations to the City as set forth herein, unless as a result of a

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General Plan amendment which is not requested by Developer as described in 8.C. of this Agreement which limits the vested rights of Developer granted in this Agreement, or unless the reduction in total units results in a corresponding reduction in public facilities and/or improvements supported by the appropriate engineering/planning studies as approved by the City. Furthermore, the Planning Area designated on the Master Plan as "P.A. 3" shall in no event have a density greater than "medium density," or 9 units per acre, as said category is described in the Master Plan, unless otherwise approved by the City.

The foregoing provisions and limitations on residential unit density shall not apply to limit the amount of commercial space which may be developed in any Planning Area designated in the Master Plan, but shall be in addition to any commercial space developed in said Planning Area consistent with the Master Plan.

- ii. ***Plantations Drive Right-of-way.*** Unless an alternate access exists and such alternate access is approved by the City, Developer shall use its best efforts to obtain the right-of-way for Plantations Drive through property in the County, which is owned by private property owners; however, City shall also use its best efforts to obtain said right-of-way by other means. Developer agrees that should the right-of-way at any time not be available for dedication to the City and improvement to service the Planned Community, and should the City reasonably determine that the traffic impacts from further development would exceed the capacities of other available roadways and routes, further subdivision approvals in the Planned Community may be suspended by the City until additional rights-of-way and infrastructure, including Plantations Drive if necessary, are completed in anticipation of the additional impacts from further development in the Planned Community.
- iii. ***Utility Easements for Off-site Sewer Extension South to Plantations Drive.*** A sewer easement may be required in order to complete the extension of gravity flow sewer lines south from certain areas of the Planned Community to the main southern sewer line planned to run in Plantations Drive. Developer shall seek to obtain any right-of-way required for the sewer line to be constructed south of the Development Property in the County, which is currently owned by private property owners; however, City shall also use its best efforts to obtain said right-of-way by other means.
- iv. ***Sanitary Sewer Lift Station.*** The City acknowledges the Development Property may require the need for a sanitary sewer lift station ("Lift Station") to adequately provide sewer service to the Planned Community. Accordingly, the City agrees to permit the Developer to install a public Lift Station for sewer service to the Planned Community so long as the

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Lift Station is designed and constructed in accordance with the City's standards. City further agrees that upon completion, dedication and final acceptance, to operate the Lift Station facility.

14. **Agreement to Run With the Land.** This Agreement shall be recorded in the Office of the Washington County Recorder, shall be deemed to run with the Property, shall encumber the same, and shall be binding on and inure to the benefit of all successors and assigns of Developer in the ownership or development of any portion of the Property.
15. **Assignment.** Neither this Agreement nor any of the provisions, terms or conditions hereof can be assigned any other party, individual or entity without assigning also the responsibilities arising hereunder. This restriction on assignment is not intended to prohibit or impede the sale by Developer.
16. **No Joint Venture, Partnership or Third Party Rights.** This Agreement does not create any joint venture, partnership, undertaking or business arrangement between the parties hereto nor any rights or benefits to third parties, except as expressly provided herein.
17. **Integration.** This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and integrates all prior conversations, discussions or understandings of whatever kind or nature any may only be modified by a subsequent writing duly executed and approved by the parties hereto.
18. **Notices.** Any notices, requests, or demands required or desired to be given hereunder shall be in writing and should be delivered personally to the party for who intended, or, if mailed by certified mail, return receipt requested, postage prepaid to the parties as follows:

City:

City Manager
St. George City Hall
175 East 200 North
St. George, Utah 84770

With a copy to:

City Attorney
St. George City Hall
175 East 200 North
St. George, Utah 84770

Developer:

St. George 730, LLC
Attn: Mark Schnippel
9960 W. Cheyenne Ave., Suite 210
Las Vegas, Nevada 89129

With a copy to:

Matthew J. Ence
Snow Jensen & Reece
Tonaquint Business Park, Bldg. B
912 West 1600 South, Suite 200
St. George, UT 84770

If personally delivered, notices and other communications under this Agreement shall be deemed to have been given and received and shall be effective when personally delivered. If sent by mail in the form specified in this section, notices and other

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communications under this Agreement shall be deemed to have been given and received and shall be effective three (3) days after deposit in the U.S. Mail.

Any party may change its address by giving written notice to the other party in accordance with the provision of this section.

19. **Law.** Any dispute regarding this agreement shall be heard and settled under the laws of the State of Utah. Whenever the context requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, any gender shall include both genders, and the term "person" shall include an individual, partnership (general or limited), corporation, trust, or other entity or association, or any combination thereof. This Agreement shall bind and insure to the benefit of the parties hereto and their respective successors and assigns. The provisions of this Agreement shall be constructed as both covenants and conditions in the same manner as though the words importing such covenants and conditions were used in each separate provision hereof.
20. **Court Costs.** In the event of any litigation between the parties arising out or related to this Agreement, the prevailing party shall be entitled to an award of reasonably court costs, including reasonable attorney fees.
21. **Expenses.** The Developer and the City each shall pay their own costs and expenses incurred in preparation and execution of and performance under this Agreement, except as otherwise expressly provided herein. In the event of any action under or related to this Agreement, with or without suit, the party which is found in default, or the party against whom a right or forfeiture is successfully asserted, shall pay the costs and disbursements of such action.
22. **Waiver.** Acceptance by either party of any performance less than required hereby shall not be deemed to be a waiver of the rights of such party to enforce all of the terms and conditions hereof. No waiver of any such right hereunder shall be binding unless reduced to writing and signed by the party to be charged therewith.
23. **Effective Date.** This Agreement shall be effective as of the date filed for public record in the office of the Recorder for Washington County, Utah.

(signature page to follow)

EXHIBIT "A"

**LEGAL DESCRIPTION
OF THE
DEVELOPMENT PROPERTY**

EXHIBIT A
PROPERTY LEGAL DESCRIPTION

Beginning at the Section Corner common to Sections 27-28-33-34 Township 42 South, Range 16 West, Salt Lake Base and Meridian and running;

Thence North 88°32'37" West 2621.44 feet to the Quarter Corner common to said Sections 28-33;
thence North 1°50'37" East 3992.42 feet along the center section line to the North 1/16 Corner of said Section 28;
thence South 88°31'07" East 1690.18 feet along the 1/16 line to a point on the East boundary of Santa Maria at Sunbrook Phase 4 Amended as on file in the Office of the Recorder, Washington County, Utah (Inst. No. 20100028534);
thence South 9°52'28" West 7.97 feet along said East line to a point on a 750.00 foot radius non-tangent curve concave to the Southwest (Radius bears: South 9°47'50" West). Said point also being on the proposed centerline of Plantations Drive, a proposed 80.00 foot wide public street and continuing along said proposed centerline the following eleven (11) courses;
thence Southeasterly 342.54 feet along said 750.00 foot radius curve through a central angle of 26°10'06" to a point of tangency;
thence South 54°02'04" East 56.91 feet to a point of curvature;
thence 616.76 feet along a 740.00 foot radius curve to the right through a central angle of 47°45'13", to a point of tangency;
thence South 6°16'51" East 123.72 feet to a point of curvature;
thence 849.03 feet along an 1150.00 foot radius curve to the left through a central angle of 42°18'03" to a point of tangency;
thence South 48°34'55" East 1997.56 feet to a point of curvature;
thence 561.96 feet along a 1000.00 foot radius curve to the right through a central angle of 32°11'52" to a point of reverse curvature;
thence 1006.47 feet along a 1250.00 foot radius curve to the left through a central angle of 46°07'59" to a point of reverse curvature;
thence 222.33 feet along a 1000.00 foot radius curve to the right through a central angle of 12°44'20" to a point of tangency;
thence South 49°46'43" East 490.01 feet to a point of curvature;
thence 238.06 feet along a 1500.00 foot radius curve to the right through a central angle of 9°05'36" to a point that intersects a Southwesterly projection of the Alianta Drive centerline as established in The Highlands @ Green Valley Phase 1 (Inst. No. 20060002398);
thence North 24°49'47" East 651.13 along said extension and the Easterly line of Parcels 32 and 33 as described in Inst. No. 200900646536 to its intersection with the North Section line of said Section 34;
thence South 88°05'44" East 33.23 feet along the Section Line to a point that is North 88°05'44" West 1374.00 feet along the section line from the Section corner common to Sections 26-27-34-35, Township 42 South, Range 16 West, Salt Lake Base and Meridian;
thence South 24°48'29" West 100.95 feet to and along the West boundary of Cottages North Phase 3 (Inst. No. 629336, Book:1293, Page:870)
thence South 1°50'54" West 463.90 feet along said West line;

thence South 23°40'49" East 97.91 feet along said West line to a point on the West line of Cottages North Phase II (Inst. No. 478939, Book:851, Page:221)

thence South 9°35'49" East 648.35 feet to the Southwest corner of said subdivision. Said point also being on a Westerly extension of the North line of Canyon View Drive as established from existing ring and lid control monuments;

thence North 88°08'36" West 1.07 along said extension line to a point on a 20.00 foot radius non tangent curve concave to the Northeast (Radius bears: North 29°56'22" East). Said point also being on the East line of that parcel described in Deed of Dedication (Inst. No. 700320, Book:1384, Page:229) as established from said ring and lid control monuments in Canyon View Drive and continuing along the North and West line of said Deed of Dedication the following six (6) courses;

thence 17.62 feet along said curve through a central angle of 50°28'30";

thence South 80°24'52" West 80.00 feet along a radial bearing South 9°35'08" East 435.96 feet to a point of curvature;

thence 34.58 feet along a 540.00 foot radius curve to the left through a central angle of 3°40'07" to a point of tangency

thence South 13°15'15" East 458.48 feet to a point of curvature;

thence 816.16 feet along a 620.00 foot radius curve to the left through a central angle of 75°25'24" to a point of tangency. Said point also being on the South line of that parcel described in Warranty Deed (Inst. No. 814829, Book:1539, Page:350) and continuing along the South line of said parcel the following Five (5) courses;

thence South 88°40'40" East 417.51 feet to a point of curvature. Said point also being North 0°48'55" East 26.216 feet along the Section line and North 88°40'40" West 144.188 feet from the Quarter Corner common to said Sections 34 and 35;

thence 705.17 feet along a 900.00 foot radius curve to the right through a central angle of 44°53'32";

thence North 46°12'51" East 80.00 feet along a radial bearing to a point on a 25.00 foot radius curve concave to the East;

thence Northeasterly 36.11 feet along said curve through a central angle of 82°45'31" to a point of reverse curvature;

thence 53.39 feet along a 175.00 foot radius curve to the left through a central angle of 17°28'54" to a point on a Westerly extension of the South boundaries of Las Palmas Resort Condominiums II Phase VII, Amended & Extended (Inst. No. 943875, Book:1742, Page:670) and Las Palmas Resort Condominiums II Phase VIII, Corrected, Amended & Extended (Inst. No. 20070037723);

thence South 88°42'10" East 774.66 feet along said extension to and along said South boundaries;

thence South 1°30'19" East 421.72 feet along the East line of the Northwest ¼ of the Southwest ¼ of said Section 35 to the Southeast corner of that parcel described in Warranty Deed (Inst. No. 272765, Book: 370, Page:685);

thence South 88°37'07" East 1323.94 along the South line of said parcel to a point on the Center Section line of said Section 35;

thence South 0°14'30" West 807.72 feet along said line to the Southeast corner of the Northeast ¼ of the Southwest ¼ of said Section 35;

thence North 88°36'09" West 2598.96 feet along the 1/16 line to the Southeast corner of Sectional Lot 3, said Section 34. Said point also being South 3°16'05" East 1330.64 feet from said Quarter Corner common to Sections 34 and 35;

thence North 88°27'41" West 1296.03 feet along the 1/16 line to the Southeast corner of that parcel described in Warranty Deed (Inst. No. 20080023192) and continuing along said parcel the following four (4) courses;

thence Northerly 250.73 feet along a 667.00 foot radius non-tangent curve concave to the Southwest (Radius bears South 86°46'26" West) through a central angle of 21°32'18";

thence North 78°16'07" West 371.72 feet;

thence South 38°59'48" West 246.42 feet;

thence South 1°32'28" West 110.33 feet to a point on the 1/16 line;

thence North 88°27'41" West 658.26 feet to the South 1/16 corner of said Section 34;

thence North 88°26'12" West 1336.31 feet along the 1/16 line to the Southwest 1/16 corner of said Section 34;

thence North 1°17'01" East 1329.68 feet along the 1/16 line to the West 1/16 corner of said Section 34;

thence North 88°23'46" West 1333.98 feet along the Center Section line to the Quarter Corner common to said Sections 33 and 34;

thence North 1°17'37" East 2669.16 feet along the Section line to the Point of Beginning.

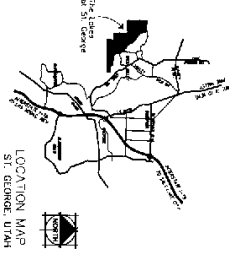
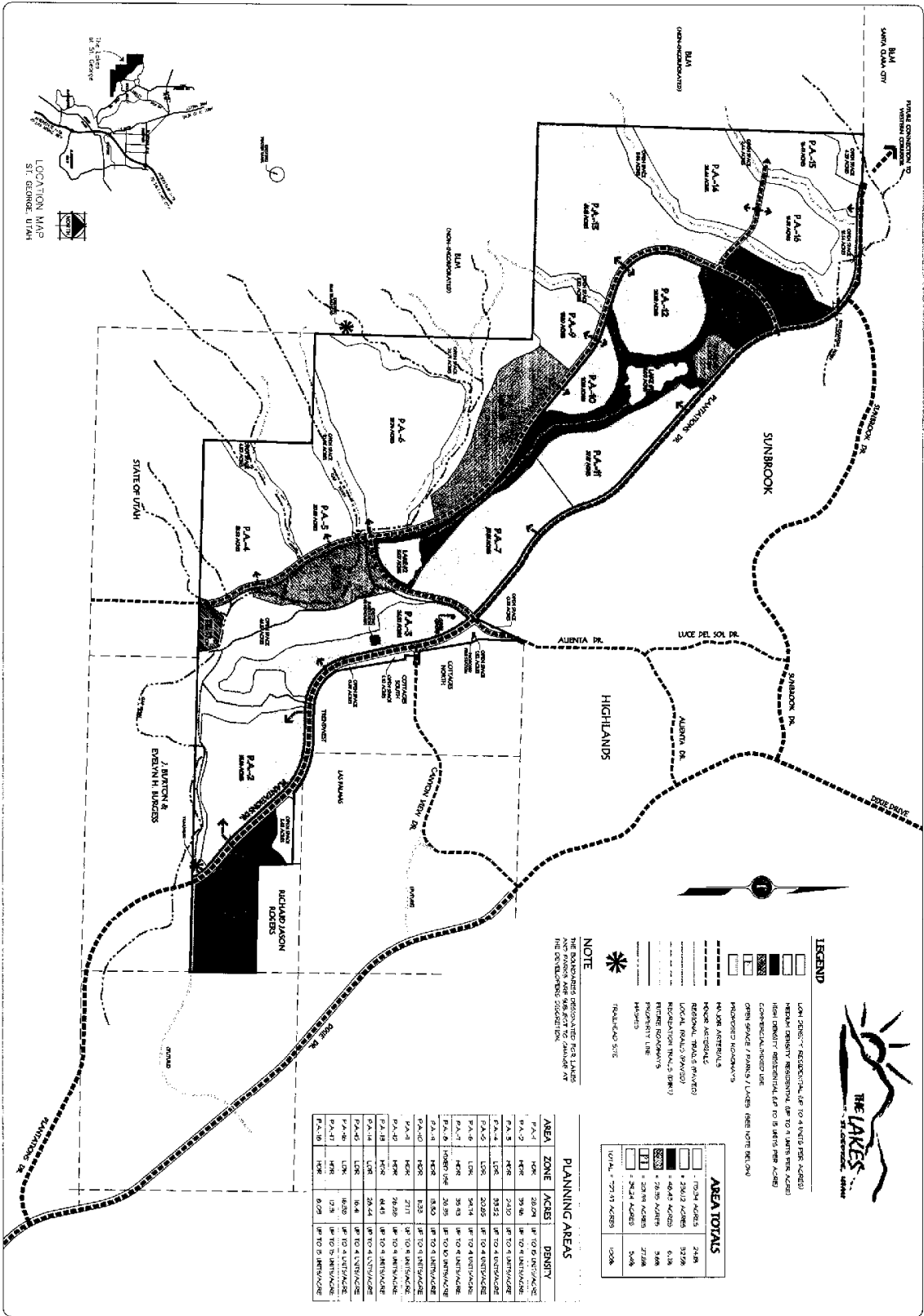
Containing Approximately 719.68 Acres

Thursday, January 09, 2014 Final

EXHIBIT "B"

**LAND USE PLAN
FOR THE
PLANNED COMMUNITY**

(Together with Exhibit "C," the "Master Plan")



LEGEND

- LOW DENSITY RESIDENTIAL (UP TO 4 UNITS PER ACRE)
- MEDIUM DENSITY RESIDENTIAL (UP TO 10 UNITS PER ACRE)
- HIGH DENSITY RESIDENTIAL (UP TO 15 UNITS PER ACRE)
- COMMERCIAL/INDUSTRIAL USE
- OPEN SPACE / PARKS / PLAYERS (SEE NOTE BELOW)
- RECREATION/RECREATION
- MAJOR ARTERIAL
- HOV-3 ARTERIAL
- REGIONAL TRUNK (PRIVATE)
- LOCAL TRUNK (PRIVATE)
- RESOLUTION TRUNK (BMT)
- RESOLUTION TRUNK (BMT)
- PROPOSED LINE
- PROPOSED
- RETRACTED SITE

NOTE
 THE SHOWN AREAS ARE NOT TO BE CONSIDERED A GUARANTEE OF THE DEVELOPER'S INTENTION.

PLANNING AREAS

AREA	ZONE	ACRES	DENSITY
PA-1	HOC	20.00	UP TO 0.5 UNITS/ACRE
PA-2	HRC	39.00	UP TO 4 UNITS/ACRE
PA-3	HRC	21.00	UP TO 4 UNITS/ACRE
PA-4	LDR	33.00	UP TO 4 UNITS/ACRE
PA-5	LDR	22.00	UP TO 4 UNITS/ACRE
PA-6	LDR	30.00	UP TO 4 UNITS/ACRE
PA-7	LDR	30.00	UP TO 4 UNITS/ACRE
PA-8	LDR	30.00	UP TO 4 UNITS/ACRE
PA-9	LDR	30.00	UP TO 4 UNITS/ACRE
PA-10	LDR	30.00	UP TO 4 UNITS/ACRE
PA-11	LDR	30.00	UP TO 4 UNITS/ACRE
PA-12	LDR	30.00	UP TO 4 UNITS/ACRE
PA-13	LDR	30.00	UP TO 4 UNITS/ACRE
PA-14	LDR	30.00	UP TO 4 UNITS/ACRE
PA-15	LDR	30.00	UP TO 4 UNITS/ACRE
PA-16	HOC	6.00	UP TO 0.5 UNITS/ACRE

LAND USE PLAN FOR THE LAKES AT ST. GEORGE ST. GEORGE, UTAH



NO.	DATE	DESCRIPTION
1	02/26/2014	ISSUED FOR PERMITTING

Thursday, January 09, 2014 Final

EXHIBIT "C"

**OPEN SPACE/PARKS PLAN
FOR THE
PLANNED COMMUNITY**

(Together with Exhibit "B," the "Master Plan")

Thursday, January 09, 2014 Final

EXHIBIT "D"

**HILLSIDE REVIEW PLAN
FOR THE
PLANNED COMMUNITY**



October 17, 2008

Hillside Review Board
City of St. George
175 East 200 North
St. George, Utah 84770

Subject: Request for a site visit and review of specific slopes at the Lakes of St. George project to determine slope sensitivity.

Ladies and Gentlemen,

On behalf of the property owners, Rosenberg Associates has prepared this document for your consideration. We have been working with City Staff to create an exhibit that will specify which planning areas have sensitive slopes and therefore will require a hillside submittal package at the time of platting. This exhibit will be added to the Development Agreement between the City of St. George and the Lakes of St. George so that when a planning area sells to a secondary developer in the future, the secondary developer will know if the planning area is subject to a hillside review.


We have created said exhibit and attached it to this document. It is labeled as 'Overall Slope Analysis Exhibit' and it includes a Hillside Review table that specifies which planning areas will require a hillside review. We have also listed some planning areas as 'undetermined'. These planning areas include smaller hillside areas or washes that fall into the 20-29% category that we feel are questionable as far as slope sensitivity is concerned and therefore we would like to walk these areas with the Hillside Review Board to determine if they are indeed sensitive and will require a hillside review. If they are determined as not sensitive, then the planning area will be moved to the "not required" column of the table.

We have also included more detailed sheets for each planning area in question and have marked on the questionable slopes survey point locations that will be located in the field to help us with our reference.

Please review this document and if you have any questions, contact myself or Rick Rosenberg at 673-8586. We appreciate your consideration and look forward to meeting with you and working together to resolve this issue.

Thank You.

Jacob Sylvester
Rosenberg Associates

	THE LAKES OF ST. GEORGE ST. GEORGE, UTAH	OVERALL SLOPE ANALYSIS EXHIBIT	SHEET 1 OF 1 SHEETS
CIVIL ENGINEERS • LAND SURVEYORS 1000 WEST 1000 SOUTH, SUITE 100, ST. GEORGE, UTAH 84770 TEL: 435-633-1111 FAX: 435-633-1112 WWW.THELAKESOFSTGEORGE.COM			



SLOPE ANALYSIS	
UNSATURATED	PA-1
PA-2	PA-4
PA-3	PA-5
PA-6	PA-7
PA-8	PA-9
PA-10	PA-11
UNSATURATED	PA-12
PA-13	PA-14
PA-15	PA-16

LEGEND	
[Symbol]	0-1% SLOPE AREA
[Symbol]	2-5% SLOPE AREA
[Symbol]	6-10% SLOPE AREA
[Symbol]	11-15% SLOPE AREA
[Symbol]	16-20% SLOPE AREA
[Symbol]	21-25% SLOPE AREA
[Symbol]	26-30% SLOPE AREA
[Symbol]	31-35% SLOPE AREA
[Symbol]	36-40% SLOPE AREA
[Symbol]	41-45% SLOPE AREA
[Symbol]	46-50% SLOPE AREA
[Symbol]	51-55% SLOPE AREA
[Symbol]	56-60% SLOPE AREA
[Symbol]	61-65% SLOPE AREA
[Symbol]	66-70% SLOPE AREA
[Symbol]	71-75% SLOPE AREA
[Symbol]	76-80% SLOPE AREA
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[Symbol]	86-90% SLOPE AREA
[Symbol]	91-95% SLOPE AREA
[Symbol]	96-100% SLOPE AREA

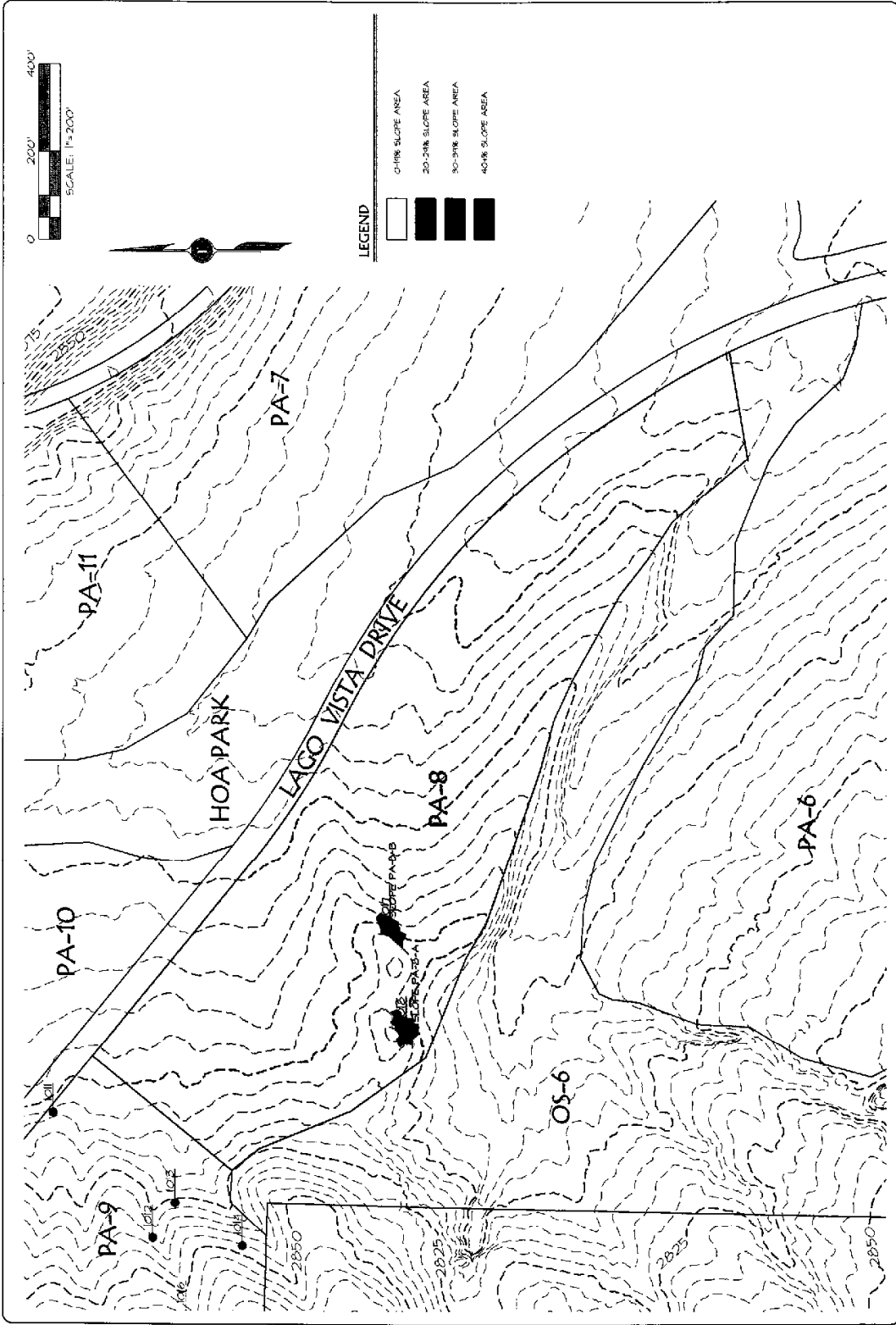
SLOPE DATA			
Color	Code	Area (Acres)	Percentage of Total Area
[Symbol]	0-1%	10.5	1.2%
[Symbol]	2-5%	15.2	1.8%
[Symbol]	6-10%	22.8	2.7%
[Symbol]	11-15%	35.1	4.2%
[Symbol]	16-20%	48.5	5.8%
[Symbol]	21-25%	62.3	7.5%
[Symbol]	26-30%	78.9	9.5%
[Symbol]	31-35%	95.4	11.5%
[Symbol]	36-40%	112.8	13.7%
[Symbol]	41-45%	130.2	15.8%
[Symbol]	46-50%	148.5	17.9%
[Symbol]	51-55%	165.8	20.0%
[Symbol]	56-60%	182.1	22.1%
[Symbol]	61-65%	198.4	24.2%
[Symbol]	66-70%	214.7	26.3%
[Symbol]	71-75%	231.0	28.4%
[Symbol]	76-80%	247.3	30.5%
[Symbol]	81-85%	263.6	32.6%
[Symbol]	86-90%	279.9	34.7%
[Symbol]	91-95%	296.2	36.8%
[Symbol]	96-100%	312.5	38.9%

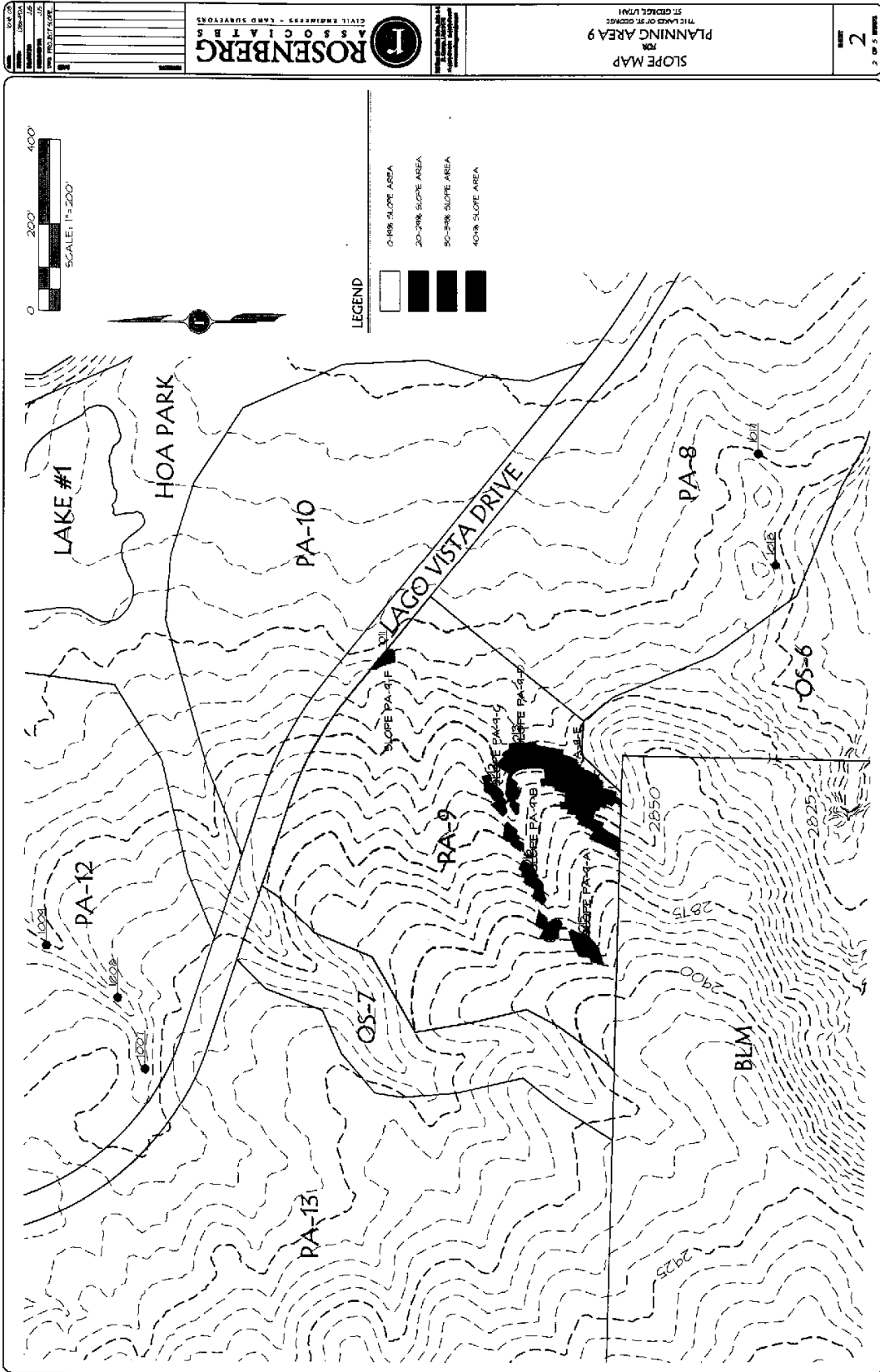
ROSENBERG ASSOCIATES CIVIL ENGINEERS - LAND SURVEYORS

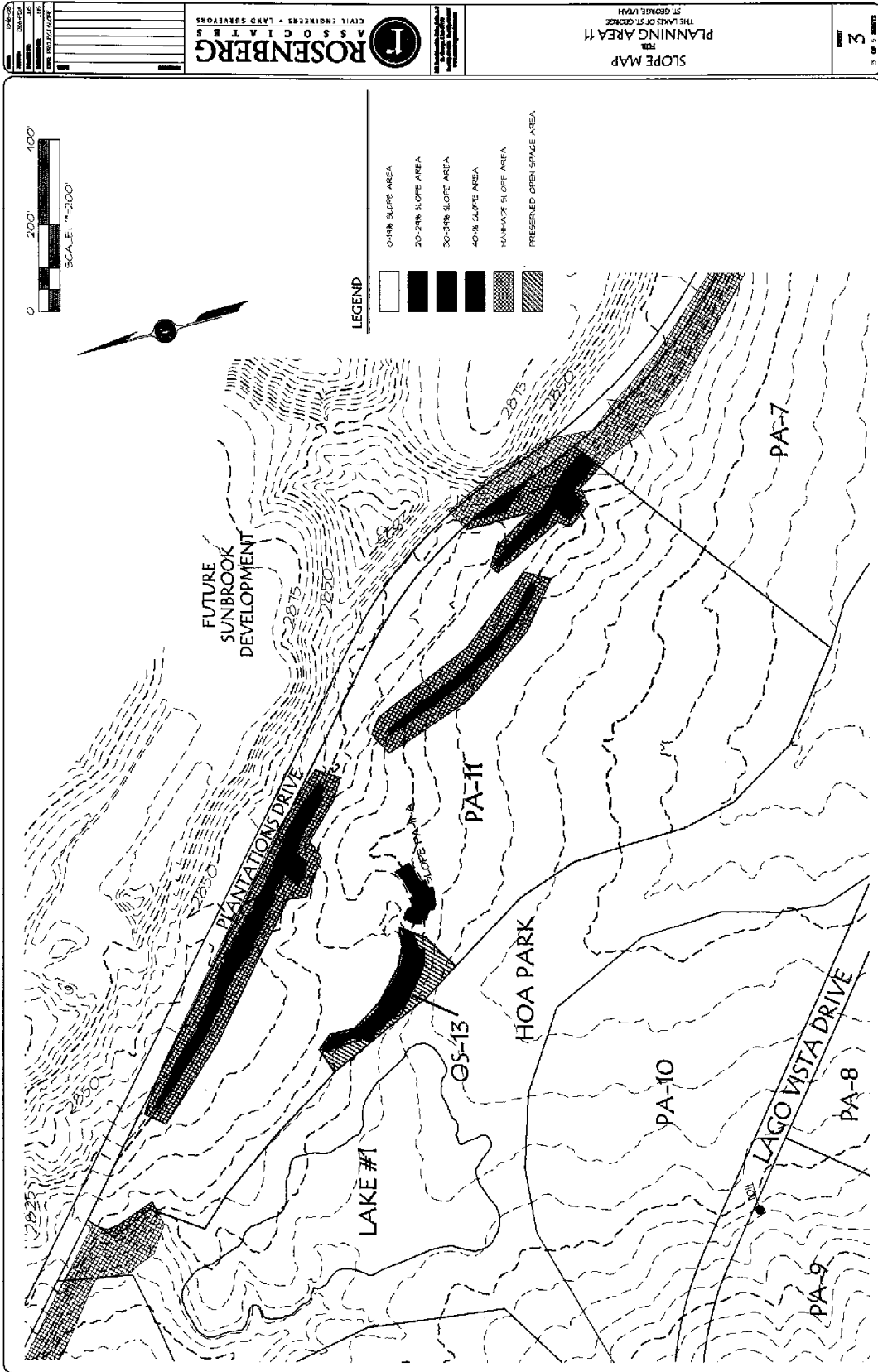
PLANNING AREA 8 SLOPE MAP

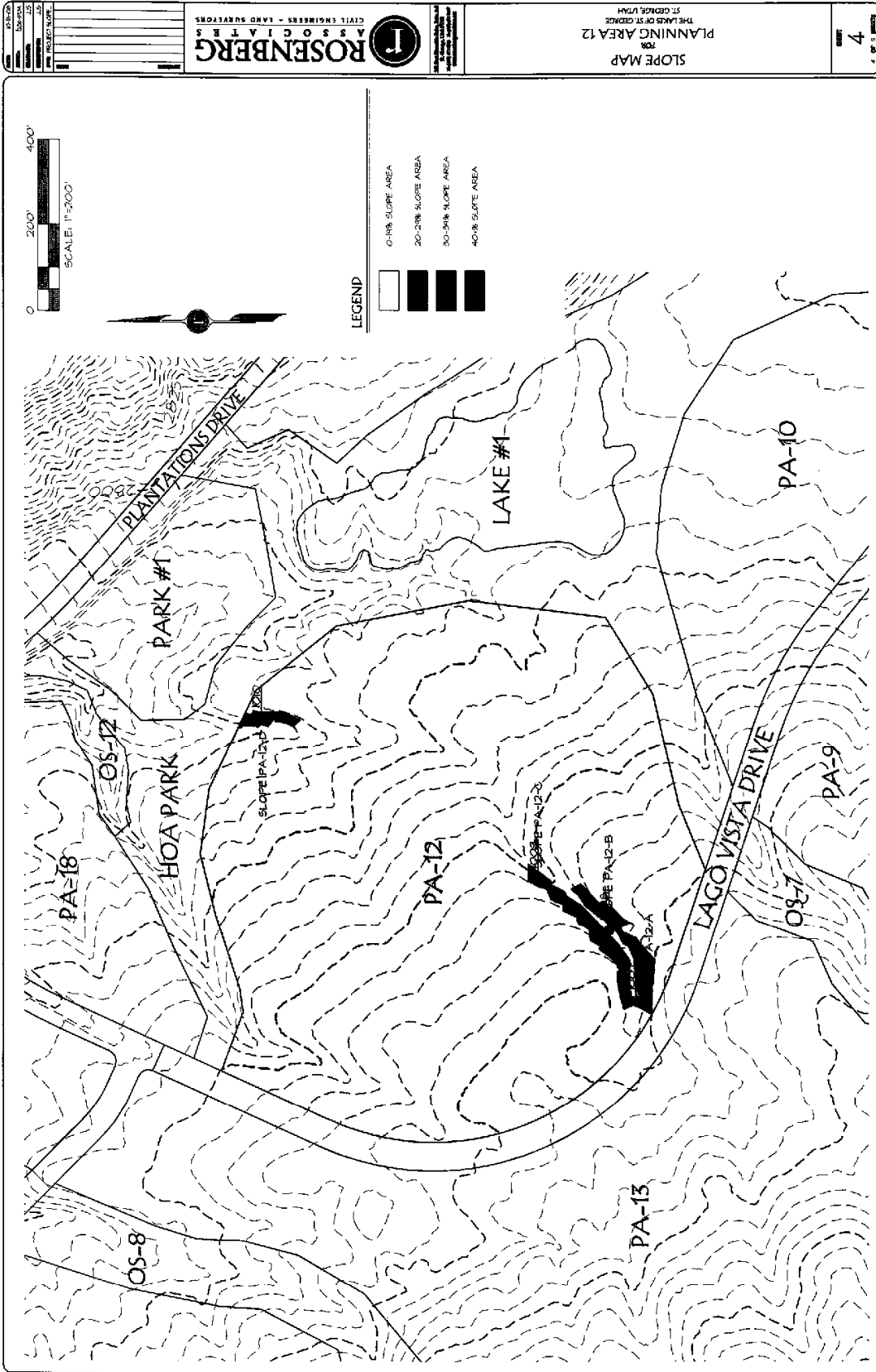
THE LANDS OF GEORGE ST. GEORGE (1741)

1 OF 5 SHEETS

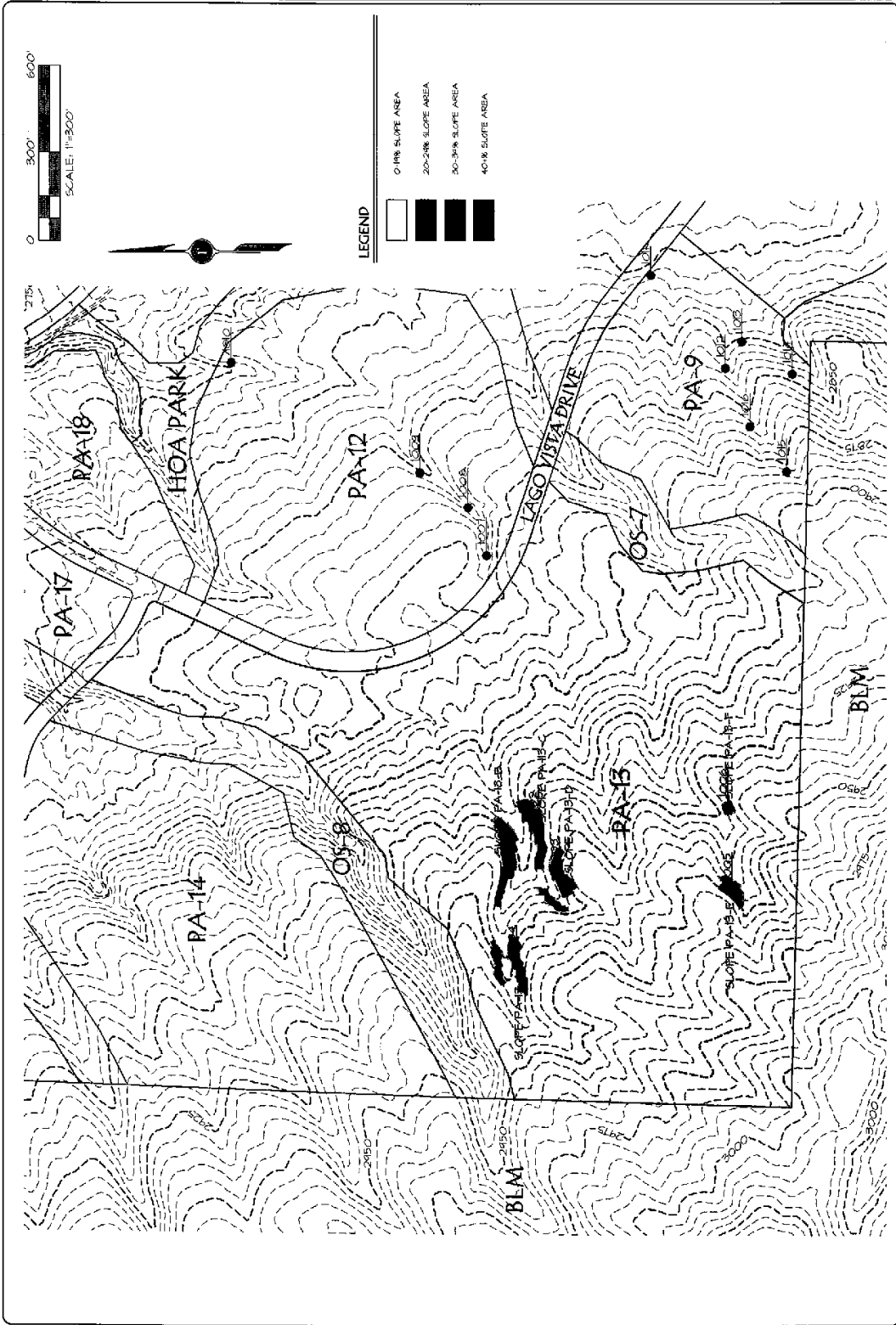








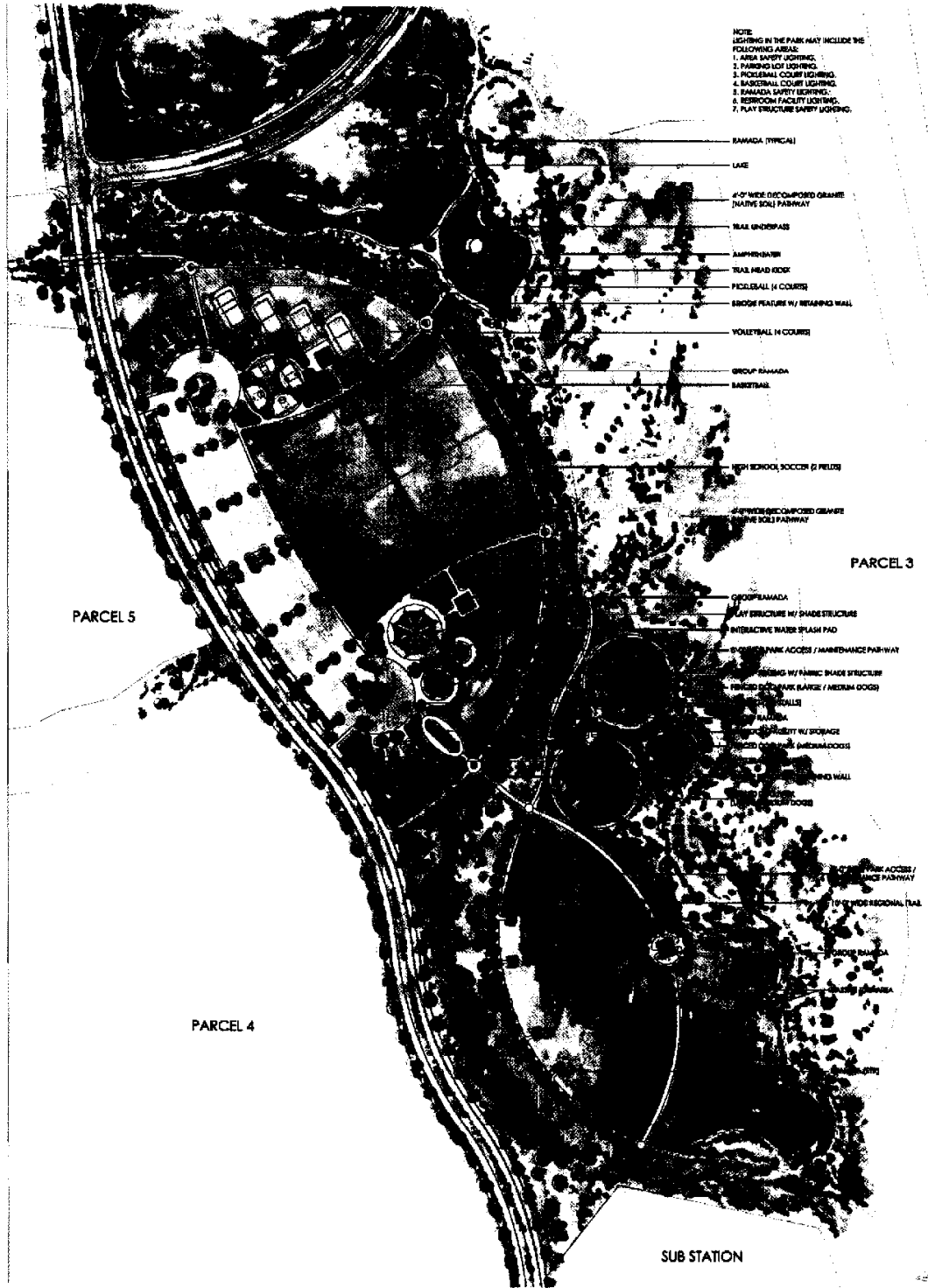
ROSENBERG ASSOCIATES CIVIL ENGINEERS - LAND SURVEYORS
PLANNING AREA 13
SLOPE MAP
5



Thursday, January 09, 2014 Final

EXHIBIT "E"

**COMMUNITY PARK CONCEPT PLAN
FOR THE
PLANNED COMMUNITY**



St. George 730 LLC.

The Lakes at St. George
 Conceptual Sport Park

0 25 50 100
 Feet
 June 24, 2009
ORRBY MICCETT
 A landscape architecture and interior design firm
 10000 N. 10th Street, Suite 100
 Scottsdale, AZ 85254
 Phone: 480.344.1111
 Fax: 480.344.1112
 www.orrby-miccett.com