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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
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DEP RT REC'D FOR LAYTON CITY CORPO
RATION

AGREEMENT FOR DEVELOPMENT OF LAND BETWEEN LAYTON CITY AND
HEARTLAND LLC

NOVEMBER 3, 2017

**AGREEMENT FOR DEVELOPMENT OF LAND BETWEEN LAYTON CITY AND
HEARTLAND LLC**

THIS AGREEMENT for the development of land (hereinafter referred to as this "Agreement") is made and entered into this 3RD day of November, 2017, between LAYTON CITY, a municipal corporation of the State of Utah (hereinafter referred to as "City"), and HEARTLAND LLC (hereinafter referred to as "Owner"), with City and Owner collectively referred to as the "Parties" and separately as "Party".

RECITALS

WHEREAS, in furtherance of the objectives of the Layton City General Plan, City has considered an application for a zone change from A (Agriculture) to M-1 (Light Manufacturing/Industrial), of a certain property located at approximately 320 East Antelope Drive in Layton City (hereinafter the "Subject Area"); and

WHEREAS, the total area proposed for rezone and development consists of approximately 12.37 acres and is depicted on Exhibit A attached hereto (hereinafter Exhibit "A"); and

WHEREAS, Parties desire to enter into this Agreement to provide for the development of the Subject Area, in a manner consistent with the City's General Plan and the intent reflected in that Plan; and

WHEREAS, City is willing to grant M-1 (Light Manufacturing/Industrial) zoning approval on the Subject Area, subject to Owner agreeing to certain limitations and undertakings described herein, which Agreement will provide protection to surrounding property values and will enable the City Council to consider the approval of such development at this time; and

WHEREAS, City finds that entering into the Agreement with Owner is in the vital and best interest of the City and the health, safety, and welfare of its residents.

NOW, THEREFORE, each of the Parties hereto, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, covenant and agree as follows:

**ARTICLE I
DEFINITIONS**

The following terms have the meaning and content set forth in this Article I, wherever used in this Agreement:

- 1.1 "City's Undertakings" shall mean the obligations of the City set forth in Article III.
- 1.2 "Owner's Undertakings" shall have the meaning set forth in Article IV.
- 1.3 "APZ Land Use Easements" shall mean the easements held by the State of Utah restricting land uses and occupancy of properties located within the designated Accident Potential Zone (APZ), and recorded against those properties.

1.4 "M-1" zoning shall mean the Light Manufacturing/Industrial zoning district, the uses of which shall be those set forth in Article IV, and shall comply in all aspects with the Layton Municipal Code.

ARTICLE II CONDITIONS PRECEDENT

2.1 This Agreement shall not take effect until City has approved this Agreement pursuant to a resolution of the Layton City Council.

2.2 M-1 (Light Manufacturing/Industrial) zoning consistent with Exhibit "A" is a condition precedent to Owner's Undertakings in Article IV.

ARTICLE III CITY'S UNDERTAKINGS

3.1 Subject to the satisfaction of the conditions set forth in Article IV, City shall approve the rezone of the Subject Area from its present zoning of A to M-1, with an effective date of no sooner than the effective date and adoption of this Agreement by the City Council. Any zoning amendment shall occur upon a finding by the City Council that it is in the best interest of the health, safety and welfare of the citizens of Layton City to make such a change at this time. All permits and site plan reviews and approvals shall be made pursuant to City ordinances. Nothing herein shall be construed as a waiver of the required reviews and approvals required by City ordinance.

3.2 The proposed zoning changes are as reflected on Exhibit "A" for the overall area.

ARTICLE IV OWNERS' UNDERTAKINGS AND RIGHTS

After the Effective Date, and conditioned upon City's performance of its undertakings set forth in Article III, and provided Owner has not terminated this Agreement pursuant to Section 7.8, Owners agree to the following:

4.1 Only the following uses allowed under the M-1 (Light Manufacturing/Industrial) zoning designation as outlined in Table 6-2 of Layton Municipal Code under the Agriculture and Related Uses section of the zoning ordinance shall be approved:

- 4.1.1 Agriculture;
- 4.1.2 Beekeeping;
- 4.1.3 Crop Production for Sale; and
- 4.1.4 Commercial Use Orchard.

4.2 Only the following uses allowed under the M-1 (Light Manufacturing/Industrial) zoning designation as outlined in Table 6-2 of Layton Municipal Code under the Industrial and Related Uses section of the zoning ordinance shall be approved:

- 4.2.1 Fabricated Textile Products;
- 4.2.2 Food Products Manufacturing;
- 4.2.3 Furniture Manufacturing;
- 4.2.4 Industrial Services;

- 4.2.5 Light Manufacturing Processes (Which do not emit detectable dust, odor, fumes, or gas beyond the boundary of the property, or noise above ambient level);
- 4.2.6 Non-Metallic Products Manufacturing;
- 4.2.7 Accessory Outdoor Storage (Associated with a structure occupied by a primary use);
- 4.2.8 Paper Products Manufacturing; and
- 4.2.9 Wholesale Trade and Warehousing.

4.3 Only the following uses allowed under the M-1 (Light Manufacturing/Industrial) zoning designation as outlined in Table 6-2 of Layton Municipal Code under the Commercial and Related Services section of the zoning ordinance shall be approved:

- 4.3.1 Bakery, Wholesale;
- 4.3.2 Cabinet or Furniture Upholstery Shop;
- 4.3.3 Clothing or Similar Light Manufacturing;
- 4.3.4 Dairy Processing or Ice Cream Plant;
- 4.3.5 Lithography or Print Shop;
- 4.3.6 Maintenance or Repair Service for Buildings;
- 4.3.7 Mini-Storage Units (Including buildings that store larger recreational vehicles);
- 4.3.8 Outdoor Storage of Operable, Licensed, and Registered Vehicles, Recreational Vehicles (RV), Boats and Trailers;
- 4.3.9 Storage Warehouse;
- 4.3.10 Welding or Machine Shop; and
- 4.3.11 Wholesale Office, Storage, Sales.

4.4 In the event of conflict between Table 6-2 of Layton Municipal Code and APZ Land Use Easements, the more restrictive shall apply.

- 4.4.1 Any future amendments to Table 6-2 of Layton Municipal Code and land use definitions of the zoning ordinance shall be interpreted for equivalent applicable uses to those outlined in 4.1, 4.2 and 4.3 by the Zoning Administrator.
- 4.4.2 Mini Storage Units (see 4.3.7) and Storage Warehouse (see 4.3.9) shall be subject to a minimum of one (1) annual exterior inspection by Layton City that could result in an interior inspection with reasonable cause.
 - 4.4.2.1 Business use, occupancy, or recreational activities that would increase the frequency of visits and use of mini Storage Units and Storage Warehouse facilities for any other uses than storage of personal belongings or commercial inventory is prohibited.
- 4.4.3 Compliant use of Mini Storage Units and Storage Warehouses shall be regulated through a Layton City business license agreement which shall be renewed on an annual basis. Non-compliant use of Mini Storage Units and Storage Warehouses, such as business or residential occupancy in violation of the business license agreement may result in revocation or non-renewal of a business license to operate storage facilities.

4.5 All development proposals on the property submitted to the City shall be forwarded to Hill Air Force Base, State of Utah, or its designee for review. Proposed development shall comply with the APZ Land Use Easements including recommended noise level reduction (NLR) levels.

4.6 Use of 1800 North for vehicle access onto the property shall be limited to employee and customer vehicle access to onsite parking, trucks and vans (under 28 feet in total length and no more than

13,000 lbs.), and emergency vehicles. A locked gate that is setback at least 40 feet from the right-of-way at 175 East shall be provided with a Knox box for limited access by authorized emergency vehicles. All other trucks and freight vehicles shall be limited to access the property from the north frontage along Antelope Drive, with the option to access Fort Lane to the east through separate cross-access agreement with the adjacent property owner. Private drives shall be designed to accommodate emergency vehicle turning movements and access requirements.

4.7 Freight and delivery vehicle loading shall be contained within the interior of the site to minimize negative impacts on residences fronting 1800 North, and residences abutting the south and west property boundaries. Vehicle loading is limited to the north side of buildings built along the south property boundary, and to the east of buildings built along the west property boundary.

4.8 Developer agrees to abide by the regulations and requirements of the M-1 (Light Manufacturing/Industrial) zoning designation, with the following additions:

4.8.1 For the purpose of buffering and site compatibility with surrounding development, projects shall require additional landscaping and architectural articulation. Landscaping percentages and buffer strips shall be increased to ensure compatibility with adjacent properties.

4.8.1.1 The minimum landscaped setback along 1800 North shall be at least fifteen feet (15') in width, the minimum landscaped setback along Antelope Drive shall be at least twenty feet (20') in width, and the minimum landscape percentage for a development site shall be ten percent (10%);

4.8.1.2 Any building frontage along 1800 North, and any off-street parking along the street frontage of 1800 North shall be screened by a mix of evergreen and deciduous trees and shrubs to reduce or limit visibility of the building from residences along the south side of 1800 North. A landscape berm or sloping grade from the building may also be incorporated to reduce the visible scale of building(s) from 1800 North. At least sixty percent (60%) of the building frontage shall be screened by tree or shrub foliage, based on the canopy spread of typical mature plant sizes. Up to half of the required tree or shrub screening area may be replaced by the combined area of windows and doors facing 1800 North;

4.8.1.3 Street trees shall be planted along the 1800 North and Antelope Drive street frontages at a rate of one tree for every thirty feet (30') of property frontage. The spacing of the trees may vary, but shall not be spaced closer than twenty feet (20') apart.

4.8.1.4 The maximum height of any building shall be thirty-five feet (35') feet, with a limit of one story and twenty-five feet (25') of height within forty feet (40') of the 1800 North right-of-way and within forty feet (40') of adjacent off-site single family residential uses. The applicable required front yard and rear yard setbacks as outlined in Title 19, Table 5-2 of Layton Municipal Code, and any additional requirements as outlined herein shall apply;

4.8.1.5 Exterior building design shall include masonry materials (brick, stucco, rock) on the front, side and rear facades visible from a public street;

- 4.8.1.6 Solid fencing with a height of at least six feet (6') shall be installed along property lines shared by existing single family structures that back to the property.
- 4.8.1.7 For any accessory outdoor storage use along street frontages and adjacent to existing single family residential property, solid fencing with a height of at least six feet (6') shall be installed to conceal outdoor storage. Outdoor storage shall not exceed the height of any fencing or building within 40 feet of any public street or adjacent residences.
- 4.8.1.8 Office use shall be accessory to the primary light industrial uses. The percentage of any building used for office uses shall be limited to a maximum of twenty-five percent (25%) of the total building area. The total number of persons within the total development area shall be limited by any applicable APZ Land Use Easements.
- 4.8.1.9 Business signs along 1800 North shall be limited to non-illuminated directional signs with a maximum height of 3 feet and 6 square feet in total area, and limited to attached signs with a maximum area of 16 square feet.
- 4.8.2 The development shall be reviewed by the City's Design Review Committee (DRC) to provide architectural design and landscape design input to the City's staff.
- 4.8.3 As part of the site plan review process, Owner(s) shall submit a landscape plan to the City for the project including landscape setback and screening details around the building. This plan must receive approval from the City prior to the issuance of the building permit.

4.9 Precedence of this Agreement. This agreement shall take precedence over any contrary provisions of any City Staff memorandums or representations.

4.10 Not Considered Approvals. Except as otherwise provided herein, these enumerations are not to be construed as approvals thereof, as any required approval process must be pursued independent hereof.

4.11 Amendments. Owner agrees to limit development to the uses provided herein unless any of the Subject Area is rezoned. In such event, City and Owner agree to amend this agreement to reflect such rezoning.

4.12 Conflicts. Except as otherwise provided, any conflict between the provisions of this Agreement and the City's standards for improvements, shall be resolved in favor of the stricter requirement.

ARTICLE V GENERAL REQUIREMENTS AND RIGHTS OF CITY

5.1 Issuance of Permits - Owner. Owner, or its assignee, shall have the sole responsibility for obtaining all necessary building permits in connection with Owner's Undertakings and shall make application for such permits directly to the Layton City Community and Economic Development Department and other appropriate departments and agencies having authority to issue such permits in connection with the performance of Owner's Undertakings. City shall not unreasonably withhold or delay the issuance of its permits.

5.2 Completion Date. The Owner shall, in good faith, diligently pursue completion of the development of any portion of the subject area where construction is commenced.

5.3 Access to the Subject Area. For the purpose of assuring compliance with this Agreement, so long as they comply with all safety rules of Owner and its contractor, representatives of City shall have the right of access to the Subject Area without charges or fees during the period of performance of Owner's Undertakings. City shall indemnify, defend and hold Owner harmless from and against all liability, loss, damage, costs or expenses (including attorney's fees and court costs) arising from or as a result of the death of a person or any accident, injury, loss or damage caused to any person, property or improvements on the Subject Area arising from the negligence or omissions of City, or its agents or employees, in connection with City's exercise of its rights granted herein.

ARTICLE VI REMEDIES

6.1 Remedies for Breach. In the event of any default or breach of this Agreement or any of its terms or conditions, the defaulting Party or any permitted successor to such Party shall, upon written notice from the other, proceed immediately to cure or remedy such default or breach, and in any event cure or remedy the breach within thirty (30) days after receipt of such notice. In the event that such default or breach cannot reasonably be cured within said thirty (30) day period, the Party receiving such notice shall, within such thirty (30) day period, take reasonable steps to commence the cure or remedy of such default or breach, and shall continue diligently thereafter to cure or remedy such default or breach in a timely manner. In case such action is not taken or diligently pursued, the aggrieved Party may institute such proceedings as may be necessary or desirable in its opinion to:

- 6.1.1 Cure or remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the Party in default or breach of its obligations; or
- 6.1.2 Owner agrees not to contest the reversion of the zoning by the City Council to the previous zoning on the property, and hereby holds the City harmless for such reversion of the zoning from A (Agriculture) to M-1 (Light Manufacturing/Industrial).

6.2 Enforced Delay Beyond Parties Control. For the purpose of any other provisions of this Agreement, neither City nor Owner, as the case may be, nor any successor in interest, shall be considered in breach or default of its obligations with respect to its construction obligations pursuant to this Agreement, in the event the delay in the performance of such obligations is due to unforeseeable causes beyond its fault or negligence, including, but not restricted to, acts of God or of the public enemy, acts of the government, acts of the other Party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes or unusually severe weather, or delays of contractors or subcontractors due to such causes or defaults of contractors or subcontractors. Unforeseeable causes shall not include the financial inability of the Parties to perform under the terms of this Agreement.

6.3 Extensions. Either Party may extend, in writing, the time for the other Party's performance of any term, covenant or condition of this Agreement or permit the curing of any default or breach upon such terms and conditions as may be mutually agreeable to the Parties; provided, however, that any such extension or permissive curing of any particular default shall not eliminate any other obligations and shall not constitute a waiver with respect to any other term, covenant or condition of this Agreement nor any other default or breach of this Agreement.

6.4 Rights of Owner. In the event of a default by Owner's assignee, Owner may elect, in its discretion, to cure the default of such assignee, provided, Owner's cure period shall be extended by thirty (30) days.

6.5 Appeals. If the Owner desires to appeal a determination made hereunder by Staff, said appeal shall be to the Planning Commission, whose decision shall be final. If the appeal is regarding the interpretation of this Agreement the appeal shall be to the City Council with a recommendation from the Planning Commission and Staff.

ARTICLE VII GENERAL PROVISIONS

7.1 Successors and Assigns of Owner. This Agreement shall be binding upon Owner and its successors and assigns, and where the term "Owner" is used in this Agreement it shall mean and include the successors and assigns of Owner, except that City shall have no obligation under this Agreement to any successor or assign of Owner not approved by City. Notwithstanding the foregoing, City shall not unreasonably withhold or delay its consent to any assignment or change in ownership (successor or assign of Owner) of the Subject Area. Upon approval of any assignment by City, or in the event Owner assigns all or part of this Agreement to an assignee, Owner shall be relieved from further obligation under that portion of the Agreement for which the assignment was made and approved by City.

7.2 Notices. All notices, demands and requests required or permitted to be given under this Agreement (collectively the "Notices") must be in writing and must be delivered personally or by nationally recognized overnight courier or sent by United States certified mail, return receipt requested, postage prepaid and addressed to the Parties at their respective addresses set forth below, and the same shall be effective upon receipt if delivered personally or on the next business day if sent by overnight courier, or three (3) business days after deposit in the mail if mailed. The initial addresses of the Parties shall be:

To Owner: HEARTLAND LLC
2084 East 75 South
Layton, UT 84040
801-540-1045

To City: LAYTON CITY CORPORATION
437 North Wasatch Drive
Layton, Utah 84041
Attn: Alex R. Jensen, City Manager
801/336-3800, 801/336-3811 (FAX)

Upon at least ten (10) days prior written notice to the other Party, either Party shall have the right to change its address to any other address within the United States of America.

If any Notice is transmitted by facsimile or similar means, the same shall be deemed served or delivered upon confirmation of transmission thereof, provided a copy of such Notice is deposited in regular mail on the same day of such transmission.

7.3 Third Party Beneficiaries. Any claims of third party benefits under this Agreement are expressly denied, except with respect to permitted assignees and successors of Owner.

7.4 Governing Law. It is mutually understood and agreed that this Agreement shall be governed by the laws of the State of Utah, both as to interpretation and performance. Any action at law, suit in equity, or other judicial proceeding for the enforcement of this Agreement or any provision thereof shall be instituted only in the courts of the State of Utah.

7.5 Integration Clause. This document constitutes the entire agreement between the Parties and may not be amended except in writing, signed by the Parties.

7.6 Exhibits Incorporated. Each Exhibit attached to and referred to in this Agreement is hereby incorporated by reference as though set forth in full where referred to herein.

7.7 Attorney's Fees. In the event of any action or suit by a Party against the other Party for reason of any breach of any of the covenants, conditions, agreements or provisions on the part of the other Party arising out of this Agreement, the prevailing Party in such action or suit shall be entitled to have and recover from the other Party all costs and expenses incurred therein, including reasonable attorneys' fees.

7.8 Termination. Except as otherwise expressly provided herein, the obligation of the Parties shall terminate upon the satisfaction of the following conditions:

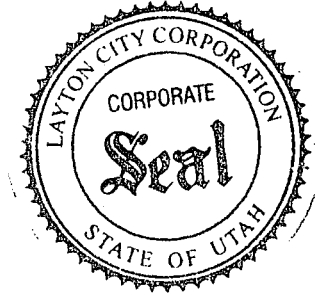
- 7.8.1 With regard to Owner's Undertakings, performance of Owner's Undertakings as set forth herein.
- 7.8.2 With regard to City's Undertakings, performance of City's Undertakings as set forth herein.


Upon either Party's request (or the request of Owner's assignee), the other Party agrees to enter into a written acknowledgment of the termination of this Agreement, or part thereof, so long as such termination (or partial termination) has occurred.

7.9 Recordation. This Agreement shall be recorded in reference to the property, and shall run with the land and be binding upon all successors in interest of the property.

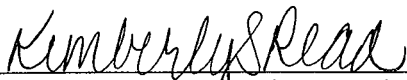
IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives effective as of the day and year first above written.

LAYTON CITY CORPORATION

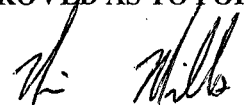


By: 
ROBERT J STEVENSON, Mayor

ATTEST:

By: 
KIMBERLY S READ, City Recorder

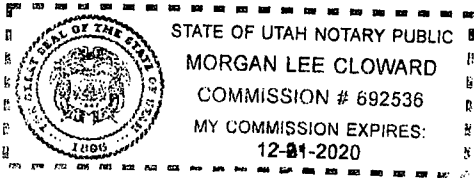
APPROVED AS TO FORM:

By: 
For GARY CRANE, City Attorney

CITY ACKNOWLEDGEMENT

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

On this 3RD day of NOV., 2017, personally appeared before me Robert J Stevenson
_____, who being duly sworn, did say that he/she is the Mayor of LAYTON CITY, a municipal corporation of
the State of Utah, and that the foregoing Agreement was signed in his/her capacity as Mayor on behalf of the City
for approval of the Agreement.



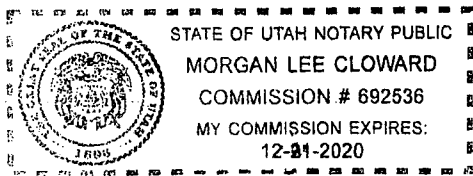
Morgan Cloward
Notary Public

OWNER ACKNOWLEDGEMENT

Blake Hazen
HEARTLAND LLC

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

On this 3RD day of NOV., 2017, personally appeared before me Blake Hazen
who being by me duly sworn did say that he/she is the MANAGING MEMBER of Heartland LLC, and
that Heartland LLC is the legal property owner of record of the property subject to this Agreement and that the
foregoing Agreement was signed in behalf of said corporation/partnership by authority of its Board of Directors/by-
laws, and he/she acknowledged to me that said corporation/partnership executed the same.



Morgan Cloward
Notary Public

EXHIBIT "A"


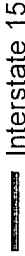

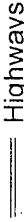
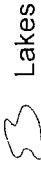
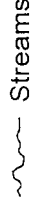
Heartland Rezone
Development
Agreement

Subject Area

320 East
Antelope Drive

12.37 acres

Legend

-  City Boundary
-  Interstate 15
-  APZ
-  Highways
-  Lakes
-  Streams

- Project Area



3056764
BK 6887 PG 658

Fort

Accident Potential Zone

HEARTLAND PROPERTY
320 EAST ANTELOPE DRIVE
12.37 ACRES

Antelope

1800

975

225

975

1770

1720

Belvedere

Arnold

1930

1875

1850

25

75

80

75

75

6

LEGAL DESCRIPTION

PARCEL # 10-020-0105

BEG AT A PT ON THE W LINE OF PPTY CONV IN WARRANTY DEED RECORDED 05/25/2017 AS E# 3022211 BK 6773 PG 179 AT A PT S 0°00'30" W 899.69 FT ALG THE SEC LINE & N 89°49'38" W 33.00 FT & S 0°00'30" W 96.13 FT & N 89°59'30" W 9.00 FT & SW'LY 23.56 FT ALG THE ARC OF A 15.00 FT RAD CURVE TO THE RIGHT (LC BEARS S 45°00'15" W 21.21 FT) & W 317.45 FT ALG THE N LINE OF 1800 NORTH STR AS PLATTED IN HEARTLAND SUB FR THE N 1/4 COR OF SEC 16-T4N-R1W, SLB&M; RUN TH ALG THE N'LY LINE OF HEARTLAND SUB THE FOLLOWING 5 COURSES AS FOLLOWS: W 625.42 FT, NW'LY ALG THE ARC OF A 15.00 FT RAD CURVE TO THE RIGHT 23.56 FT (LC BEARS N 45°00'00" W 21.21 FT), W 60.00 FT, S 70.00 FT & W 266.93 FT TO THE E BNDRY OF NORTH PARK VILLAGE PLAT "B" SUB EXT; TH N 278.08 FT ALG THE E BNDRY OF SD NORTH PARK VILLAGE PLAT "B" SUB; TH N 484.81 FT ALG THE E BNDRY OF NORTH PARK VILLAGE PLAT "A" SUB; TH N 29°13'48" W 92.15 FT ALG THE E BNDRY OF SD NORTH PARK VILLAGE PLAT "A" SUB; TH N 200.01 FT ALG THE E BNDRY OF SD NORTH PARK VILLAGE PLAT "A" SUB TO THE S LINE OF ANTELOPE DRIVE; TH S 89°18'00" E 272.83 FT ALG THE SD S LINE OF ANTELOPE DRIVE; TH S 0°42'00" W 367.87 FT; TH S 61°50'35" E 843.89 FT; TH S 216.26 FT TO THE POB. CONT 12.75 ACRES