

Parcel Id #(s): 08-074-0073 ✓

When recorded return to:  
Farmington City Hall  
Attn: City Recorder  
160 S. Main Street  
Farmington, UT 84025

E 3554076 B 8396 P 833-847  
RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
12/11/2023 3:55 PM  
FEE 0.00 Pgs: 15  
DEP MEC REC'D FOR FARMINGTON  
CITY CORP

**DEVELOPMENT AGREEMENT**  
**FOR THE STATION POINT SUBDIVISION**

**THIS DEVELOPMENT AGREEMENT** (the "Agreement") is made and entered into as of the 5<sup>th</sup> day of December, 2023, by and between **FARMINGTON CITY**, a Utah municipal corporation, hereinafter referred to as the "City," and **Henry Walker Land of Northern Utah, a Limited Liability Company**, hereinafter referred to as the "Developer."

**RECITALS:**

A. Developer owns approximately 0.590 acres of land located within the City, which property is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (the "Property").

B. Developer desires to develop a project on the Property to be known as the Station Point (the "Project"). Developer has submitted an application to the City seeking approval of a zone change to Residential Mixed Use in accordance with the City's Laws.

C. The Property is presently zoned under the City's zoning ordinance as Agriculture. The Property is subject to all City ordinances and regulations including the provisions of the City's General Plan, the City's zoning ordinances, the City's engineering development standards and specifications and any permits issued by the City pursuant to the foregoing ordinances and regulations (collectively, the "City's Laws").

D. Persons and entities hereafter developing the Property or any portions of the Project thereon shall accomplish such development in accordance with the City's Laws, and the provisions set forth in this Agreement. This Agreement contains certain requirements and conditions for design and/or development of the Property and the Project in addition to those contained in the City's Laws. This Agreement is wholly contingent upon the approval of that zoning application.

## AGREEMENT

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

1. **Incorporation of Recitals.** The above Recitals are hereby incorporated into this Agreement.
2. **Property Affected by this Agreement.** The legal description of the Property contained within the Project boundaries to which the Agreement applies is attached as Exhibit A and incorporated by reference.
3. **Compliance with Current City Ordinances.** Unless specifically addressed in this Agreement, Developer agrees that any development of the Property shall be in compliance with city ordinances in existence on the date of execution of this Agreement. If the City adopts different ordinances in the future, Developer shall have the right, but not the obligation, to elect to submit a development application under such future ordinances, in which event the development application will be governed by such future ordinances.
4. **Developer Obligations.** Developer agrees to the following provisions as a condition for being granted the zoning approval sought:
  - a) The Property shall be developed consistent with the plans provided in Exhibit B of this Agreement, which is incorporated by reference. Plans included with this agreement are conceptual and do not represent approved utility or stormwater infrastructure. Final design is still to be determined and approved through preliminary and final plat review. Plans shall meet all applicable city ordinances and the dead-end street accessing the west side of the homes as well as the storm drain system and detention basins shall all be privately held and maintained.
5. **City Obligations.** City agrees to maintain the public improvements dedicated to the City following satisfactory completion thereof and acceptance of the same by the City, and to provide standard municipal services to the Project. After installation of required infrastructure by Developer, the City shall provide public services to the Project such as culinary water, and to maintain the public improvements, including roads, intended to be public upon dedication to the City and acceptance in writing by the City; provided, however, that the City shall not be required to maintain any privately-owned areas or improvements that are required to be maintained by a private party or a homeowner's association in the Project.
6. **Number of Units**
  - a) **Unit Count.** The maximum number of units in the Project is 5.
  - b) **Common Space.** The Project contains at least 30% common spaces which meet the standards of City Code.

c) **Building Height.** Buildings within the Project may be 40 feet and or 3 stories in height excluding those within 300 feet from a residential zone. Structures within this buffer may be 27 feet and or/ 2 stories in height.

d) **Layout, Circulation, Connectivity.** The Project shall establish a traffic layout consistent with Exhibit B.

7. **Moderate Income Housing - In Lieu Undertaking.** The City generally expects that ten percent (10%) of developed units within a Project will be reserved for moderate-income housing purposes, as governed by Farmington City Municipal Code. Developer has proposed the following in lieu of providing that housing:

a) Developer will continue sidewalk and road improvements from the south border of the property to the Denver and Rio Grande Western Rail Trail. Road Improvements include curb and gutter and any additional asphalt from the existing road to the curb. Completing these improvements will enhance access to public facilities for pedestrians in moderate income housing units in the area. The cost of the aforementioned improvements will be deducted from the fee amount calculated and shown in Exhibit C.

The City accepts this in lieu proposal as a satisfactory substitute for the moderate-income housing obligation ordinarily provided, due to the small size of this Project. This Agreement is a "written agreement regarding the number of moderate-income housing units" as contemplated under Utah Code Ann. § 10-9a-535(1)(a).

8. **Payment of Fees.** The Developer shall pay to the City all required fees in a timely manner. Fees shall be paid in those amounts which are applicable at the time of payment of all such fees, pursuant to and consistent with standard City procedures and requirements, adopted by the City.

9. **Indemnification and Insurance.** Developer hereby agrees to indemnify and hold the City and its officers, employees, representatives, agents and assigns harmless from any and all liability, loss, damage, costs or expenses, including attorneys' fees and court costs, arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused to any person or to property of any person which shall occur within the Property or any portion of the Project or occur in connection with any off-site work done for or in connection with the Project or any phase thereof which shall be caused by any acts or omissions of the Developer or its assigns or of any of their agents, contractors, servants, or employees at any time. Developer shall furnish, or cause to be furnished, to the City a satisfactory certificate of insurance from a reputable insurance company evidencing general public liability coverage for the Property and the Project in a single limit of not less than One Million Dollars (\$1,000,000) and naming the City as an additional insured.

10. **Right of Access.** Representatives of the City shall have the reasonable right of access to the Project and any portions thereof during the period of construction to inspect or observe the Project and any work thereon.

11. **Assignment.** The Developer shall not assign this Agreement or any rights or interests herein without prior written approval by the City, which shall not be unreasonably

withheld and which is intended to assure the financial capability of the assignee. Any future assignee shall consent in writing to be bound by the terms of this Agreement as a condition precedent to the assignment.

12. **Homeowner's Association.** The Developer warrants and provides assurances that all landscaping, private drives, and amenities located within the Project shall be maintained by a private homeowner's association. The association shall either be created for this Property, or it shall be absorbed by another Association. All costs of landscaping, private drive and amenity maintenance, replacement, demolition, cleaning, snow removal, or demolition, shall be borne exclusively by the homeowner's association. The City shall have no maintenance responsibility in relation to the property owned by the homeowner association and shall only plow and maintain public roads that are designated as public on the plat.

13. **Onsite Improvements.** At the time of final plat recordation for the Project, the Developer shall be responsible for the installation and dedication to the City of onsite water, sewer and storm water drainage improvements sufficient for the development of the Project in accordance with City Code.

14. **Notices.** Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To Developer: J Fisher Companies  
Attn: Chad Bessinger  
1216 Legacy Crossing Blvd. Suite 300  
Centerville, Utah 84014

To the City: Farmington City  
Attn: City Manager  
160 South Main Street  
Farmington, Utah 84025

15. **Default and Limited Remedies.** In the event any party fails to perform its obligations hereunder or to comply with the terms hereof, within sixty (60) days after giving written notice of default, the non-defaulting party shall have the following rights and remedies available at law and in equity, including injunctive relief and specific performance, but excluding the award or recovery of any damages. Any delay by a Party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Article shall not operate as a waiver of such rights. In addition, the Parties have the following rights in case of default, which are intended to be cumulative:

a) The right to withhold all further approvals, licenses, permits or other rights associated with the Project or any development described in this Agreement until such default has been cured.

b) The right to draw upon any security posted or provided in connection with the Project.

c) The right to terminate this Agreement.

16. **Agreement to Run with the Land.** This Agreement shall be recorded against the Property as described in Exhibit A hereto and shall be deemed to run with the land and shall be binding on all successors and assigns of the Developer in the ownership and development of any portion of the Project.

17. **Vested Rights.** The City and Developer intend that this Agreement be construed to grant the Developer all vested rights to develop the Project in fulfillment of the terms and provisions of this Agreement and the laws and ordinances that apply to the Property as of the effective date of this Agreement. The Parties intend that the rights granted to Developer under this Agreement are contractual and in addition to those rights that exist under statute, common law and at equity. If the City adopts different ordinances in the future, Developer shall have the right, but not the obligation, to elect to submit a development application under such future ordinances, in which event the development application will be governed by such future ordinances. By electing to submit a development application under a new future ordinance, however, Developer shall not be deemed to have waived its right to submit or process other development applications under the City Code that applies as of the effective date of this Agreement.

18. **Amendment.** The Parties or their successors in interest, may, by written agreement, choose to amend this Agreement at any time. The amendment of the Agreement relating to any substantial rights or obligations shall require the prior approval of the City Council.

19. **Termination.** Notwithstanding anything in this Agreement to the contrary, it is agreed by the Parties that if the Project is not completed within five (5) years from the date of this Agreement or if Developer does not comply with the City's laws and the provisions of this Agreement, the City shall have the right, but not the obligation at the sole discretion of the City, which discretion shall not be unreasonably applied, to terminate this Agreement and to not approve any additional phases for the Project. Such termination may be effected by the City giving written notice of intent to terminate to the Developer. Whereupon, the Developer shall have sixty (60) days during which the Developer shall be given the opportunity to correct any alleged deficiencies and to take appropriate steps to complete the Project. If Developer fails to satisfy the concerns of the City with regard to such matters, the City shall be released from any further obligations under this Agreement and the same shall be terminated.

20. **Attorneys' Fees.** In the event of any lawsuit between the parties hereto arising out of or related to this Agreement, or any of the documents provided for herein, the prevailing party or parties shall be entitled, in addition to the remedies and damages, if any, awarded in such proceeding, to recover their costs and a reasonable attorneys fee.

21. **General Terms and Conditions.**

a) **Entire Agreement.** This Agreement together with the Exhibits attached thereto and the documents referenced herein, and all regulatory approvals given by the City for the Property and/or the Project, contain the entire agreement of the parties and supersede any prior promises, representations, warranties or understandings between the parties with respect to the

subject matter hereof which are not contained in this Agreement and the regulatory approvals for the Project, including any related conditions.

**b) Headings.** The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

**c) Non-Liability of City Officials, Employees and Others.** No officer, representative, agent, or employee of the City shall be personally liable to the Developer, or any successor-in-interest or assignee of the Developer in the event of any default or breach by the City or for any amount which may become due Developer, or its successors or assigns, for any obligation arising under the terms of this Agreement unless it is established that the officer, representative, agent or employee acted or failed to act due to fraud or malice.

**d) Referendum or Challenge.** Both Parties understand that any legislative action by the City Council is subject to referral or challenge by individuals or groups of citizens, including zone changes and the approval of associated development agreements. The Developer agrees that the City shall not be found to be in breach of this Agreement if such a referendum or challenge is successful. In such case, this Agreement is void at inception.

**e) Ethical Standards.** The Developer represents that it has not: (a) provided an illegal gift or payoff to any officer or employee of the City, or former officer or employee of the City, or to any relative or business entity of an officer or employee of the City; (b) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards set forth in Utah Code Ann. § 10-3-1301 et seq. and 67-16-3 et seq.; or (d) knowingly influenced, and hereby promises that it will not knowingly influence, any officer or employee of the City or former officer or employee of the City to breach any of the ethical standards set forth in State statute or City ordinances.

**f) No Officer or Employee Interest.** It is understood and agreed that no officer or employee of the City has or shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds resulting from the performance of this Agreement. No officer, manager, employee or member of the Developer, or any member of any such persons' families shall serve on any City board or committee or hold any such position which either by rule, practice, or action nominates, recommends, or supervises the Developer's operations, or authorizes funding or payments to the Developer. This section does not apply to elected offices.

**g) Binding Effect.** This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, representatives, officers, agents, employees, members, successors and assigns.

**h) Integration.** This Agreement contains the entire Agreement with respect to the subject matter hereof and integrates all prior conversations, discussions or understandings of

whatever kind or nature and may only be modified by a subsequent writing duly executed by the parties hereto.

**i) No Third-Party Rights.** The obligations of Developer set forth herein shall not create any rights in and/or obligations to any persons or parties other than the City. The parties hereto alone shall be entitled to enforce or waive any provisions of this Agreement.

**j) Recordation.** This Agreement shall be recorded by the City against the Property in the office of the Davis County Recorder, State of Utah.

**k) Relationship.** Nothing in this Agreement shall be construed to create any partnership, joint venture or fiduciary relationship between the parties hereto.

**l) Severability.** If any portion of this Agreement is held to be unenforceable or invalid for any reason by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

**m) Governing Law & Venue.** This Agreement and the performance hereunder shall be governed by the laws of the State of Utah. Any action taken to enforce the provisions of this Agreement shall have exclusive venue in the Second District Court of the State of Utah, Farmington Division.

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

**"DEVELOPER"**

**HENRY WALKER LAND OF  
NORTHER UTAH**

Chad Bessinger, Manager  
Print Name & Office

[Signature]  
Signature

STATE OF UTAH            )  
                                  ): ss.  
COUNTY OF DAVIS    )

On this 11th day of December, 2023, personally appeared before me, Chad Bessinger, who being by me duly sworn, did say that (s)he is a manager of Henry Walker Land, a Utah Limited Liability Company, and that the foregoing instrument was signed on behalf of said limited liability company by authority of its Articles of Organization and duly acknowledgment to me that said limited liability executed the same.



[Signature]  
Notary Public  
**FARMINGTON CITY**

By [Signature]  
Brett Anderson, Mayor

Attest:

[Signature]  
DeAnn Carlile  
City Recorder



STATE OF UTAH            )  
                                  ) : ss.  
COUNTY OF DAVIS        )

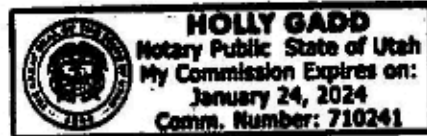
On this 5 day of December, 2023, personally appeared before me, Brett Anderson, who being by me duly sworn, did say that he is the Mayor of Farmington City, a Utah municipal corporation, and that the foregoing instrument was signed on behalf of the City for the purposes therein stated.

  
Notary Public

Approved as to Form:



Paul H. Roberts  
City Attorney



**EXHIBIT "A"**

**PROPERTY DESCRIPTION**

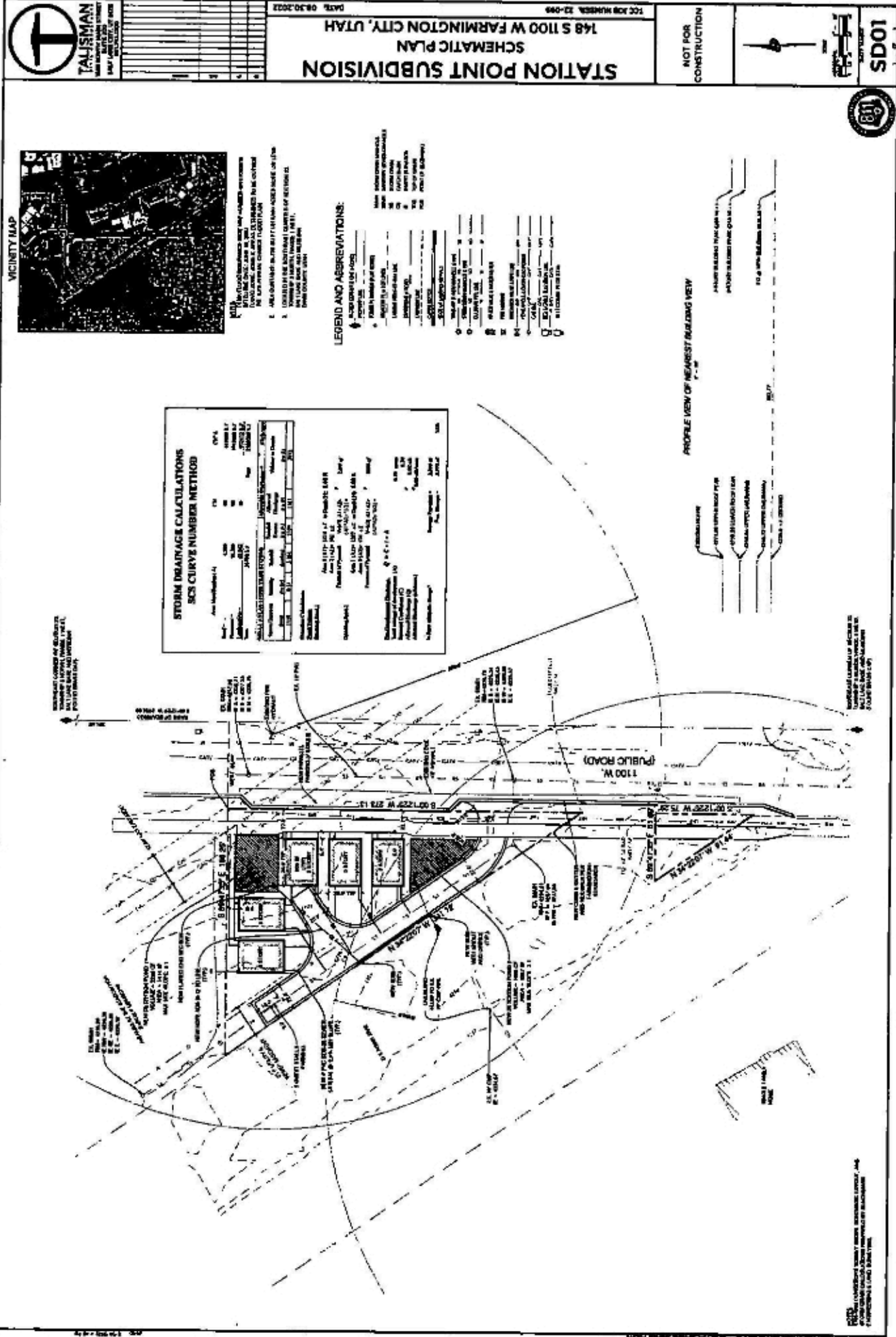
*pt DB-D74-0013*

PARCEL 1:  
COMMENCING AT THE EAST QUARTER CORNER OF  
SECTION 23, TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE AND  
MERIDIAN, AND  
RUNNING THENCE 304.68 FEET SOUTH 00°12'25" WEST ALONG THE SECTION  
LINE, AND 66 FEET WEST TO THE TRUE POINT OF BEGINNING; AND THENCE  
SOUTH 00°12'25" WEST, 273.13; THENCE NORTH 34°22'07" WEST, 331.72 FEET; THENCE  
SOUTH 89°47'35" EAST TO THE BEGINNING.

*Run 0013*

PARCEL 2:  
COMMENCING AT THE EAST QUARTER CORNER OF  
SECTION 23, TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE AND  
MERIDIAN, AND  
RUNNING THENCE 634.68 FEET SOUTH 00°12'25" WEST ALONG THE SECTION  
LINE, AND 66 FEET WEST TO THE TRUE POINT OF BEGINNING; AND THENCE  
SOUTH 00°12'25" WEST, 75.29 FEET; THENCE NORTH 34°22'07" WEST, 91.44 FEET;  
THENCE  
SOUTH 89°47'35" EAST, 51.89 FEET TO THE BEGINNING.

EXHIBIT B



Feb 7, 2023  
old

EXHIBIT C

Moderate Income Housing In Lieu Calculator

Calculations are based on a 5 unit project. 10% equals half a unit

Single Family

80% AMI Davis County	30% of the 80% AMI
\$ 78,300.00	\$ 23,490.00

Comparable Homes Sold	\$ 485,333.00
Mortgage amount	\$ 273,000.00
Interest Rate	5.20%
Annual P&I	\$ 18,165.96
PMI	0.75% \$ 2,047.50
Utility Allowance	3 Bed 1485
Insurance	0.15% \$ 409.50
Taxes	0.5% \$ 1,365.00
<b>Total Yearly Housing Expense</b>	<b>\$ 23,472.96</b>

Comparable Home Prices Subtract the Mortgage for Half a Unit	\$ 106,166.50
Cost of Sidewalk and Curb	\$ 24,814.00

<b>10% Affordable Housing Fee In Lieu Subtracting the Cost of Sidewalk and Curb</b>	<b>\$ 81,352.50</b>
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# EXHIBIT C (1 OF 3)

3554076  
BK 8396 PG 845

## Moderate Income Housing Fee In Lieu Calculator

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Calculations are based on a 5 unit project. 10% equals half a unit

### Single Family

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80% AMI Farmington City	30% of Income	
\$ 86,047.20	\$ 25,814.16	
Two Story Sales Price		\$ 377,000.00
Affordable Home Price		\$ 326,850.00
Down Payment		\$ 18,850.00
Mortgage amount		\$ 308,000.00
Interest Rate		5.20%
Annual P&I		\$ 20,494.93
PMI	0.75%	\$ 2,310.00
Utility Allowance	2 Bed	\$ 990.00
Insurance	0.15%	\$ 462.00
Taxes	0.5%	\$ 1,540.00
Total Yearly Housing Expense		\$ 25,796.93
<hr/>		
Difference of Sales Price and Affordable Home Price		\$ 50,150.00
10% Affordability (Half Unit)		\$ 25,075.00
Cost of Sidewalk and Curb (Public Benefit)		\$ 24,814.00
10% Affordable Housing Fee In Lieu Subtracting the		
Cost of Sidewalk and Curb		\$ 261.00

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**Multi Family**

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60% AMI Affordable Rent	\$	1,347.00
Utility Allowance	\$	100.00
HOA Fees	\$	80.00
Total	\$	1,167.00
Market Rate		1800
60% AMI Affordable Rent	\$	1,167.00
Difference	\$	633.00
Annual Difference	\$	7,596.00
Interest Rate	6.50%	
NPV (30 Year)		\$99,193.70

Farminton AMI  
\$ 107,559.00

\$ 20,494.93

\$16,016.00  
\$4,478.93

\$16,016.00

\$0.00