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Roger D. Henriksen
Robert A. McConnell
Parr Brown Gee & Loveless
101 South 200 East, Suite 100
Salt Lake City, Utah 84111

Tax Parcel Nos. (See Exhibit A)

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**MARINA WEST
MASTER DEVELOPMENT AGREEMENT**

by and among

**EX UTAH DEVELOPMENT LLC,
BLX MWP-LON LLC
and**

MILITARY INSTALLATION DEVELOPMENT AUTHORITY

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MARINA WEST MASTER DEVELOPMENT AGREEMENT

This MARINA WEST MASTER DEVELOPMENT AGREEMENT (this "**Agreement**"), which shall have a deemed effective date of July 28, 2023 (the "**Effective Date**"), is by and among the MILITARY INSTALLATION DEVELOPMENT AUTHORITY, a political subdivision of the State of Utah ("**MIDA**"), on the one hand, and BLX MWP-LON LLC, a Delaware limited liability company ("**BLX MWP-LON**" or the "**Landowner**") and EX UTAH DEVELOPMENT LLC, a Delaware limited liability company ("**Master Developer**", and with the Landowner, the "**Extell Entities**"), on the other hand. The Extell Entities and MIDA may hereinafter be referred to individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

A. WHEREAS, pursuant to Utah Code Ann. Section 63H-1-101, et seq., as amended (the "**MIDA Act**"), MIDA is "independent, nonprofit, separate body corporate and politic, with perpetual succession and statewide jurisdiction, whose purpose is to facilitate the development of land within a project area or on military land associated with a project area."

B. WHEREAS, pursuant to the MIDA Act, MIDA has "exclusive police power within a project area to the same extent as though the authority were a municipality, including the collection of regulatory fees," and neither MIDA nor any land included in a project area is subject to "Title 17, Chapter 27a, County Land Use, Development and Management Act" ("**CLUDMA**"), nor is MIDA or any such land subject to "ordinances or regulations of a county or municipality including those relating to land use, health, business license, or franchise" (collectively referred to herein as "**MIDA's Exclusive Authority**").

C. WHEREAS, BLX MWP-LON holds legal title to the real property located within the MRF Project Area (as defined herein) in unincorporated Wasatch County, as legally described in Exhibit A and depicted on Exhibit A-1 attached hereto (collectively, the "**Marina West Property**").

D. WHEREAS, Master Developer has been retained to assist in the development of a four-season resort located across US Highway 40 from the Marina West Property that will, among other uses, include a ski village and multiple ski lifts (the "**Mountainside Resort**").

E. WHEREAS, Landowner has authorized Master Developer to act on Landowner's behalf for the purposes of developing the Marina West Property and entering into this Agreement.

F. WHEREAS, pursuant to the MIDA Act, MIDA created the MRF Project Area in portions of Wasatch and Summit Counties that includes, among other real property, the Marina West Property and certain military land for the purpose of promoting high quality development that will provide recreational opportunities to military personnel and the general public.

G. WHEREAS, MIDA entered into the West Side Interlocal Cooperation Agreement and the East Side Interlocal Cooperation Agreement with Wasatch County, both dated December 17, 2018, as amended by the First Amendment to such agreements, both dated as of March 18, 2020 (collectively, the "**2018 Interlocal Agreements**") following all requirements of the MIDA Act and the Utah Interlocal Cooperation Act, Utah Code Ann. §11-13-101 *et seq.*

H. WHEREAS, effective as of March 7, 2023, the 2018 Interlocal Agreements were each amended and restated by MIDA and Wasatch County in their entirety pursuant to an Amended and Restated West Side Interlocal Cooperation Agreement and an Amended and Restated East Side Interlocal Cooperation

Agreement (as the same may be further amended, modified or restated, collectively, the “**Amended Interlocal Agreements**”) following all requirements of the MIDA Act and the Utah Interlocal Cooperation Act, Utah Code Ann. §11-13-101 *et seq.*

I. The Amended Interlocal Agreements, among other things, allow MIDA to create a development fund (“**Development Fund**”) and set forth how the Development Fund will be used on the east side of US Highway 40 (“**East Side**”) and the west side of eastern right-of-way line for US Highway 40 (“**West Side**”).

J. WHEREAS, MIDA has entered into several other interlocal cooperation agreements with Jordanelle Special Service District, Wasatch County Solid Waste District, and Wasatch County Fire District (collectively the “**District Interlocal Agreements**”). The District Interlocal Agreements, together with the Amended Interlocal Agreements, provide for the provision of governmental services to the MRF Project Area, including the Marina West Property.

K. WHEREAS, pursuant to the Amended and Restated Interlocal Agreements, MIDA created the DRC (as defined herein) and adopted the MIDA Development Standards (as defined herein) which establish the role of the DRC with respect to various land use reviews and recommendations required in connection with the development of the Mountainside Resort.

L. WHEREAS, pursuant to the Amended and Restated Interlocal Agreements, MIDA and Wasatch County agreed that the Marina West Property is subject to MIDA’s Exclusive Authority and that development applications with respect to the Marina West Property would be processed as if the Marina West Property were located on the West Side and are therefore subject to the jurisdiction of the DRC and regulated pursuant to the MIDA Development Standards.

M. WHEREAS, MIDA, acting pursuant to MIDA’s Exclusive Authority, and in furtherance of its land use policies, goals, objectives, and the MIDA Development Standards, in the exercise of its discretion, has elected to approve and enter into this Agreement with the Extell Parties pertaining to the development of the Marina West Property.

N. WHEREAS, pursuant to the Amended and Restated Interlocal Agreement, Wasatch County approved a master development plan for the Marina West Property subject to MIDA’s further approval.

O. WHEREAS, following review of the same by Wasatch County, the MIDA Board (as defined herein) approved the master development plans for the Marina West Property on March 7, 2023 pursuant to Resolution 2023-01 (as approved, collectively the “**Marina West Master Development Plan**”).

P. WHEREAS, pursuant to Section 5.04 of the MIDA Development Standards, MIDA and Master Developer desire to enter into this Agreement to memorialize conditions and agreements which were established as part of MIDA’s approval of the Marina West Master Development Plan, to help clarify the future development review and approval process for the Marina West Property, and to ensure that Master Developer may proceed with development of the Marina West Property in accordance with Applicable Law (as defined herein), and the Marina West Master Development Plan.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and provisions set forth herein, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

TERMS AND CONDITIONS

SECTION 1. EFFECTIVE DATE; DEFINITIONS; INTERPRETATION

1.1 **Effective Date.** The Effective Date of this Agreement is set forth in the Preamble to this Agreement.

1.2 **Definitions.** Capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings set forth in Exhibit B attached hereto.

1.3 **Interpretation.** Matters relating to the interpretation of this Agreement are set forth in Exhibit C attached hereto.

SECTION 2. TERM AND FINDINGS

2.1 **Term.** The term of this Agreement (as it may be extended hereunder, the "Term") shall commence upon the Effective Date and continue for a period of forty (40) years. At the request of Master Developer, MIDA shall extend the Term for up to two (2) extension terms of ten (10) additional years each if Master Developer has made commercially reasonable efforts to develop the Marina West Property during the initial forty (40) year Term and, if applicable, the first extension Term, and is not otherwise in default (after the expiration of all applicable notice and cure periods) with respect to the terms of this Agreement. Unless otherwise agreed between the Parties, Master Developer's vested interest(s) and right(s) set forth in this Agreement expire at the end of the Term (as the same may be extended), or upon termination of this Agreement in accordance with the terms hereof. MIDA agrees to process complete submissions and to recommend approval of compliant submissions to MIDA Board with reasonable diligence and in accordance with the MIDA Development Standards. Upon the expiration or termination of this Agreement, for any reason, the obligations of the Parties to each other hereunder shall terminate with regard to any obligations accruing after such termination, but none of the Master Development Plans, Project Site Plans, Project Specific Development Agreements, Subdivision Plats, approved licenses, approved building permits, or certificates of occupancy granted prior to expiration or termination of this Agreement may be rescinded or limited in any manner due to the expiration or termination of this Agreement. Easements, maintenance requirements, infrastructure improvement obligations, or other agreements intended to run with the land, including obligations that were based upon the approvals granted pursuant to this Agreement or Applicable Law, shall not expire upon expiration or termination of this Agreement. If the Marina West Property is not fully developed upon the expiration of the Term, the Parties agree that they shall negotiate in good faith an additional development agreement pertaining to the completion of the Marina West Property on the terms and conditions provided for herein (as may be adjusted as mutually agreed upon by the Parties), which agreement shall take into account the remaining elements of the Marina West Property to be completed and the amount of reimbursement potentially available to Master Developer pursuant to the Marina West Tax Sharing and Reimbursement Agreement.

2.2 **Findings.** MIDA, following all requisite legal requirements and after careful review of evidence submitted and such other investigation as MIDA has deemed proper, finds and declares as follows:

2.2.1 **Comprehensive Planning.** It is the intent of MIDA to encourage strong commitment to comprehensive and capital facilities planning and ensure the provision of adequate public facilities for development in the MRF Project Area.

2.2.2 **Need to Advance Public Facilities.** The lack of certain public facilities, including, but not limited to, streets, sewer, culinary water, and utility facilities and systems is a serious impediment to growth in the MRF Project Area, and the development of the Marina West Property could result in the construction and improvement of such facilities and systems in the applicable portion of the MRF Project Area.

2.2.3 **Exercise of Police Power.** MIDA's entry into and adoption of this Agreement is necessary in order to provide for the health, safety, and welfare of the public, including military personnel,

in the MRF Project Area, and promotes the prosperity, improves the peace and good order, comfort, convenience, and aesthetics of the MRF Project Area and its present and future residents, businesses and military personnel who will recreate in the MRF Project Area, protects the tax base within the MRF Project Area, secures economies of scale in governmental expenditures, fosters industry, protects urban and nonurban development, protects property values, and constitutes the present exercise by MIDA of its power granted pursuant to MIDA's Exclusive Authority.

2.2.4 Considerations by MIDA. In preparing and adopting this Agreement and approving the Marina West Master Development Plan, MIDA considered the health, safety and welfare of the existing and future residents and populations of Wasatch County, the MRF Project Area, the general carrying capacity of the Marina West Property, the appropriateness of the number of structures to be developed, and the density and intensity of the potential development comprising the Marina West Property.

2.2.5 Access to the Marina West Property. In connection with MIDA's review and approval of the Marina West Master Development Plan, MIDA reviewed and approved the proposed roadway network for the Marina West Property and determined that it satisfies all primary, secondary and emergency access requirements for the portion of the Marina West Property served by the roadways shown on the Marina West Master Development Plan under Applicable Law, including, as applicable, any secondary and emergency access requirements for such portions of the Marina West Property.

2.2.6 Moderate Income Housing. In connection with MIDA's review and approval of the Marina West Master Development Plan, MIDA reviewed and approved that certain "Amended and Restated Moderate Income/Employee Housing Program," attached hereto as Exhibit E (the "**A&R MI/EHP**"), and determined that the affordable/employee/workforce housing identified in that plan, upon construction of the same, would provide a reasonable amount of affordable/employee/workforce housing proportional to the impact that development of the Marina West Property, in conjunction with development of the Mountainside Resort, would have on the MRF Project Area.

SECTION 3. OBLIGATIONS OF MASTER DEVELOPER AND MIDA

To assist in the expeditious realization of the benefits identified in the Findings set forth above, and consistent with MIDA's approval of the Marina West Master Development Plan, the Parties agree as follows:

3.1 Generally. The Parties acknowledge and agree that MIDA's agreement to perform and abide by the covenants and obligations of MIDA set forth herein is material consideration for Master Developer's agreement to perform and abide by the covenants and obligations of Master Developer set forth herein.

3.2 Maximum Residential Density.

3.2.1 Marina West Property Located Within Marina West Master Development Plan. This Agreement is intended to implement the approved Marina West Master Development Plan as a MDP (as defined in the MIDA Development Standards) and also to specify the Maximum Residential Density for the Marina West Property. This Agreement is also intended to clarify and add detail to the development approvals authorized in the Marina West Master Development Plan. In the event of any inconsistency between the terms of this Agreement and the provisions of the Marina West Master Development Plan, the terms and provisions of this Agreement shall control, except as to Maximum Residential Density, in which case the Marina West Master Development Plan shall control. Consistent with Section 5.04 of the MIDA Development Standards, to the extent, if any, that the terms of this Agreement clarify or effectively interpret the MIDA Development Standards, then the terms of this Agreement shall control. The MIDA Board's approval of the Marina West Master Development Plan includes its approval of the various attachments thereto, including the roadways and other infrastructure improvements shown thereon and contemplated

thereby. As applicable, approved permitted uses, conditional uses, densities per acre, building heights, roof slopes, setbacks, and other similar land use rules and regulations within each of the land use areas identified in the Marina West Master Development Plan shall be those uses, densities and other development standards allowed or otherwise approved pursuant to the MIDA Development Standards, unless such uses and densities conflict with the Marina West Master Development Plan, in which case the Marina West Master Development Plan will control. As of the Effective Date and subject to this Agreement and Applicable Law, Master Developer's vested development rights for the Marina West Property within the Marina West Master Development Plan include the right to develop such Marina West Property in accordance with the Marina West Master Development Plan for any and all of the approved uses identified on the Marina West Master Development Plan; provided, however, that the maximum number of Residential Development ERUs developed on the Marina West Property shall not exceed the number of Residential Development ERUs' shown on the Marina West Master Development Plan attached hereto as Exhibit D.

3.2.2 Allocation of Residential Development ERUs Among Various Parcels. Subject to MIDA's approval of a newly approved MDP or any required amendment of an existing MDP, or, as applicable, under the MIDA Development Standards, which approval shall not be unreasonably withheld, Residential Development ERUs allocated to the Marina West Property or any portion of the Mountainside Resort may be transferred among the foregoing properties so long as the aggregate number of Residential Development ERUs allocated to the Marina West Property does not exceed the sum of the Residential Development ERUs provided for in the Marina West Master Development Plan and the development agreement for the Mountainside Resort.

3.2.3 Non-Residential ERUs. There is no limit on the number of Commercial Development ERUs applicable to the Marina West Property.

3.3 Phasing. The Parties acknowledge that the most efficient and economic development of the Marina West Property depends on numerous factors, such as permitting, market orientation and demand, interest rates, competition, market impact of the COVID-19 pandemic, and other factors. Master Developer may in its discretion and in conformity with the MIDA Development Standards and Section 2.2, develop the Marina West Property in phases or Projects. The timing, sequencing, relative size and phasing of development of the various Projects on the Marina West Property shall be as determined by Master Developer in its sole subjective business judgment and discretion; provided that in developing each Project, Master Developer shall ensure the logical extension of infrastructure through each Project and throughout the Marina West Property, all in conformance with the requirements of this Agreement, Applicable Law, and the requirements imposed by MIDA in connection with specific Project approvals pursuant to the MIDA Development Standards. Master Developer understands that additional studies, as set forth in Section 3.9, may be required for such future Projects. Subject to Section 4 and the other provisions of this Agreement, each Project must comply with the requirements of the MIDA Development Standards. MIDA and the applicable Project Developer (including Master Developer, if applicable) may, at the request of the applicable Project Developer, enter into a Project Specific Development Agreement with respect to a given Project contemporaneously with MIDA's approval of each such Project.

3.4 MRF Project Area. The Marina West Property is included in the MRF Project Area created pursuant to the MIDA Act, as previously approved by the MIDA Board and consented to by the Wasatch County Council. To this end, the MIDA Board previously passed such resolutions as are necessary for the Marina West Property to be included in the MRF Project Area and approved MIDA's amendment of the project area plan and budget for the MRF Project Area to include the Marina West Property, such that the Marina West Property is eligible to receive property tax allocation funds and other taxes and benefits associated with its inclusion into the MRF Project Area, all as more specifically set forth in the Marina West Tax Sharing and Reimbursement Agreement.

3.5 Reserved.

3.6 **Reserved.**

3.7 **Roads Within and Near the Marina West Property.**

3.7.1 **319 Connector Road.** Pursuant to the West Side Development Agreement MIDA is responsible for the installation of a public frontage road on the east side of US Highway 40 connecting the South Portal to State Highway 319 (the “**319 Connector Road**”). The approximate location of the 319 Connector Road is set forth on Exhibit H attached hereto. In connection with the 319 Connector Road, MIDA has received and is holding from UDOT and the State of Utah funds that MIDA believes are sufficient for the design and construction of the 319 Connector Road and which will continue to be held and reserved for the design and construction of the 319 Connector Road. It is contemplated that the 319 Connector Road will be constructed by EX Utah Contracting LLC or another affiliate of Master Developer pursuant to a separate reimbursement agreement to be entered into between EX Utah Contracting (or such other affiliate) and MIDA.

3.7.2 **Roads/Streets.** Except for the 319 Connector Road, all roads within the Marina West Property are or shall be private roads unless such road has been offered for dedication and has been accepted by a Public Entity with responsibility for such public roadway as determined on a Project-by-Project basis, which determination shall be set forth in writing on the applicable Subdivision Plat or any amendment thereto. Public and private roads shall be constructed in accordance with the MIDA Development Standards. The Master Developer or applicable Project Developer shall maintain the private roads located within the Marina West Property, providing the same or better level of maintenance provided to Class B roads in the MRF Project Area. The Master Developer or Project Developer may transfer the obligation to maintain the private roads to the applicable Owners Association. The transfer of the road maintenance obligation to the Owners Association will be memorialized by a Transfer Acknowledgment executed by Master Developer, MIDA, and such Owners Association, approval of which not to be unreasonably withheld, conditioned or delayed. Public road(s) in the Marina West Property shall be dedicated to a Public Entity, as directed by the Director, pursuant to the applicable Subdivision Plat or a separate written instrument signed by the Director at the time of dedication. After a public road dedicated to a Public Entity has been constructed in accordance with the MIDA Development Standards and such Public Entity has accepted such road, such Public Entity shall maintain or cause such road to be maintained as a public road, providing the same level of service provided to other Class B roads in the MRF Project Area. Except to the extent provided in connection with a PID or by a special service district, MIDA may use Wasatch County to provide such maintenance for public roads pursuant to the Amended and Restated Interlocal Agreements without any additional cost or expense to Master Developer, the Marina West Property or the owners thereof. The priority and method of maintenance shall be determined in the reasonable discretion of MIDA. Any road constructed by the Master Developer or a Project Developer that is not specifically accepted by a Public Entity as a public road shall remain a private road until the time of such acceptance.

3.7.3 **Snow Removal.** The Master Developer or applicable Project Developer shall provide snow removal on all private roads on the Marina West Property. The Master Developer or Project Developer may transfer the obligation to plow the private roads to the applicable Owners Association. The transfer to the Owners Association, approval of which not to be unreasonably withheld, conditioned or delayed will be memorialized by a Transfer Acknowledgment executed by Master Developer, MIDA, and such Owners Association. MIDA (or another Public Entity, as applicable) shall provide or cause to be provided snow removal on public roads owned by MIDA or such Public Entity within the Marina West Property. Except to the extent provided in connection with a PID or by a special service district, MIDA may use Wasatch County to provide such snow removal pursuant to the Amended and Restated Interlocal Agreements. MIDA shall provide the same level of service provided to other Class B Priority 1 roads in the MRF Project Area. The priority and method of snow removal shall be determined in the reasonable discretion of MIDA or its service provider. If the Master Developer or an applicable Owners Association

elects, it may supplement snow removal provided by a Public Entity with respect to such public roads. Snow removal and storage methods and locations will be modified on an annual basis and depending on services and technique of removal (e.g., plow, blowing, hauling), snow may be stored, mechanically melted or off hauled. The Master Developer or HOA providing service shall refresh and install signs to ensure snow storage or associated techniques are not causing harm or overwhelming public improvements. During the final landscape phase of a Project, permanent, semi-permanent or seasonal restrictive devices shall be installed to protect major public infrastructure improvements from damage, such as removable bollards on catch basins or guardrails above or below a retention pond.

3.8 Affordable/Employee/Workforce Housing. In connection with its approval of this Development Agreement, MIDA has approved the Housing Program for the Mountainside Resort and Marina West Property attached hereto as Exhibit E, and determined that the affordable/employee/workforce housing generally proposed in the Housing Program represents a proportional contribution to the low and moderate income and other similar housing needs of the MRF Project Area created by the development of the Mountainside Resort and the Marina West Property. Except for the construction of the affordable/employee/workforce housing identified in the Housing Program, neither Master Developer nor any Project Developer shall have any obligation to construct or otherwise fund any additional affordable/employee/workforce housing in connection with the development of the Marina West Property, as generally depicted on the Marina West Master Development Plan, unless the total Development ERUs constructed in the Marina West Property exceed Master Developer's entitlements set forth in this Agreement with respect to the Marina West Property. Unless otherwise agreed by MIDA and Master Developer, Master Developer shall construct affordable/employee/workforce housing in accordance with the Housing Program. For avoidance of doubt, MIDA agrees that the MIH Agreement has been and is hereby terminated in its entirety and is of no further force or effect, and that none of the parties thereunder nor the Marina West Property have no obligation or liability thereunder, any such obligation or liability having been fully terminated, waived and discharged hereunder.

3.9 Conditions of Future Approvals—Benchmark Conditions. Development of the Marina West Property identified in the Marina West Master Development Plan may require the installation of certain infrastructure or other improvements ultimately necessary to the completion of the Marina West Property. MIDA has established the following benchmark conditions that must be satisfied in connection with the Project-by-Project development of the Marina West Property identified in the Marina West Master Development Plan and the timetable or benchmark for their satisfaction (i.e. those conditions set forth in Sections 3.9.1 through 3.9.2 below) contemporaneously with or prior to development within a specific Project or some other development milestone) (collectively, the "**Benchmark Condition(s)**"):

3.9.1 JSSD Will-Serve Letters: As applicable and consistent with the requirements of the Water and Sewer Services Agreement, such Project shall receive a will-serve letter or other evidence confirming JSSD's commitment to provide the applicable water and sewer services contemporaneously with or before the applicable Subdivision Plat or Project Site Plan Approval.

3.9.2 Execution of Project Specific Development Agreements: If required pursuant to Section 3.3, a Project Developer shall enter into a Project Specific Development Agreement contemporaneously with or before Subdivision Plat approvals for each Project, as applicable and pursuant to Section 3.27.

Except for the Benchmark Conditions, and subject to Section 4, MIDA agrees that it shall not impose further conditions to commence and advance development of the Marina West Property or any Project within Marina West Property. Notwithstanding the foregoing, if: (a) a Project is advanced by Master Developer or a Project Developer that materially deviates from the concept for roads, utilities and other infrastructure identified on the Marina West Master Development Master Plan; (b) requires additional Project level studies due to newly discovered geological conditions or constraints; or (c) as otherwise provided in Section 4.1.2; then MIDA may modify the applicable Benchmark Condition or impose such additional conditions

to such Project as MIDA determines in the exercise of its administrative discretion to be necessary. The foregoing prohibition shall not prevent MIDA from imposing Project specific conditions necessary to assure the functionality of the infrastructure proposed for a particular Project or other physical constraints or conditions that exist within such Project, as well as all Project level approvals required by Applicable Law.

3.10 MIDA Processed Land Use Applications; Payment of Fees. In connection with MIDA's processing of any land use development for any given Project within the Marina West Property, Master Developer agrees to pay those MIDA administrative, review and inspection fees imposed pursuant to MIDA Resolution No. 2019-14 and the reasonable executive orders and cost-based fee schedules lawfully issued pursuant thereto, as the same may be adjusted from time-to-time. MIDA agrees to process, reasonably consider and complete any land use development application submitted by Master Developer or any Project Developer in a timely manner in accordance with the MIDA Development Standards provided that the Master Developer or Project Developer has paid to MIDA the required land use development application fee, as described above.

3.11 MIDA Processed Grading and Infrastructure Permit Fees; Payment of Fees. In connection with MIDA's processing of any grading or infrastructure development application for any given Project within the Marina West Property, Master Developer agrees to pay those MIDA administrative, review and inspection fees imposed pursuant to MIDA Resolution No. 2019-14 and the reasonable executive orders and cost-based fee schedules lawfully issued pursuant thereto, as the same may be adjusted from time-to-time. MIDA agrees that any executive orders and cost-based fee schedules shall be approved in a form that prohibits double-billing or duplicative fees, and limits any percentage-based fee or deposit to not more than two and one-half percent (2.5%) of the infrastructure improvement value. MIDA agrees to process, reasonably consider grading or infrastructure permit application submitted by Master Developer or any Project Developer in a timely manner in accordance with the MIDA Development Standards, provided that the Master Developer or Project Developer has paid to MIDA the appropriate land use development application fee, as described above.

3.12 Payment of In Lieu Fees. Master Developer agrees to pay the In Lieu Fees, as defined and set forth in Section 19 of the Amended and Restated West Side Interlocal Agreement that are legally due and payable in connection with any structure built by Master Developer, or Master Developer's agent, employee, contractor, or subcontractor. Notwithstanding the foregoing, nothing in this Section shall in any way be deemed a waiver of Master Developer's right to contest the determination of the specific In Lieu Fee required for a given Project by Master Developer, or Master Developer's agent, employee, contractor, or subcontractor in the Marina West Property.

3.13 Special Service Districts, Fees and Charges. The following services will be provided to the Marina West Property by special service districts pursuant to the District Interlocal Agreements pursuant to which such districts have agreed to provide the requisite services pursuant to the terms thereof. The District Interlocal Agreements are more fully identified on Exhibit F attached hereto and incorporated by reference herein:

Service	Entity Providing Service
Culinary Water	Jordanelle Special Service District
Trash Removal	Wasatch County Solid Waste Special Service District
Sanitary Sewer	Jordanelle Special Service District
Fire & Emergency Medical Services	Wasatch County Fire District

Master Developer agrees to pay any and all generally applicable and uniformly applied fees imposed by the Districts in connection with development of a Project, as the same may be modified or more specifically set forth in any agreement between Master Developer and such Districts, including, without limitation, the Water and Sewer Services Agreement.

MIDA shall provide or cause to be provided culinary water and sanitary sewer services, solid waste disposal services, and fire suppression and emergency medical services, to the Marina West Property on a timely basis and at such a level of service so as to support the timely development of the Marina West Property and the operation of the Marina West Property as contemplated in the District Interlocal Agreements with the applicable service provider and any phasing plan being implemented pursuant to Section 3.3. Pursuant to the District Interlocal Agreement with the applicable service provider, and except for culinary water, raw/untreated water and sanitary sewer service, MIDA may provide the foregoing services to the Marina West Property utilizing, each as applicable, Wasatch County Solid Waste District and Wasatch County Fire District as the service provider or such other providers as MIDA may determine from time-to-time with respect to the given service. MIDA agrees that upon Master Developer's request, MIDA will enforce on Master Developer's behalf the District Interlocal Agreements or such other agreements as MIDA may from time-to-time enter into with respect to the provision of the applicable services by a public or private provider.

3.14 Municipal and Other Services, Permitting and Inspection Services, Fees and Charges.

3.14.1 Provision of Municipal Services. MIDA shall provide or cause to be provided Municipal Services to the Marina West Property on a timely basis and at such a level of service so as to support the timely development of the Marina West Property and the operation of the Marina West Property as contemplated in the Amended and Restated West Side Interlocal Agreement, any other agreement between Master Developer and MIDA, and any phasing plan being implemented pursuant to Section 3.3. Pursuant to the Amended and Restated West Side Interlocal Agreement, MIDA may provide Municipal Services to the Marina West Property utilizing Wasatch County as the service provider or such other providers as MIDA may determine from time-to-time with respect to a given Municipal Service. MIDA agrees that upon Master Developer's request, MIDA will enforce on Master Developer's behalf the Amended and Restated West Side Interlocal Agreement or such other agreements as MIDA may from time-to-time enter into with respect to the provision of the Municipal Services by a public or private provider.

3.14.2 Municipal Services Revenue Fund. Except to the extent provided by a PID, the cost of providing Municipal Services (as defined in the Amended and Restated West Side Interlocal Agreement) to the Marina West Property shall be paid for utilizing available funds generated from various taxes and collected in the Municipal Services Revenue Fund (as defined in the Amended and Restated West Side Interlocal Agreement). As of the Effective Date, MIDA pays these to Wasatch County who provides the Municipal Services. MIDA shall not charge Master Developer or any other property owner within the Marina West Property any further fee or charge in connection with the delivery of Municipal Services to the Marina West Property.

3.14.3 Permitting and Inspection Services; Payment of Fees. MIDA shall provide or cause to be provided Permitting and Inspection Services to the Marina West Property on a timely basis and at such a level of service so as to support the timely development of the Marina West Property and the operation of the Marina West Property as contemplated in the Amended and Restated West Side Interlocal Agreement and any phasing plan being implemented pursuant to Section 3.3. Pursuant to the Amended and Restated West Side Interlocal Agreement, MIDA may provide Permitting and Inspection Services to the Marina West Property utilizing Wasatch County as the service provider or such other providers as MIDA may determine from time-to-time with respect to a given Permitting and Inspection Service. MIDA agrees to process or cause to be processed, reasonably considered and completed any permit review and/or required inspection requested by Master Developer or any Project Developer in a timely manner in accordance with the MIDA Development Standards. Subject to Section 3.11 and Section 3.12 hereof, Master Developer agrees to pay any and all fees lawfully imposed by MIDA for Permitting and Inspection Services, including (but not limited to) fees for plan check and engineering review and the surcharge for MIDA described in the Amended and Restated West Side Interlocal Agreement (i.e. 2.5% of the permit fee charged by Wasatch County or other provider of Permitting and Inspection Services). Pursuant to

Resolution 2019-14, the MIDA Board adopted Wasatch County's fee schedule, a copy of which is attached hereto as Exhibit G (the "**Existing Fee Schedule**"). Unless otherwise agreed by MIDA and Master Developer, MIDA agrees that it shall not charge more than those amounts set forth on the Existing Fee Schedule for the Permitting and Inspection services rendered, as the same may be adjusted from time-to-time based on the costs of providing such services and compliance with Applicable Law.

3.14.4 MIDA Review. If Master Developer believes modifications to the Existing Fee Schedule are unreasonable, unlawful or that Wasatch County has failed to timely provide any of the Municipal Services or Permitting and Inspection Services for the West Side in accordance with the Amended and Restated West Side Interlocal Agreement, Master Developer may provide MIDA with written notice of such unreasonableness, unlawfulness or failure. Upon receipt of any such notice, MIDA shall promptly initiate and conduct a reasonably thorough review of the Municipal Services and/or Permitting and Inspection Services being provided by Wasatch County, including the cost thereof, responsiveness, capacity, quality and other aspects of such Municipal Services and/or Permitting and Inspection Services. MIDA shall provide Master Developer written notice of such review and allow Master Developer a reasonable period to provide MIDA with information, data and other evidence relating to the Municipal Services and/or Permitting and Inspection Services required for the Marina West Property, including the costs thereof, and Wasatch County's performance in providing such Municipal Services and/or Permitting and Inspection Services. If MIDA reasonably determines, in the exercise of its reasonable judgment based on such review, that Wasatch County has failed to timely provide the required level and timeliness for such Municipal Services and/or Permitting and Inspection Services at a reasonable cost, in whole or in part, MIDA shall promptly provide written notice to the County, as provided in the Amended and Restated West Side Interlocal Agreement, and take such actions as are permitted by the Amended and Restated West Side Interlocal Agreement, to ensure that Municipal Services and/or Permitting and Inspection Services are provided to the West Side at such levels, at such cost, and with such timeliness at least equal to the level of Municipal Services and/or Permitting and Inspection Services required by the Amended and Restated West Side Interlocal Agreement.

3.14.5 No Binding of Legislative Authority. Nothing set forth in this Section 3.14 is intended to or shall bind MIDA in the exercise of its legislative authority or require MIDA to act in any manner that would be a breach of the Amended and Restated West Side Interlocal Agreement or the District Interlocal Agreements with Jordanelle Special Service District, Wasatch County Solid Waste District or Wasatch County Fire District. Notwithstanding the foregoing sentence, in no event shall any amendment or modification of the Amended and Restated West Side Interlocal Agreement or the District Interlocal Agreements adversely affect the rights and obligations of the Parties hereto except to the extent expressly set forth in an amendment to this Agreement signed by MIDA and the Master Developer (on its own behalf and on behalf of the Landowner).

3.15 Construction or Dedication of Master Infrastructure Improvements. Except as specifically provided below, the Master Developer shall be responsible for the completion of certain fundamental infrastructure improvements that are deemed to be critical for the development of the entirety of the Marina West Property (excluding the 319 Connector Road, and system infrastructure improvements provided by MIDA, JMARA PID, Wasatch County, JSSD and other entities funded by, *inter alia*, impact fees, if any) ("**Master Infrastructure Improvements**"). Master Infrastructure Improvements include but are limited to the following: (i) all roads and other improvements within the road rights-of-way within the Marina West Property that are not part of the improvements for a specific Project (i.e. excluding infrastructure improvements located within the perimeter boundary of a Project or Development Lot directly necessary for only such Project or Development Lot), including the street lighting, signage (including way-finding, informational kiosks and similar directional/information components), all to at least one point along the perimeter boundaries of all Projects; (ii) all emergency access to the Common Areas, if any, on the Marina West Property (but not the Project Common Areas); (iii) utility services to at least one point along the perimeter or boundary of all Projects and to common improvements within the Marina West Property; and (iv) landscaping situated within the Marina West Property but outside of any

Project. The responsibility and liability for the construction of all Master Infrastructure Improvements shall rest with Master Developer, unless responsibility and liability for such construction is undertaken by a PID or specifically assigned by Master Developer to one or more Project Developers pursuant to a Transfer Acknowledgment signed by MIDA. The Master Infrastructure Improvements shall be completed as Projects are developed, in the Master Developer's reasonable discretion and subject to the reasonable approval of MIDA as reflected in the specific approvals for a given Project. Notwithstanding the foregoing provisions of this Section 3.15, MIDA specifically acknowledges, covenants and agrees that the 319 Connector Road and the roadway to the Campground shown on the Marina West Development Plan, including any associated trails constructed in connection therewith, are system infrastructure improvements to be completed at the sole cost and expense of MIDA, JMARA PID or Wasatch County.

3.16 Construction or Dedication of Project Specific Improvements. Infrastructure improvements associated with a Subdivision Plat or Project Site Plan shall be completed by the Project Developer owning the real property included within the boundaries of such Project, and in conformance with this Agreement, as delineated on the Subdivision Plat or Project Site Plan approval therefore ("**Project Specific Improvements**"). Project Specific Improvements include: (i) all roads and other improvements within the road rights-of-way within the Project, street lighting, signage (including directional/information components), and wet and dry utilities within such rights-of-way, within the perimeter or boundary of the applicable Project; (ii) all emergency and secondary access to the Project boundary as set forth on the Marina West Master Development Plan, if any, and unless such emergency or secondary access has been previously completed by others; (iv) utility services within the perimeter or boundary of the Project; (vi) dedication and construction of trails, if any, shown on the Subdivision Plat or Project Site Plan for the Project; (vii) landscaping of Common Areas, if any, within the Project; and (viii) all other improvements or dedications that are required within the Project or adjacent to the Project required by the MIDA Development Standards. Project Specific Improvements shall be inspected and accepted by MIDA (or a Reviewer appointed or approved by MIDA) in writing prior to the issuance of the first certificate of occupancy within that Project (which reviews shall be completed by MIDA in the exercise of its administrative discretion exercised consistently with the comparative standards found in Section 17-27a-604.5 of the Utah Code). Issuance of a building permit does not waive any improvement requirements.

3.17 Construction and Maintenance of Recreation Facility Parking. Subject to entering into appropriate agreements with the JMARA PID, Master Developer shall construct the Recreation Facility Parking in conjunction with the Marina West Property as generally shown on the Marina West Master Development Plan. Except as provided in the immediately following sentence, the timing of Master Developer's construction of the Recreation Facility Parking shall be in Master Developer's discretion; provided that construction may commence any time after the approval by MIDA and the JMARA PID of construction plans and/or the issuance of a mass grading permit for the Recreation Facility Parking. Master Developer has no obligation to construct the Recreation Facility Parking until such time as the JMARA PID has received full funding of the costs to construct the planned recreational uses on the JMARA PID Property and the reasonable determination by Master Developer that the Recreation Facility Parking is needed to support such uses and parking for adjacent uses as contemplated by the parking lease or agreement (described below). It is also intended that Master Developer at its discretion, prior to the JMARA PID recreational improvement funding, may seek approval by MIDA and the JMARA PID for the Recreation Facility Parking and upon approval construct such improvements. The Recreation Facility Parking shall be publicly owned by the JMARA PID and operated by the Master Developer pursuant to a lease, operating agreement or other form of agreement. Extell shall negotiate with the JMARA PID such agreements as are necessary to facilitate the construction, financing, ownership and operation of such Recreation Facility Parking, including the ability of the Master Developer and its designees to utilize the Recreation Facility Parking areas on an exclusive basis during ski season and for the pro-rated sharing of the costs to operate, maintain, repair and replace such facilities based upon the authorized usage periods for such facilities. Taking into account the value of the land and construction of parking improvements to be donated by the Master Developer and its affiliates, and the cost and obligations incurred by the Master Developer in the operation, maintenance and repair of the parking facility, it is anticipated that the terms

and conditions of the parking lease or agreement would include, among other provisions, the right of the Master Developer its affiliates to use the Recreation Facility Parking in connection with the Marina West Property and the Mountainside Resort for nominal additional value. MIDA is supportive of such an arrangement and unless prohibited under applicable law and subject to the immediately following sentence, MIDA will cooperate in facilitating such negotiations. Notwithstanding the foregoing provisions of this Section 3.17, the Parties understand and agree that the Recreation Parking Facility is not located on property owned by MIDA, but will be located on property solely owned by the JMARA PID and that all agreements related to the construction, leasing, and use of the property are not within the authority of MIDA to negotiate or approve and shall be solely the responsibility of the JAMRA PID to negotiate and approve. The Recreation Facility Parking is and for all purposes shall remain a permitted use pursuant to the MIDA Development Standards.

3.18 Reserved.

3.19 Maintenance of Common Areas. Except as provided below, Master Developer shall maintain the Common Areas located within the Marina West Property but outside of a particular Project in all respects, including but not limited to landscaping, irrigation, and weed control. Except as provided below, Project Developer shall maintain the Common Areas located within a particular Project in all respects, including but not limited to landscaping, irrigation, and weed control. Notwithstanding the foregoing, the obligations of Master Developer or a Project Developer in this Section 3.19 may be transferred by written agreement to an Owners Association, subject to execution of a Transfer Acknowledgment signed by Master Developer and MIDA or such Owners Association. Nothing set forth in this Section 3.19 shall prohibit the construction of Common Areas prior to the construction of any given Project in the Marina West Property.

3.20 Storm Drain Facilities Easement; Detention Pond Maintenance. All detention ponds located within the Marina West Property but outside of a Project and constructed by Master Developer will remain the property and responsibility of the Master Developer, applicable Owners Association, or a Public Entity created, in whole or in part, for the purpose of providing storm water detention services. All such detention ponds located within a Project will remain the property and responsibility of the Project Developer who receives the initial permit for development of the Project, the Owners Association for such Project, or a Public Entity created, in whole or in part, for the purpose of providing storm water detention services. The Master Developer, Project Developer, applicable Owners Association, or Public Entity shall be responsible for all inspection, maintenance, and repair of the detention areas and drainage swales leading to detention ponds constructed in connection with the Marina West Property. The Person responsible for such maintenance shall inspect the applicable detention areas for erosion and any changes after every major storm event but at least monthly (weather permitting (i.e., inspections and maintenance do not occur during winter months)), including inspection of embankments for any visible signs of erosion, seepage, sloughing, sliding, or other instability. Outlet structures shall be inspected for flow obstructions, cracks, vandalism, or erosion. Regular maintenance shall include those items identified on Exhibit J attached hereto. The maintenance and/or construction obligations of the Master Developer or a Project Developer under this Section may be transferred to the applicable Owners Association or Public Entity, subject to execution of a Transfer Acknowledgment signed by Master Developer, MIDA, and such Owners Association or Public Entity. Maintenance performed by the maintaining Person shall meet or exceed a standard of reasonableness and safety as established by MIDA and uniformly applied to other detention improvements within the MRF Project Area. Notwithstanding the foregoing, any Public Entity that accepts the dedication or responsibility for maintenance of storm drain facilities, including detention or retention basins, shall provide maintenance consistent with the standard required by the Public Entity for all storm drain facilities and detention basis under its control. Nothing set forth in this Agreement imposes any obligation or liability on Master Developer or a Landowner for a detention pond located on the Marina West Property that is not constructed by Master Developer or such Landowner.

3.21 Additional Development Requirements and Restrictions.

3.21.1 Noise Requirements. The MIDA Development Standards do not address noise abatement or other nuisances. Notwithstanding the foregoing, the Parties agree that the following sounds shall at all times be exempt from any such limitations: sounds created by emergency response vehicles and equipment; sounds created during daytime hours by construction equipment and vehicles when operated at designated construction sites within the Marina West Property; sounds created during daytime hours by the installation, maintenance or repair of residential or commercial properties and any other public or private facilities and utilities; sounds caused by the necessary and emergency repair or maintenance of residential or commercial properties and any other public or private facilities and utilities; sounds caused by fire alarms being used as such; sounds created by the normal operation of licensed motor vehicles on public and private roadways; and sounds generated by outdoor concerts, movies, Olympic and Special Olympic event and other outdoor and special events. MIDA further agrees that any tennis or pickle ball courts located within the JMARA PID Property will be sited such that they are not close than one hundred feet (100') away from any portion of the Marina West Property planned for residential development.

3.21.2 Residential Siting and Building Pad Location. Development of the Marina West Property necessarily requires flexibility in the siting of residential structures and associated accessory buildings. For that reason, the MIDA Development Standards do not include specific set back or other similar restrictions for residential Development Lots. Master Developer or the applicable Project Developer shall nevertheless be required to identify on the applicable Subdivision Plat for each residential Project the proposed building envelope(s) for each Development Lot identified on such Subdivision Plat, which building envelope(s) shall be subject to the review and approval of MIDA in connection with the review and approval of the applicable Subdivision Plat. Architectural standards for residences and accessory structures shall follow the MIDA Materials and Design Guidelines Handbook adopted pursuant to the MIDA Development Standards and be established by the Master Developer or applicable Project Developer pursuant to any Project specific covenants, conditions and restrictions as are imposed upon the applicable Project by the Project Developer.

3.22 Flexibility and Amendments. The Parties acknowledge and agree that the Marina West Master Development Plan, together with the various elements comprising the same are a conceptual depiction providing general guidelines for the development of the Marina West Property into one or more Projects and generally designating proposed land uses and allocating density among such Projects and establishing a conceptual plan for traffic circulation, land use and infrastructure development. While depicting roadways, certain utility locations and potential property boundaries between the Projects, such roadways and property boundaries may be adjusted by the Master Developer as necessary in connection with development of the Marina West Property into one or more Projects. In addition, Master Developer may propose Development ERU density allocations and land uses within the various Projects comprising the Marina West Property that differ from those shown on the Marina West Master Development Plan, provided that land uses and density allocations are consistent with the overall requirements of Marina West Master Development Plan. MIDA may require that Subdivision Plats include a statement of the Maximum Residential Density for the platted area, or for specific Development Lots shown on such plats, if the maximum Development ERU density for any Subdivision Plat or Development Lot is determined at the time such Subdivision Plat is approved. MIDA agrees to consider in good faith, without requiring amendment of the approved Marina West Master Development Plan, Master Developer's applications for Subdivision Plat and Project Site Plan approvals unless the proposed application proposes a use that is not a permitted or conditional use allowed pursuant to the MIDA Development Standards, proposes residential densities that will cause the Maximum Residential Density for the Marina West Property to be exceeded, or materially deviates from the general land use designations and general areas shown on the Marina West Master Development Plan. To the extent that MIDA determines that an amendment to the Marina West Master Development Plan is required before a given subsequent application may be approved by MIDA, MIDA agrees to consider such proposed amendments in good faith. Notwithstanding the foregoing, the Maximum Residential Density for the Marina West Property and the parking ratios set forth in Section 3.23 below shall not be altered except with MIDA approval, which approval shall be timely granted or withheld

in MIDA's legislative discretion following the process established in the MIDA Development Standards. In all cases, the requirements of Chapter 2 of the MIDA Development Standards shall be read to mean "if applicable" and "where appropriate" when taking into account the application to which such requirements pertain as reasonably determined by the MIDA Executive Director. For example, the "call before you dig" logo and related information is not applicable to every sheet of a Site Plan and common sense should prevail, requiring the placement of the information where appropriate.

3.23 **Parking.** The Marina West Master Development Plan conceptually identifies the off-street parking locations for residential and commercial facilities on the Marina West Property. Each Project is currently proposed to be parked in accordance with the off-street parking standards set forth in the Mountainside Resort Parking Plan, which standards are hereby approved by MIDA for purposes of the Marina West Property (the "**Standard Parking Requirements**"). In connection with a Project specific request for Subdivision Plat or Project Site Plan approval, Master Developer or a Project Developer may submit, or MIDA may require a Project specific parking study (each a "**Project Specific Parking Study**") to be performed by a qualified engineer to ascertain whether the Standard Parking Requirements for such Project should be adjusted based on generally accepted industry standards and the projected parking demands for such Project. Master Developer or a Project Developer, as applicable, shall complete the subject Project Specific Parking Study at such Developer's sole cost and expense. If a Project Specific Parking Study indicates that the Standard Parking Requirements should be adjusted for such Project, an amendment to this Agreement shall be adopted reflecting such adjustment, the approval of which shall not be unreasonably withheld, conditioned or delayed. From and after such amendment, the term "**Standard Parking Requirements**" as used herein shall mean and refer to the foregoing standards as amended with respect to the Project that is the subject of the Project Specific Parking Study.

3.24 **Open Space Buffer.** MIDA hereby covenants and agrees that development of the JMARA PID Property, at any location where the JMARA PID Property is adjacent to the Marina West Property, shall include an Open Space buffer of not less than thirty (30) feet, which Open Space buffer shall be located on the JMARA PID Property and shall not include any building or structure.

3.25 **Duration of Approved Master Plans.** The Marina West Master Development Plan shall remain in full force and effect during the Term of this Agreement.

3.26 **MIDA Development Standards and Guidelines Compliance.** Development of a Project may not proceed until Master Developer, or Master Developer's successor or assign, with respect to a given Project, has demonstrated compliance with the applicable Sections of the MIDA Development Standards and the Marina West Master Development Plan applicable to such Project. Compliance with the applicable requirements of the MIDA Development Standards shall be demonstrated on a Project-by-Project basis in connection with the submission of, as applicable, an MDP, Subdivision Plat or Project Site Plan for a given Project; provided, however, that the design elements, architectural guidelines and community regulations advanced for approval in connection with a Project Site Plan shall, unless specifically approved by MIDA, be consistent with the illustrative depictions, precedential pictures and textual representations approved in connection with the Marina West Master Development Plan and the MIDA Development Standards.

3.27 **Subdivision Approvals.** Development of the Marina West Property contemplates subdivision of the Marina West Property into one or more subdivision lots. MIDA agrees to process complete submissions as set forth in the MIDA Development Standards and to recommend approval of complete submissions to the DRC and MIDA Board with reasonable diligence and in accordance with the time frames set forth in the MIDA Development Standards. MIDA and Master Developer further agree that the subdivision approval process may occur on a Project-by-Project basis as follows:

3.27.1 **Plat Submission Requirements.** Master Developer or the applicable Project Developer shall submit a Subdivision Plat application for a Project (the "**Subdivision Plat**") consistent with the provisions of the MIDA Development Standards including, if applicable, a conceptual Subdivision Plat

submission, subject to the Director's right to waive or modify such requirements as appropriate in a given circumstances.

3.27.2 MIDA Approval of Subdivision Plat. Upon submission of a complete Subdivision Plat application, each of the Reviewers, DRC and MIDA Board shall promptly review within the timeframes established in the MIDA Development Standards the Subdivision Plat application for a given Project to determine compliance with the applicable requirements of the MIDA Development Standards, the Marina West Master Development Plan, other applicable MDP and any applicable Benchmark Condition applicable to the given Project, and approve or deny such Subdivision Plat. The Master Developer acknowledges and agrees that prior to construction of any improvements pursuant to an approved Subdivision Plat, the Master Developer or applicable Project Developer shall be required to provide each Public Entity the information required for each public improvement to be constructed or installed in connection with or prior to the recordation of such Subdivision Plat. Upon recordation of the Subdivision Plat, each subdivided lot created by such Subdivision Plat shall be referred to herein as a "**Development Lot**."

3.27.3 Conveyance by Transfer Deed. As provided in the MIDA Development Standards, to the extent that a conveyance is in anticipation or furtherance of future land use approvals and development of the Marina West Property or a particular Project therein, MIDA agrees that Master Developer may convey portions of the Marina West Property by metes and bounds prior to recordation of a Subdivision Plat for such portions, and MIDA agrees, upon approval of the Director or other land use authority designated by MIDA for such purpose, to execute such deeds of conveyance (each a "**Transfer Deed**") for the purposes of acknowledging only MIDA's consent to the conveyance by metes and bounds of the real property that is the subject of the applicable Transfer Deed.

3.28 Project Site Plan Approval. Development of each Project in the Marina West Property will require site plan approval ("**Project Site Plan Approval**") pursuant to the requirements of Section 2.03 of the MIDA Development Standards. A Project Site Plan Approval may not be granted except with respect to a Development Lot; provided, however, that the Master Developer or applicable Project Developer may seek Project Site Plan Approval and Subdivision Plat approval for a given Development Lot on a concurrent basis. The Project Site Plan Approval process for each Project and/or Development Lot shall be as set forth in the MIDA Development Standards (each a "**Project Site Plan**"). Upon submission of a Project Site Plan, each of the Reviewers, the DRC and the MIDA Board shall review the Project Site Plan's consistency with the applicable requirements of the MIDA Development Standards, as well as the Marina West Master Development Plan or other applicable MDP and applicable Subdivision Plat, and approve or deny the same. The Project Site Plan shall demonstrate compliance with the applicable requirements of Section 2.03 of the MIDA Development Standards (or demonstrate confirmation or clarification of those requirements in connection with the Marina West Master Development Plan or the applicable Subdivision Plat). By way of clarity, the purpose of a Site Plan as contemplated in Section 2.03 of the MIDA Development Standards is to show, to scale, the proposed uses and structures to be located on a parcel of land. The Site Plan is intended to show the significant features of the parcel to be developed, and how the uses relate to the surrounding area (developed, undeveloped or unknown). A Site Plan does not require the infrastructure, civil engineering or grading information for the site or the surrounding area and the location of specific items, like sprinkler heads and other incidental design elements, will be shown at a high-level approximate location, and are not required to be shown at the level of detail or specificity required for a Building Permit. In some cases, the design of adjacent infrastructure improvements (e.g., roadways, utility infrastructure, etc.) will not be completed prior to the approval of a Site Plan and Site Plan approval should not be delayed for that information to become available.

3.29 Reserved.

3.30 **Other Mechanisms for Financing and Reimbursement of Public Improvements.** On the request of Master Developer, MIDA may also consider the use of impact fees, pioneering agreements, assessment areas and other similar project-related public procedures and institutions for contemporaneously financing or reimbursing developers for costs of the construction, improvement, or acquisition of infrastructure, facilities, lands, and improvements to serve the MRF Project Area, whether located within or outside the Marina West Property. MIDA may also consider the possibility of combining methods of reimbursement. For example, a pioneering agreement pursuant to which Master Developer is reimbursed by adjoining landowners or through the collection of impact fees for public infrastructure improvements installed by Master Developer; provided, however, that in no event shall Master Developer be entitled to receive duplicative reimbursement, nor shall any Extell Entity be subject to an MIDA imposed impact fee or other assessment pursuant to which such Extell Entity is subject to an impact fee or other assessment without the express prior written consent of such Extell Entity. The Parties agree that any obligation set forth in this Agreement for the financing and construction of public improvements that are required to serve the Marina West Property or the Mountainside Resort and that will be owned by MIDA, JMARA PID or any other Public Entity may be undertaken, performed and completed by Master Developer or any Project Developer and then transferred to MIDA, or by MIDA, JMARA PID or Public Entity, subject to the requirements of the PID Act or other Applicable Law and the approval of the Parties consistent therewith.

3.31 **Cooperation with MIDA.** MIDA acknowledges that a significant incentive for Master Developer to proceed with the development of the Marina West Property as contemplated by the Marina West Master Development Plan is MIDA's willingness to provide financial support to the development in the form of reimbursements or other payments made pursuant to the Marina West Tax Sharing and Reimbursement Agreement, assessments, and bonding for infrastructure completion or reimbursement, and other financial incentives (the "**MIDA Financing Support**"). Upon request of the Master Developer, MIDA agrees to facilitate such MIDA Financing Support, including providing Master Developer, bondholders, lenders and others (collectively, "**Lenders**"), with customary certifications, assurances, and estoppel certificates, and in entering into agreements or amendments to this Agreement to address the concerns of such Lenders. Notwithstanding the foregoing, MIDA's obligations of cooperation or accommodation shall not require MIDA to modify the terms of this Agreement in any manner that would materially decrease Master Developer's obligations hereunder or materially increase MIDA's obligations, risk or liability under this Agreement or increase MIDA's costs or expenses under this Agreement without MIDA's consent, which consent shall not be unreasonably withheld, conditioned or delayed; provided that this sentence shall not apply, and MIDA shall not refuse to enter into any such accommodation, if Master Developer agrees to pay at the time of such modification the net present value (as reasonably determined by Master Developer and MIDA) of any such increased costs or expenses of MIDA under this Agreement, or, if MIDA reasonably determines that there are non-monetary obligations, risks or liabilities to MIDA created by the modification, MIDA is provided an indemnification for any such increased obligations, risk, or liability pursuant to an indemnification agreement in form and substance reasonably satisfactory to MIDA provided by an entity having sufficient credit worthiness to support the indemnification provided, which entity may be Master Developer, as reasonably determined by MIDA acting in good faith. Notwithstanding the foregoing, Master Developer acknowledges that any issuance of bonds by MIDA requires a public process and the MIDA Board has full, complete, and sole discretion to issue or not issue bonds. Any decision regarding the issuance of any bonds shall not be a breach of this Agreement and there shall be no liability of any nature to MIDA resulting from such decisions. MIDA further agrees that with respect to each Transfer Acknowledgment requested pursuant to this Agreement, MIDA shall timely review each such request in good faith and that it will not unreasonably withhold, condition or delay MIDA's approval of such Transfer Acknowledgment.

SECTION 4. VESTED RIGHTS AND APPLICABLE LAW

4.1 Vested Rights.

4.1.1 Generally. As of the Acceptance Date of this Agreement, Developer shall have the vested right to develop the Marina West Property in accordance with this Agreement, the Development Entitlements, and Applicable Law. Master Developer additionally reserves the right, in its reasonable discretion, to name and/or change or otherwise modify the name of the Marina West Property from time-to-time throughout the Term of this Agreement. Any prior land use entitlements or restrictions arising with respect to the Marina West Property are hereby agreed by the Parties to be subsumed into the Development Entitlements and shall be of no further force or effect. The Parties will cooperate in filing whatever is necessary to evidence the release of prior instruments of record that are no longer applicable to the Marina West Property.

4.1.2 Reserved Legislative Powers. Subject to Master Developer's vested rights under this Agreement, nothing in this Agreement shall limit the future exercise of the police power by MIDA in enacting zoning, subdivision, development, transportation, environmental, open space, and related land use plans, policies, ordinances, standards, guidelines, and regulations after the Acceptance Date of this Agreement. Notwithstanding the retained power of MIDA to enact such legislation under its police power, such legislation shall not modify Master Developer's rights as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah 1980), as further clarified for reference purposes in Utah Code Ann. 17-27a-508, or any other exception or basis for inapplicability of the doctrine of vested rights, recognized under state or federal law.

4.2 Applicable Law.

4.2.1 Applicable Law. The rules, regulations, official policies, standards and specifications applicable to the development of the Marina West Property (the "**Applicable Law**"), including rules, regulations, official policies, standards, specifications, the MIDA Development Standards and other applicable MIDA ordinances, resolutions, state law, and federal law in effect as of the Acceptance Date. Notwithstanding the foregoing, any Person applying for a building permit within the Marina West Property shall be subject to MIDA's Future Laws identified in Section 4.2.3(b), in effect at the time the Person files with MIDA a complete application for building permit.

4.2.2 Federal Law. Notwithstanding any other provision of this Agreement but subject to Section 4.2.3, this Agreement shall not preclude the application of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in federal laws or regulations ("**Changes in the Law**") applicable to the Marina West Property. In the event the Changes in the Law prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified or suspended, or performance thereof delayed, as may be necessary, to comply with the Changes in the Law.

4.2.3 MIDA's Future Laws. MIDA's Future Laws with respect to development or use of the Marina West Property shall not apply except as follows:

- (a) MIDA's Future Laws that Master Developer agrees in writing to the application thereof to the Marina West Property;
- (b) MIDA's Future Laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards,

the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments, are required to meet legitimate concerns related to public health, safety or welfare unless, and only to the extent that facts and circumstances are present which meet the exceptions to the vested rights doctrine as described in Section 4.1.2;

(c) MIDA's Future Laws that are health and environmental standards based on MIDA's obligations to comply with Federal or State environmental laws, and only to the extent that facts and circumstances are present which meet the exceptions to the vested rights doctrine as described in Section 4.1.2;

(d) Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by MIDA to all properties, applications and Persons similarly situated and are not in violation of the Marina West Tax Sharing and Reimbursement Agreement;

(e) Changes to the amounts of fees (but not changes to the times provided in the Applicable Laws for the imposition or collection of such fees) for the processing of Development Applications that are generally applicable to all development within MIDA's jurisdiction (or a portion of the MRF Project Area as specified in the lawfully adopted fee schedule) and which are lawfully adopted pursuant to State law and are not in violation of the Marina West Tax Sharing and Reimbursement Agreement; or

(f) Impact fees or modifications thereto which are lawfully adopted, imposed and collected and are not in violation of the Marina West Tax Sharing and Reimbursement Agreement.

4.2.4 Applications Under MIDA's Future Laws. Without waiving any rights granted or benefits imparted by this Agreement, Master Developer may at any time, choose to submit a Development Application for some or all of the Marina West Property under MIDA's Future Laws in effect at the time of the Development Application. Except as otherwise agreed by MIDA and Master Developer, any Development Application filed for consideration under MIDA's Future Laws shall be governed by all portions of MIDA's Future Laws related to the Development Application. The election by Master Developer at any time to submit a Development Application under MIDA's Future Laws shall not be construed to prevent or limit Master Developer from submitting other Development Applications relying on the Applicable Laws.

4.2.5 Exclusion from Moratoria. The Marina West Property shall be excluded from any moratorium adopted pursuant to Applicable Law unless such moratorium is found on the record by the MIDA Board to be necessary to avoid jeopardizing a compelling, countervailing public interest.

SECTION 5. AMENDMENT

Unless otherwise stated in this Agreement, MIDA and the Master Developer may amend this Agreement by mutual written consent. No amendment or modification to this Agreement shall require the consent or approval of any Person having any interest in any specific lot, parcel, unit or other portion of the Marina West Property.

SECTION 6. DEFAULT; TERMINATION; ANNUAL REVIEW

6.1 General Provisions.

6.1.1 Defaults. Any failure by either Party to perform any term or provision of this Agreement, which failure continues uncured for a period of sixty (60) days following written notice of such failure from the other Party (a "**Default Notice**"), unless such period is extended by written mutual consent, shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 60-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 60-day period. Upon the occurrence of an uncured default under this Agreement, the non-defaulting Party may, as its sole and exclusive remedy, institute legal proceedings to enforce the terms of this Agreement. By way of clarity, neither Party shall have a right to terminate this Agreement nor shall either Party have the right to pursue, claim or collect money damages with respect to a violation or breach of this Agreement in any federal or state court or other legal proceeding. Notwithstanding any other provision in this Agreement to the contrary, this Agreement shall not be cross-defaulted with any other agreement, including, without limitation, any Project Specific Development Agreement and this Agreement.

6.2 Review by MIDA.

6.2.1 Generally. MIDA may at any time and in its reasonable discretion and in writing request that Master Developer demonstrate that Master Developer is in full compliance with the terms and conditions of this Agreement, which writing shall specify the particular issues with which MIDA is concerned. Master Developer shall use commercially reasonable efforts to provide any and all information reasonably necessary to demonstrate compliance with this Agreement as requested by MIDA within thirty (30) days of the request, or at a later date as agreed between the Parties.

6.2.2 Determination of Non-Compliance. If MIDA finds and determines that Master Developer has not complied with the terms of this Agreement, and noncompliance may amount to a default if not cured, then MIDA may deliver a Default Notice pursuant to Section 6.1.1 of this Agreement. If the default is not cured timely by Master Developer, MIDA may exercise its remedies as provided in Section 6.1.1 of this Agreement.

6.2.3 Notice of Compliance. Within thirty (30) days following any written request which Master Developer may make from time to time, but not more often than once a calendar year unless waived by the Director, accompanied by a \$750 processing fee, the Director shall execute and deliver to Master Developer a written "Notice of Compliance" substantially in the form of Exhibit K, duly executed and acknowledged by MIDA, certifying that: (i) this Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modification; (ii) there are no current uncured defaults under this Agreement or specifying the dates and nature of any such default; and (iii) any other reasonable information requested by Master Developer.

6.3 Default by MIDA. In the event MIDA defaults under the terms of this Agreement, Master Developer shall have all rights and remedies provided in Section 6.1.1 of this Agreement.

6.4 Enforced Delay; Extension of Time of Performance. Notwithstanding anything to the contrary contained herein, neither Party shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, terrorist acts, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, epidemics, pandemics, acts of God, restrictions imposed or mandated by other governmental entities, enactment of conflicting state or

federal laws or regulations, new or supplemental environmental regulations, or similar basis for excused performance which is not within the reasonable control of the Party to be excused. Changes in the financial standing of the Parties shall not serve as a basis for excused performance. Upon the request of either Party hereto, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

6.5 **Annual Review.** Master Developer and the Director shall, at either Party's written request, meet annually to review the status of the Marina West Property and to review compliance with the terms and conditions of this Agreement.

SECTION 7. DEFENSE AND INDEMNITY

7.1 **Master Developer's Actions.** As of the Effective Date, the Extell Entities agree to release any existing claims, known and unknown, against MIDA and its elected and appointed officers, agents, employees, and representatives, arising directly out of the formation or approval of this Agreement, except for violations of Applicable Law, willful misconduct, or fraudulent acts by MIDA. Nothing in this Agreement shall be construed to mean that MIDA shall defend, indemnify, or hold the Extell Entities or their respective officers, agents and employees harmless from any claims of personal injury, death or property damage or other liabilities arising from (i) the willful misconduct or negligent acts or omissions of the Extell Entities or their respective boards, officers, agents, or employees; and/or (ii) the negligent maintenance or repair by the Extell Entities for which the Extell Entities, each as applicable, retain the obligation to maintain.

7.2 **MIDA's Actions.** As of the Effective Date, MIDA agrees to release any existing claims, known and unknown, against the Extell Entities and their respective officers, agents, employees, and representatives, arising directly out of the formation or approval of this Agreement, except for violations of Applicable Law, willful misconduct, or fraudulent acts by the Extell Entities. Nothing in this Agreement shall be construed to mean that the Extell Entities shall defend, indemnify, or hold MIDA or its elected and appointed representatives, officers, agents and employees harmless from any claims of personal injury, death or property damage or other liabilities arising from (i) the willful misconduct or negligent acts or omissions of MIDA, or its boards, officers, agents, or employees; and/or (ii) the negligent maintenance or repair by MIDA of improvements that have been offered for dedication and accepted by MIDA for maintenance.

7.3 **Environmental Conditions.** All environmental remediation, clean-up, or mitigation of the Marina West Property is subject to the jurisdiction and control of UDERR and UDWQ. The USACE has jurisdiction and control over any action that may relate to impacts to the waters of the United States. MIDA shall defer to the decisions of the UDERR, UDWQ, and the USACE, and MIDA shall not impose any environmental restrictions or obligations or require any action by Master Developer or any Project Developer relating to the environmental condition of the Marina West Property not required or contemplated by the UDERR, UDWQ, or USACE.

SECTION 8. ASSIGNMENT; TRANSFER OF MAINTENANCE OBLIGATIONS

8.1 **Assignment.** The rights and responsibilities of Master Developer under this Agreement may be assigned in whole or in part by Master Developer so long as a Transfer Acknowledgment with respect to such assignment is executed by MIDA, Master Developer, and such assignee or transferee; provided, however, that Master Developer's rights and obligations under this Agreement shall be appurtenant to and run with the land, and such rights and obligations shall only be transferrable along with the land to which such rights and obligations relate. Any assignee, including all Project Developers, shall consent in writing to be bound by the assigned terms and conditions of this Agreement as a condition

precedent to the effectiveness of the assignment. If the Master Developer, with the consent of the owner of the applicable portion of the Marina West Property, assigns, transfers or otherwise conveys the entire Marina West Property or any portion thereof to a subsequent owner, and intends to transfer any of the rights and obligations under this Agreement in connection with such transfer, Master Developer and the applicable assignee shall execute and deliver a “**Transfer Acknowledgment**” substantially in the form attached hereto as Exhibit L, together with the information required thereby, for the purpose of notifying MIDA of the transfer and assignment and seeking MIDA’s acceptance of the proposed assignee. Upon delivery of a fully executed Transfer Acknowledgment and accompanying documentation, MIDA shall evaluate the assignee identified therein, and if such assignee is a reputable and experienced developer with the financial wherewithal to complete the obligations assigned to and assumed by such assignee, MIDA shall execute the Transfer Acknowledgment, indicating MIDA’s written acceptance of such assignee, which acceptance shall not be unreasonably withheld, conditioned or delayed. If MIDA executes the Transfer Acknowledgment and delivers the same to Master Developer, the obligations of Master Developer assigned pursuant to such Transfer Acknowledgment shall be assigned to and assumed by the identified assignee and Master Developer shall be released from all such obligations that are assumed by the identified assignee. Until Master Developer delivers a fully executed Transfer Acknowledgment to MIDA and MIDA provides its written acceptance of the proposed transferee, the Master Developer shall, in addition to the identified assignee, remain jointly and severally liable for the obligations of the Master Developer arising under this Agreement expressly assumed by the identified assignee pursuant to the applicable Transfer Acknowledgment. For avoidance of doubt, the failure of MIDA to accept a Transfer Acknowledgment shall not affect the validity of any transfer by Master Developer.

8.2 Assignment to Affiliates. The transfer by the Master Developer of all or any part of the Marina West Property to any Affiliate of Master Developer; Master Developer’s entry into a joint venture for the development of all or any part of the Marina West Property; or Master Developer’s pledging of part or all of the Marina West Property as security for financing shall not be deemed to be an “assignment” subject to the acceptance process by MIDA contemplated by Section 8.1 unless specifically designated as such an assignment by the Master Developer. If not a matter of public record, Master Developer shall endeavor to give MIDA notice of any event specified in this Section 8.2 within ten (10) days after the event has occurred. Such notice shall include providing MIDA with all necessary contact information for the newly responsible party. Master Developer shall remain responsible for all obligations of this Agreement in such a transfer to a related entity, joint venture, or as security for financing except as may be provided in Section 8.1 with respect to MIDA’s acceptance of a Transfer Acknowledgment.

8.3 Creation of Owners Association. The Master Developer or applicable Project Developer may create various other Owners Associations to govern one or more Projects. The Master Developer or an applicable Project Developer may transfer certain maintenance obligations to the applicable Owners Association, whereupon Master Developer or the applicable Project Developer shall be relieved of such obligation, provide the applicable Owners Association has the authority to impose fees or other assessments sufficient to perform the maintenance obligations transferred to such association.

8.4 Written Transfer Agreement Required. When the Master Developer or an applicable Project Developer transfers maintenance obligations to an Owners Association, Master Developer or the applicable Project Developer shall do so by Transfer Acknowledgment with respect thereto executed by MIDA, Master Developer, and such Owners Association pursuant to Section 8.1.

8.5 Annexation by a Municipality. The Parties acknowledge the possibility that at some point during the Term of this Agreement, one or more municipalities may undertake to annex some or all of the Marina West Property into their municipal boundaries, which annexation may not presently occur without MIDA’s consent. Subject to Applicable Law, MIDA agrees that MIDA will not consent to any such annexation unless MIDA consults with Master Developer to determine which of those rights and obligations of MIDA under this Agreement shall be assumed by the applicable municipality, and those

rights and obligations shall be maintained by MIDA, as well as the manner in which any such assignment and assumption of rights should be adequately documented. The Parties further agree that the express objective of such discussions shall be, to the extent reasonably possible, to preserve all of the rights and obligations of MIDA as well as the Master Developer under this Agreement following any such municipal annexation.

SECTION 9. NO AGENCY, JOINT VENTURE OR PARTNERSHIP

It is specifically understood and agreed to by and between the Parties that: (1) the Marina West Property is a private development; (2) MIDA has no interest or responsibilities for, or due to, third parties concerning any improvements until such time, and only until such time, if any, that MIDA accepts the dedication of the same pursuant to the provisions of this Agreement; (3) Master Developer shall have full power over and exclusive control of the Marina West Property herein described, subject only to the limitations and obligations of Master Developer under this Agreement; and (4) MIDA and Master Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership express or implied between MIDA and Master Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between MIDA and Master Developer.

SECTION 10. MISCELLANEOUS

10.1 **Incorporation of Recitals and Introductory Paragraph.** The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.

10.2 **Subjection and Subordination.** Each Person that holds any beneficial, equitable, or other interest or encumbrances in all or any portion of Marina West Property at any time hereby automatically, and without the need for any further documentation or consent, subjects and subordinates such interests and encumbrances to this Agreement and all amendments hereof. Each such Person agrees to provide written evidence of that subjection and subordination within fifteen (15) days following a written request for the same from, and in a form reasonably satisfactory to, MIDA.

10.3 **Severability.** If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the Parties. In the event a court determines that the Term of this Agreement, or the rights granted to Master Developer hereunder, exceed the power of MIDA to make such agreements, this Agreement shall be enforced to the fullest extent Applicable Law would allow such rights to be granted hereunder, and this Agreement shall not be deemed to be void or voidable. The Parties shall enter into good faith negotiations to modify this Agreement as to any offending provision in an effort to accomplish the intent of such offending provision within the requirements of Applicable Law.

10.4 **Other Necessary Acts.** Each Party shall execute and deliver to the other any further instruments and documents as may be reasonably necessary to carry out the objectives and intent of this Agreement, including, without limitation, execution of such documents as may be reasonably necessary to facilitate the removal of historic matters of record that the Parties determine are no longer applicable to the Marina West Property.

10.5 **Construction.** This Agreement has been reviewed and revised by legal counsel for both MIDA and Master Developer, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

10.6 **Covenants Running with the Land.** The provisions of this Agreement shall constitute real covenants, contract and property rights, and equitable servitudes, which shall run with the Marina West Property. The burdens and benefits of this Agreement shall bind and inure to the benefit of each of the Parties, and to their respective successors, heirs, assigns, and transferees. Notwithstanding anything in this Agreement to the contrary, the owners of individual units or lots, as opposed to Subdivision Plats or Development Lots, in the Marina West Property shall (1) only be subject to the burdens of this Agreement to the extent applicable to their particular unit or lot; and (2) have no right to bring any action under this Agreement as a third-party beneficiary or otherwise. For purposes of clarity, if a right or obligation of the Master Developer under this Agreement pertains to a specific lot or parcel within the Marina West Property, such right or obligation shall also be a right or obligation of the owner or owners of the applicable portion of the Marina West Property that is or are the record owners of such lot or parcel.

10.7 **Waiver.** No action taken by any Party shall be deemed to constitute a waiver of compliance by such Party with respect to any representation, warranty, or condition contained in this Agreement. Any waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a waiver by such Party of any subsequent breach.

10.8 **Remedies.** Either Party may, in addition to any other rights or remedies specifically provided for in this Agreement, institute an equitable action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, enforce by specific performance the obligations and rights of the Parties, or to obtain any remedies consistent with the foregoing and the purpose of this Agreement. Neither Party shall be subject to any claim or award of any money damages, of any nature, in federal or state court or other legal proceeding. In the event either Party shall bring any suit or action to enforce this Agreement, the prevailing party in such suit or action shall recover such amount as the court may determine to be reasonable as attorneys' fees at trial and upon any appeal or petition for review thereof or in connection with any bankruptcy proceedings or special bankruptcy remedies.

10.9 **Agreement to Encourage Resolution of Disputes Without Litigation.**

(a) Each of the Parties and their respective officers, directors, and committee members, all Persons subject to this Agreement, and any Person not otherwise subject to this Agreement who agrees to submit to this Section 10.9 (collectively, "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Marina West Property without litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in Section 10.9(b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 10.10 in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "**Claim**" shall refer to any claim, grievance or dispute arising out of or relating to

- (i) the interpretation, application, or enforcement of this Agreement; or
- (ii) the rights, obligations, and duties of any Bound Party under this Agreement;

except that the following shall not be considered "**Claims**" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 10.10:

- (i) any suit in which any indispensable party is not a Bound Party; and

(ii) any suit arising in connection with any other agreement between the Parties or their Affiliates with respect to the Marina West Property or any portion thereof, whether or not some or all of the parties to such other agreement are also Parties to this Agreement.

10.10 Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim (“**Claimant**”) against another Bound Party (“**Respondent**”) shall give written notice to each Respondent and to the Board stating plainly and concisely;

(i) the nature of the Claim, including the Persons involved and the Respondent’s role in the Claim;

(ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

(iii) the Claimant’s proposed resolution or remedy; and

(iv) the Claimant’s desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and the Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation.

(c) Mediation. If the Claimant and the Respondent have not resolved the Claim through negotiation within thirty (30) days of the date of the notice described in Section 10.10(a) (or within such other period as the Claimant and the Respondent may agree upon), the Claimant shall have thirty (30) additional days to submit the Claim to mediation with an independent agency, reasonably acceptable to the Bound Parties, providing dispute resolution services in Utah. If the Claimant and the Respondent do not settle the Claim within thirty (30) days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the Claimant and the Respondent are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate. Each Claimant and the Respondent shall bear its own costs of the mediation, including attorneys’ fees, and each Claimant and the Respondent shall share equally all fees charged by the mediator.

(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the Claimant and the Respondent. If any party to the settlement thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section 10.10. In such event, the party taking action to enforce the settlement agreement or award shall upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such settlement agreement or award, including, without limitation, attorneys’ fees and court costs.

(e) Right to File Suit. At any time before or during the pendency of any Claim with respect to which the Bound Parties are seeking a resolution pursuant to this Section 10.10, any of the Bound Parties may file such suit or other judicial action as is required in order to satisfy the requirements of any applicable statute of limitations to which the Claim may be subject if such suit or other judicial proceeding is not filed prior to the resolution of such Claim pursuant to this Section 10.10, whereupon the party or parties to any such Claim shall, to the extent allowed by Applicable Law, stay the proceedings in such suit

or other judicial action during the pendency of any Claim with respect to which the Bound Parties are seeking a resolution pursuant to this Section 10.10.

10.11 **Utah Law**. This Agreement shall be construed and enforced in accordance with the laws of the State of Utah. Any dispute regarding this Agreement that cannot be resolved by the Parties shall be resolved in a court of competent jurisdiction in Salt Lake County or Wasatch County, State of Utah.

10.12 **Covenant of Good Faith and Fair Dealing**. Each Party shall use its commercially reasonable efforts and take and employ all necessary actions in good faith consistent with this Agreement and Applicable Law to ensure that the rights secured by the other Party through this Agreement can be enjoyed.

10.13 **Representations**. Each Party hereby represents and warrants to each other Party that the following statements are true, complete and not misleading as regards the representing warranting Party:

(a) Such Party is duly organized, validly existing and in good standing under the laws of the state of its organization.

(b) Such Party has full authority to enter into this Agreement and to perform all of its obligations hereunder. The individual(s) executing this Agreement on behalf of such Party do so with the full authority of the Party that those individual(s) represent.

(c) This Agreement constitutes the legal, valid and binding obligation of such Party enforceable in accordance with its terms, subject to the rules of bankruptcy, moratorium and equitable principles.

10.14 **No Third-Party Beneficiaries**. This Agreement is between MIDA and Master Developer. Except as provided in Section 8 pertaining to an assignment and Section 10.15 pertaining to Mortgagee Protections, no other Person shall be deemed a third-party beneficiary or have any rights under this Agreement.

10.15 **Mortgagee Protections; Estoppel Certificate**.

10.15.1 **Mortgages**. The Parties agree that this Agreement shall not prevent or limit any of the Extell Entities from encumbering the Marina West Property or any estate or interest therein (including this Agreement), or any portion thereof, or any improvement thereon, in any manner whatsoever by one or more mortgages, deeds of trust, sale and leaseback, assignments, pledges, and any or other form of secured financing by which an Extell Entity's interest in the Marina West Property is directly or indirectly mortgaged, pledged (including any pledges of a direct or indirect interest in an Extell Entity, or other "mezzanine" or preferred equity loans) (each, a "**Mortgage**") with respect to the construction, development, use or operation of the Marina West Property or the Mountainside Resort, or any part thereof. MIDA acknowledges that the lender(s) or prospective lender(s) providing such Mortgages (each, together with any successor holder of such Mortgage, a "**Mortgagee**") may require certain interpretations and modifications to this Agreement and MIDA agrees, upon request, from time to time, to meet with the Extell Entities and representatives of such Mortgagee(s) to negotiate in good faith any such request for interpretation or modification. MIDA will not unreasonably withhold its consent to any requested interpretation or modification, provided such interpretation or modification is consistent with the intent and purposes of this Agreement.

10.15.2 **No Mortgagee Obligations**. Notwithstanding any of the provisions of this Agreement to the contrary, no Mortgagee shall have any obligation or duty pursuant to the terms set forth

in this Agreement to perform the obligations of any Extell Entity or other affirmative covenants of any Extell Entity hereunder, or to guarantee such performance unless and until such Mortgagee has become the owner in place of an Extell Entity as provided in Section 10.15.6, and then only to the extent of such Extell Entity's obligations under this Agreement.

10.15.3 Default Notices. Any Mortgagee of any Mortgage encumbering the Marina West Property, or part or interest thereof, that has submitted a request in writing to MIDA in the manner specified herein for giving notices (each, an "**Eligible Mortgagee**"), shall be entitled to receive written notification from MIDA of any notice of non-compliance by any Extell Entity in the performance of such Extell Entity's obligations under this Agreement. MIDA simultaneously with providing any Extell Entity with a Default Notice with respect to: (i) a default under this Agreement, or (ii) a matter on which MIDA may predicate or claim a default, shall simultaneously provide a written copy of such Default Notice to each Eligible Mortgagee. MIDA shall have no liability for the failure to provide any such Default Notice, except that no such Default Notice by MIDA to an Extell Entity shall be deemed effective or to have been duly given unless and until a written copy thereof has been provided in accordance with the terms and conditions of this Agreement to each Eligible Mortgagee. From and after the date that such Default Notice has been given to each Eligible Mortgagee, each Eligible Mortgagee shall have the same period, after the delivery of such Default Notice upon it, plus in each instance, the additional period of time specified in Section 10.15.4 to cure, commence to cure or cause to be cured the default(s), acts or omissions which are specified in such Default Notice or if such cure cannot be effected without possession of the Marina West Property, or portion thereof to which the Default Notice applies, commence a proceeding to obtain such possession. If a cure cannot be effected without possession, once possession has been obtained, Eligible Mortgagee shall also have the same period for cure as any Extell Entity had after the delivery of such Default Notice. MIDA shall accept such performance by or at the instigation of such Eligible Mortgagee(s) as if the same had been done by an Extell Entity. MIDA authorizes each Eligible Mortgagee to take any such action at such Eligible Mortgagee's option at any time.

10.15.4 Curative Rights of Mortgagees. In addition to the rights granted to each Eligible Mortgagee under Section 10.15.3, each Eligible Mortgagee shall have an additional period ("**Additional Cure Period**") of ninety (90) days to: (i) cure, commence to cure or cause to be cured any default of which it receives a Default Notice, or (ii) commence a proceeding to obtain possession of the Marina West Property, or applicable portion thereof, in the case of a default that can only be cured once an Eligible Mortgagee obtains possession of the property to which the Notice of Default applies. The provisions of this Section 10.15.4 shall apply only if an Eligible Mortgagee:

(a) Notifies MIDA of Eligible Mortgagee's desire to cure such default within sixty (60) days of receipt of the Default Notice;

(b) On or before the termination of the Additional Cure Period, pays, or causes to be paid, to MIDA any amounts (A) then due and in arrears under this Agreement as specified in the Default Notice to such Eligible Mortgagee, and (B) any amount which becomes due during the Additional Cure Period as and when due; and

(c) Cures, or in good faith, with reasonable commercial diligence and continuity, commences to cure Master Developer's non-monetary requirements of this Agreement then in default and reasonably susceptible of being cured by such Eligible Mortgagee. Notwithstanding this Section 10.15.4, in the event of any non-monetary default under this Agreement, so long as the Eligible Mortgagee commences efforts to effect a cure and thereafter provides MIDA reasonable evidence from time to time, as requested in writing by MIDA, that the Eligible Mortgagee is diligently pursuing such efforts, Eligible Mortgagee shall have a commercially reasonable period of time within which to effect such cure of any such non-monetary default; provided that the Eligible Mortgagee shall be obligated only to cure any Extell Entities'

non-monetary obligations reasonably capable of being cured by Eligible Mortgagee and which do not require access to the Marina West Property or the use and operation thereof, provided that Eligible Mortgagee shall diligently seek to acquire such access or such use or operation (either directly or through receivership), and provided further that upon securing such access, use or operation (either directly or through receivership), Eligible Mortgagee promptly shall commence the cure of any such non-monetary default and shall prosecute same to completion with all commercially reasonable due diligence. Notwithstanding the foregoing, an Eligible Mortgagee shall have no obligation to cure any default that is personal to an Extell Entity.

Any notice to be given by MIDA to a Mortgagee pursuant to any provision of this Section 10.15.4 shall be deemed properly addressed if sent to the Mortgagee who served the notice referred to in Section 10.15.3 unless notice of a change of Mortgage ownership has been given to MIDA in writing

Nothing in this Section 10.15.4, however, shall be construed to extend this Agreement beyond the then applicable Term hereof, nor to require an Eligible Mortgagee to continue any foreclosure after the default has been cured. If the default has been cured and the Eligible Mortgagee shall discontinue any foreclosure, this Agreement shall continue in full force and effect as if the Extell Entities had not defaulted under this Agreement. If an Eligible Mortgagee is complying with this Section 10.15.4, upon the acquisition of Marina West Property, or portion thereof, by such Eligible Mortgagee or its designee or any other purchaser at a foreclosure, this Agreement shall continue in full force and effect as if the Extell Entities had not defaulted under this Agreement and MIDA shall recognize such Eligible Mortgagee or its designee or any other purchaser as the "Master Developer" for all purposes under this Agreement.

10.15.5 New Agreement. If this Agreement is terminated as to any portion of the Marina West Property for any reason, including a bankruptcy proceeding of any Extell Entity, or if this Agreement is disaffirmed by a receiver, liquidator, or trustee for an Extell Entity or its property, MIDA, if requested by any Eligible Mortgagee, shall negotiate in good faith with such Eligible Mortgagee or its designee for a new master development agreement for the Marina West Property, or portion thereof, with the most senior Eligible Mortgagee requesting such new agreement. Such new agreement shall be for the remainder of the then applicable Term of this Agreement, effective as of the date of termination, upon the same terms, covenants and conditions of this Agreement; provided:

- (a) such Eligible Mortgagee shall make written request upon MIDA for such new agreement within ninety (90) days after the date that this Agreement is terminated and notice of such termination is given by MIDA to the Eligible Mortgagee; and
- (b) such Eligible Mortgagee or such designee shall agree to cure any of the Extell Entities' defaults of which such Eligible Mortgagee was notified by MIDA. Any of an Extell Entity's non-monetary default which are not reasonably capable of being cured shall be deemed waived with respect to a new agreement, provided, the foregoing shall not limit any rights or remedies MIDA may have against the Extell Entities under this Agreement.

If more than one Eligible Mortgagee shall request a new agreement pursuant to this Section 10.15.5, MIDA shall enter into such new agreement with the Eligible Mortgagee whose Mortgage is prior in lien, or with the designee of such Eligible Mortgagee. MIDA, without liability to any Extell Entity or any Eligible Mortgagee with an adverse claim, may rely upon a mortgagee title insurance policy issued by a responsible title insurance company doing business in the state where the Marina West Property is located (which shall be issued in favor of MIDA at the sole cost and expense of any such Eligible Mortgagee) as the basis for determining the appropriate Eligible Mortgagee which is entitled to such new agreement.

10.15.6 Third Party Beneficiary. Subject to the provisions of this Section 10.15, each Eligible Mortgagee is an intended third-party beneficiary of the provisions of this Agreement specifically giving rights to an Eligible Mortgagee. In the event of a conflict between (i) the provisions of this Section

10.15 and (ii) any other provisions of this Agreement, this Section 10.15 will control. Except as set forth in Section 10.15.5, MIDA agrees that no Eligible Mortgagee shall in any manner or respect whatsoever be liable or responsible for any obligations or covenants of any Extell Entity under this Agreement (nor shall any rights of such Eligible Mortgagee be contingent on the satisfaction of such obligations or covenants), unless and until such Eligible Mortgagee becomes the owner of the Marina West Property by foreclosure, sale in lieu of foreclosure or otherwise, in which event such Eligible Mortgagee shall remain liable for such obligations and covenants only so long as it remains the owner of the Marina West Property and then only to the extent of such Extell Entity's obligations under this Agreement.

10.15.7 Estoppel Certificates. At any time, and from time to time, any Extell Entity may deliver written notice to MIDA, and MIDA may deliver written notice to Master Developer, requesting that such Party certify in writing that, to the knowledge of the certifying Party (i) this Agreement is in full force and effect and a binding obligation of the Parties, (ii) this Agreement has not been amended, or if amended, the identity of each amendment, (iii) the requesting Party is not then in breach of this Agreement, or if in breach, a description of each such breach, and (iv) any other factual matters reasonably requested (an "Estoppel Certificate"). The MIDA Executive Director shall execute and deliver, on behalf of MIDA, any Estoppel Certificate requested by any Extell Entity which complies with this Section 10.15.7 within fifteen (15) days after a written request for such Estoppel Certificate. MIDA's failure to furnish an Estoppel Certificate within such fifteen (15) day period shall be conclusively presumed that (A) this Agreement is in full force and effect without modification in accordance with the terms set forth in the request; and (B) there are no breaches or defaults on the part of any Extell Entity. MIDA acknowledges that an Estoppel Certificate may be relied upon by transferees or successors in interest of any Extell Entity and by Mortgagees holding an interest in the Marina West Property.

SECTION 11. NOTICES

Any notice or communication required hereunder between MIDA and Master Developer shall be sufficiently given or delivered if given in writing (a) upon personal delivery to the party to be notified, (b) when sent by confirmed electronic mail (or acknowledgment of receipt or reply by the recipient) if sent during normal business hours of the recipient; if not, then on the next business day, or (c) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Any Party may at any time, by giving ten (10) days written notice to the other Party, designate any other address to which notices or communications shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to MIDA:

Military Installation Development Authority
50 Simmons Way, No. 400
Kaysville, UT 84037-6722
Attn: Executive Director
Email: paultmorris@outlook.com

With copies to:

Catten Law, P.C.
P.O. Box 9805
Millcreek City, Utah 84109-9805
Attn: Richard Catten
Email: attycatten@yahoo.com

If to Master Developer or Landowner:

C/O Ex Utah Development LLC
805 Third Avenue, 7th Floor
New York, New York 10022
Attn: President
Email: Notices@extell.com

and:

Ex Utah Development LLC
9101 N. Mayflower Village Drive
Park City, Utah 84060
Attn.: Executive Vice President
Email: kkrieg@extell.com

With copies to:

Parr Brown Gee & Loveless
101 South 200 East, Suite 700
Salt Lake City, Utah 84111
Attn: Roger D. Henriksen
Robert A. McConnell
Email: rhenriksen@parrbrown.com
rmcconnell@parrbrown.com
and:

Ex Utah Development LLC
805 Third Avenue, 7th Floor
New York, New York 10022
Attn, General Counsel
Email: Notices@extell.com

SECTION 12. ENTIRE AGREEMENT, COUNTERPARTS AND EXHIBITS

Unless otherwise noted herein, this Agreement is the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate authorities of MIDA and Master Developer. The following exhibits are attached to this Agreement and incorporated herein for all purposes:

- Exhibit A Legal Description of the Marina West Property
- Exhibit A-1 Depiction of the Marina West Property
- Exhibit B Definitions
- Exhibit C Interpretations
- Exhibit D Marina West Master Development Plan
- Exhibit E Housing Program
- Exhibit F District Interlocal Agreements
- Exhibit G Existing Fee Schedule
- Exhibit H 319 Connector Road Plans
- Exhibit I Reserved
- Exhibit J Detention Pond Maintenance Requirements
- Exhibit K Notice of Compliance
- Exhibit L Form of Transfer Acknowledgment

SECTION 13. RECORDATION OF DEVELOPMENT AGREEMENT

No later than ten (10) days after MIDA enters into this Agreement, MIDA shall cause to be recorded an executed copy of this Agreement in the Official Records of Wasatch County.

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IN WITNESS WHEREOF, this Agreement has been entered into by and between the Extell Entities and MIDA as of the date and year first above written.

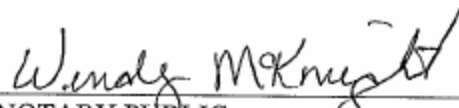
MIDA:

Military Installation Development Authority


Heather Kruse
MIDA MRF Project Area Director

STATE OF UTAH)
 Wasatch)
COUNTY OF ~~SALT LAKE~~) :ss

On the 27 day of July, 2023, personally appeared before me Heather Kruse, who being by me duly sworn did say, that she is the MIDA MRF Project Area Director of the MILITARY INSTALLATION DEVELOPMENT AUTHORITY, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the Military Installation Development Authority, by authority of law.


NOTARY PUBLIC
Residing in Wasatch




Approved as to form


MIDA Legal Counsel


MASTER DEVELOPER:

EX UTAH DEVELOPMENT LLC,
a Delaware limited liability company

By: 
Name: Marc Kwestel
Title: Vice President

STATE OF NEW YORK)
) : ss
COUNTY OF NASSAU)

The foregoing instrument was acknowledged before me this 27th day of July, 2023, by Marc Kwestel, who executed the foregoing instrument in his capacity as the Vice President of EX Utah Development LLC, a Delaware limited liability company.

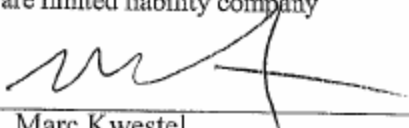


NOTARY PUBLIC
Residing at: 11 Cedar Lane - Cedarhurst

ALAN MARC RUBIN
Notary Public, State of New York
No. 02RU4858594
Qualified in Nassau County
Commission Expires April 14, 2026


LANDOWNER:

BLX MWP-LON LLC,
a Delaware limited liability company

By: 
Name: Marc Kwestel
Title: Vice President

STATE OF NEW YORK)
 : ss
COUNTY OF NASSAU)

The foregoing instrument was acknowledged before me this 27th day of July, 2023,
by Marc Kwestel, who executed the foregoing instrument in his capacity as the Vice President of
BLX MWP-LON LLC, a Delaware limited liability company.


NOTARY PUBLIC
Residing at: 11 Cedar Lane Cedarhurst

ALAN MARC RUBIN
Notary Public, State of New York
No. 02RU4858504
Qualified in Nassau County
Commission Expires April 14, 2026

EXHIBIT A
to
MARINA WEST MASTER DEVELOPMENT AGREEMENT

Legal Description of Marina West Property

The following real property located in Wasatch County, Utah:

1. Parcels MW-C1 and MW-D1, Marina West Plat, according to the official plat thereof on file and of record in the office of the Wasatch County Recorder's Office, recorded on July 11, 2023 as Entry No. 534414 in Book 1447 at Page 400. Wasatch County Tax Parcel Numbers: 00-0021-8745 & 00-0021-8746
2. The following real property located in Wasatch County, Utah (the "**Lon Property**"):

Parcel 1:

Those portions of the following described parcel lying North and East of the Northerly line of the property condemned by The United States of America pursuant to that certain Amended Declaration of Taking recorded November 9, 1993 as Entry No. 169242 in Book 268 at Page 116 of the official records in the office of the Wasatch County Recorder

Beginning at a point 437.8 feet North from the Southwest corner of the Southeast quarter of Section 24, Township 2 South Range 4 East, Salt Lake Base and Meridian; and running thence North 63°30' East 721.1 feet; thence North 10°11' West 1667.1 feet; thence South 63°30' West 391.9 feet; thence South 1787.6 feet to the place of beginning.

Parcel Number JDR-Hy-40-19:23:A
Tax Serial Number: OWC-0028-4

Parcel 2:

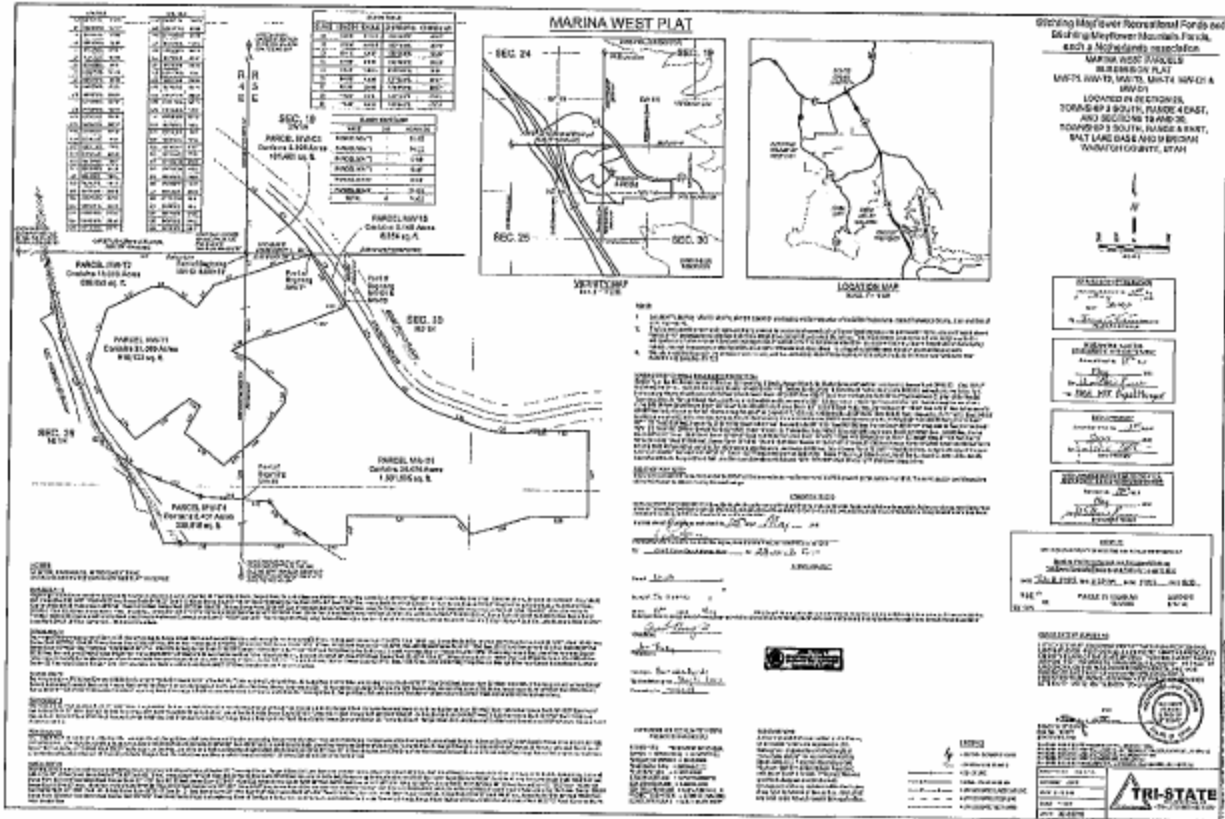
Those portions of the Minnie Patented Lode Mining Claim, M.S. 6732 lying North and East of the Northerly line of the property condemned by The United States of America pursuant to that certain Amended Declaration of Taking recorded November 9, 1993 as Entry No. 169242 in Book 268 at Page 116 of the official records in the office of the Wasatch County Recorder.

Parcel Number JDR-Hy-40-19:23:A
Tax Serial Number: OWC-0028-3

EXHIBIT A-1 to MARINA WEST MASTER DEVELOPMENT AGREEMENT

Depiction of Marina West Property

Parcels MW C-1 and MW D-1 depicted below:



Depiction of LON Property

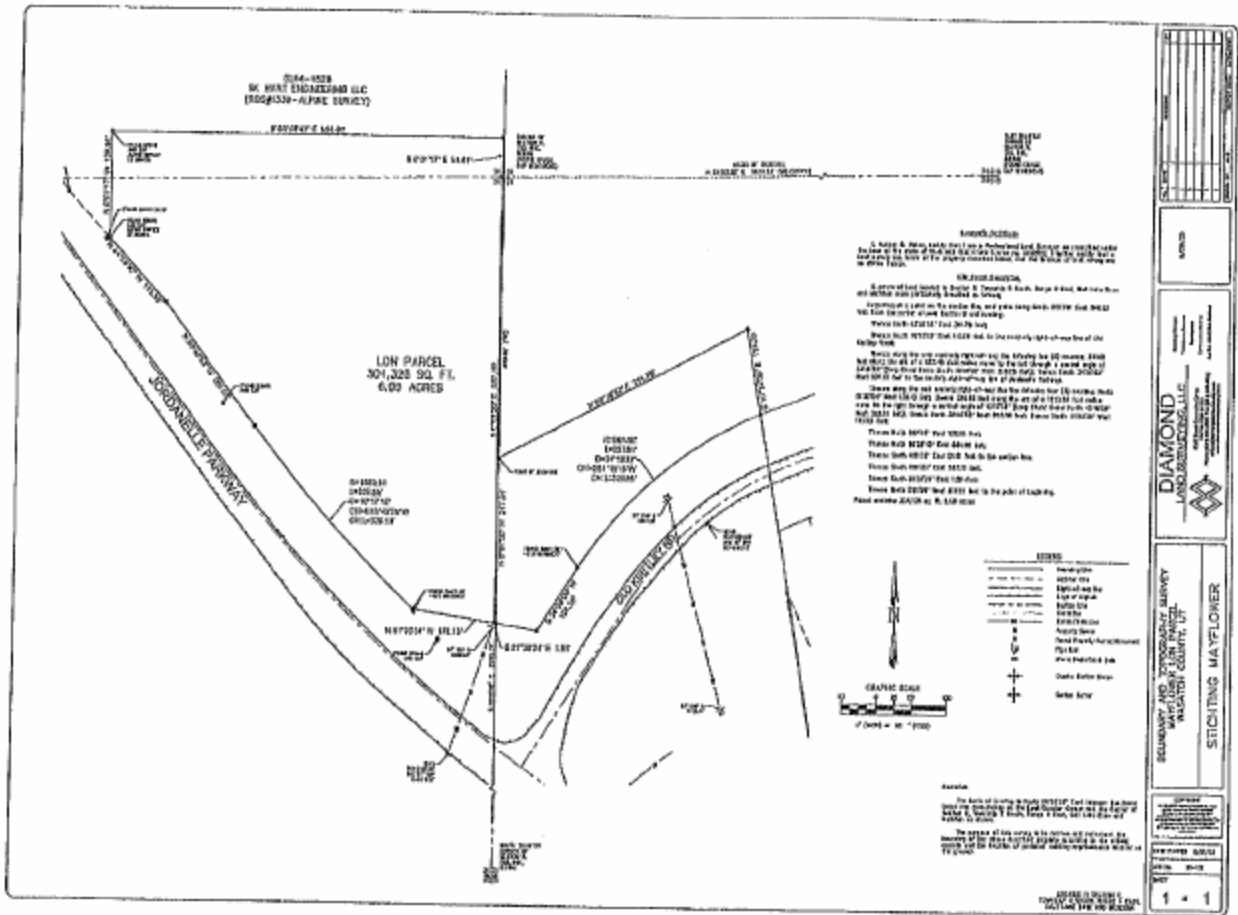


EXHIBIT B
to
MARINA WEST MASTER DEVELOPMENT AGREEMENT

Definitions

“**319 Connector Road**” has the meaning set forth in Section 3.7.1.

“**A&R MI/EHP**” has the meaning set forth in Section 2.2.6.

“**Additional Cure Period**” shall have the meaning set forth in Section 10.15.4.

“**Affiliate**” means with respect to any Person, any other Person that Controls, is Controlled by or is under common Control with such first Person.

“**Agreement**” has the meaning set forth in the preamble, as this Agreement may be amended, superseded or replaced from time to time.

“**Amended Interlocal Agreements**” has the meaning set forth in Recital H.

“**Applicable Law**” shall have that meaning set forth in Section 4.2.1, including those laws identified in Exhibit C.

“**Benchmark Condition(s)**” has that meaning set forth in Section 3.9.

“**Bound Parties**” has the meaning set forth in Section 10.9.

“**Changes in the Law**” has that meaning set forth in Section 4.2.2.

“**Claim(s)**” has the meaning set forth in Section 10.9(b).

“**Claimant**” has the meaning set forth in Section 10.10(a).

“**CLUDMA**” has the meaning set forth in Recital B.

“**Commercial Development ERU**” means a Development ERU attributed to a commercial use, including, without limitation, retail sales, food service and restaurant facilities, service buildings, community buildings and clubhouses, places of worship, laundromats, transit facilities, office uses, sales centers and governmental buildings.

“**Common Area**” means land which is dedicated to being used perpetually by the owners or the public for purposes consistent with the development of the Marina West Property and is or will be owned by an Owners Association, in common by applicable Project owners, or another entity as designated by the Master Developer.

“**Control**” means the ownership of more than twenty percent (20%) of the outstanding voting ownership interests of the Person in question or the power to direct the management of the Person in question.

“**Default Notice**” has the meaning set forth in Section 6.1.1.

“Development Activity” means the development, installation, construction and operation of buildings, amenities, infrastructure and other improvements pursuant to and consistent with Development Entitlements on the Marina West Property.

“Development Application(s)” means an application to MIDA for development of a portion of the Marina West Property, including, but not limited to applications for site plan, subdivision, building permit or other permit, certificate or authorization from MIDA required for Development Activity to occur with respect to a given Project.

“Development Entitlements” means the Marina West Master Development Plan and all other plans, permits, consents, commitments, or agreements by or with MIDA necessary for the commencement and completion of Development Activity for or with respect to the Marina West Property, including those previously approved Development ERUs, commercial densities and other development rights, entitlements and parameters set forth in Section 3.2.

“Development ERU” means the number of residential equivalents used to determine density based on sewer, water and square footage of a structure. For purpose of this Agreement, Development ERUs are categorized as Residential Development ERUs and Commercial ERUs.

“Development Fund” has the meaning set forth in Recital I.

“Development Lot” has the meaning set forth in Section 3.27.2.

“Director” means the Executive Director of MIDA, or his or her designee.

“District Interlocal Agreements” has the meaning set forth in Recital J.

“DRC” means the Development Review Committee established by MIDA pursuant to the MIDA Development Standards, as set forth in Recital K.

“East Side” has the meaning set forth in Recital I.

“East Side Interlocal Agreement” means that certain Interlocal Cooperative Agreement-East Side, dated December 17, 2018 and amended by that certain First Amendment to Interlocal Cooperative Agreement-East Side, dated March 18, 2020, between Wasatch County and MIDA as set forth in Recital G, as such agreement is amended, superseded or replaced from time to time.

“Effective Date” has that meaning set forth in the Preamble to this Agreement.

“Eligible Expenses” has the meaning set forth in the Marina West Tax Sharing and Reimbursement Agreement.

“Eligible Mortgagee” has the meaning set forth in Section 10.15.3.

“Estoppel Certificate” has the meaning set forth in Section 10.15.7.

“Existing Fee Schedule” has the meaning set forth in Section 3.14.3.

“Grading Permit” means such permits as are required by MIDA for any sort of clearing, grading, or excavation, or any other permit enabling the disturbance of the land from its current condition; provided, however, MIDA hereby acknowledges that a Grading Permit is not required by MIDA for removal of vegetation or other clearing of land in connection with the creation of fire breaks or other defensible spaces.

“Housing Program” means that certain Housing Program attached hereto as Exhibit E, as the same may be amended, superseded, supplemented or replaced from time-to-time by MIDA and the Master Developer.

“JMARA PID” means the Jordanelle Marina Recreation Public Infrastructure District.

“JMARA PID Property” means the following real property located in Wasatch County, Utah: Parcels MW-T1, MW-T2 MW-T3 and MW-T4, Marina West Plat, according to the official plat thereof on file and of record in the office of the Wasatch County Recorder’s Office, recorded on July 11, 2023 as Entry No. 534414 in Book 1447 at Page 400.

“JSPA Code” means Chapter 16.41 of the Wasatch County Development Code in effect as of November 20, 2015.

“JSSD” means the Jordanelle Special Service District or any successor thereto or other similar entity providing culinary water and sanitary sewer services to the Marina West Property.

“Lenders” has the meaning set forth in Section 3.31.

“Marina West Master Development Plan” has the meaning set forth in Recital O, as such Marina West Master Development Plan is amended by Master Developer and approved by MIDA from time to time. A copy of the Marina West Master Development Plan is on file with MIDA.

“Marina West Property” means the parcel or parcels of land identified in Recital C and which are the subject of this Agreement and which are more particularly described in Exhibit A.

“Marina West Tax Sharing and Reimbursement Agreement” means that certain agreement entered into between MIDA, Master Developer and Landowner, dated as of the Effective Date, as such agreement may be amended, supplemented, superseded or replaced from time to time.

“Master Association” means the Master Association contemplated by the Master CC&R’s.

“Master Developer” has the meaning set forth in the preamble, and shall include Master Developer’s successors in interest and assigns of all of Master Developer’s rights and obligations under this Agreement as provided in Section 8.1, but does not include a Project Developer unless expressly so provided in an instrument signed by Master Developer and recorded in the Official Records.

“Master Development Plan” means a master development plan approved with respect to the Marina West Property pursuant to the MIDA Development Standards.

“Master Infrastructure Improvements” has the meaning set forth in Section 3.15.

“Maximum Residential Density” means the maximum number of Residential Development ERUs that can be developed or otherwise located on the Marina West Property. Master Developer is entitled to use all Maximum Residential Density ERUs as set forth in the Marina West Master Development Plan subject to compliance with Applicable Law, and the MIDA Development Standards. Unused density may not be transferred or sold off of the Marina West Property but may be transferred in connection with conservation efforts on the Marina West Property or the Mountainside Resort, as contemplated in Section 3.26 of the Mountainside Resort Master Development Agreement. Commercial ERUs are not counted against Maximum Residential Density.

“MDP” has the meaning given to such term in the MIDA Development Standards.

“**MIDA**” has the meaning set forth in the preamble to this Agreement.

“**MIDA Act**” means the Military Installation Development Authority Act, Utah Code Ann. § 63H-1-101 *et seq.*, as amended, superseded or replaced from time to time.

“**MIDA Board**” means the governing board of MIDA, as provided in the MIDA Act.

“**MIDA Development Standards**” means the means the “Development Standards and Guidelines for the MIDA Control Area” adopted by MIDA for the MRF Project Area on or about October 1, 2019 pursuant to Resolution 2019-13 (as supplemented by the MIDA Materials and Design Handbook, adopted pursuant to Resolution 2019-18, and as amended on May 26, 2020 by Resolution 2020-15, and as amended on December 1, 2020 by Resolution 2020-34).

“**MIDA Financing Support**” has the meaning set forth in Section 3.31.

“**MIDA’s Exclusive Authority**” has the meaning set forth in Recital B.

“**MIDA’s Future Laws**” means the laws, ordinances, policies, standards, guidelines, directives, procedures, and processing fee schedules of MIDA which may be in effect in the future at any time when a Development Application is submitted and which do not apply to such Development Application, because of the Vested Rights described in Section 4.1, except as may be provided in Sections 3.4, 4.2.2 or 4.2.3.

“**MIH Agreement**” means the Moderate Income Housing Agreement – Corrected – for Mayflower Marina and Lakeside North, with an effective date of January 26, 2018, and recorded with the Wasatch County Recorder as Entry No. 456366 on September 26, 2018, as modified by the Amendment to Moderate Income Housing Agreement for Mayflower Marina and Lakeside North, with an effective date of February 19, 2020, and recorded with the Wasatch County Recorder as Entry No. 475199 on March 3, 2020.

“**Mortgage**” has the meaning set forth in Section 10.15.1.

“**Mortgagee**” has the meaning set forth in Section 10.15.1.

“**Mountainside Resort**” has the meaning set forth in Recital D.

“**Mountainside Resort Master Development Agreement**” means that certain Mountainside Resort Master Development Agreement, dated August 19, 2020 and recorded in the official records of the Wasatch County Recorder on August 20, 2020 as Entry No. 483120 in Book 1307 at Page 1743, as such Original Agreement has been modified or amended prior to the date hereof, including, without limitation, by that certain First Amendment to the Mountainside Resort Master Development Agreement, dated February 17, 2022 and recorded in the official records of the Wasatch County Recorder on February 22, 2022 as Entry No. 515493 in Book 1398 at Page 493.

“**MRF Project Area**” means those portions of Wasatch County or, if approved in the future by MIDA and Park City Municipal Corporation, Summit County that are included in the “**MRF Project Area**,” as the said term is defined in the Amended Interlocal Agreements, including any future land that may be added thereto from and after the Effective Date pursuant to the terms of the Amended Interlocal Agreements.

“**Municipal Services**” means those normal and customary municipal and county services identified as “Municipal Services” in the Amended and Restated West Side Interlocal Agreement. Municipal Services does not include Permitting and Inspection Services, nor does it include services provided by a PID.

“**Official Records**” means the official records of the Wasatch County Recorder.

“Open Space” means land which is not covered by dwellings or by pavement or other impervious material (except for public plazas and Trails which may be covered with pavement or other impervious surfaces) which is dedicated to be used perpetually by the public for Open Space Purposes (as defined below).

“Open Space Purposes” means the use of Open Space for year-round recreational purposes (e.g., Trails, common area plazas, fields and other outdoor Recreation Facilities), conservation, grazing, view shed and other similar purposes.

“Owners Association” means, as applicable, the Resort Foundation, the Master Association or a Project specific owners association, in each case formed in accordance with state and federal law and authorized to impose fees or assessments sufficient to perform the maintenance obligations assumed or otherwise required to be performed by such Owners Association in accordance with its governing documents.

“Party” and **“Parties”** have the meanings set forth in the preamble of this Agreement.

“Permitting and Inspection Services” means government approvals or services for which a government permit or inspection is typically required and a corresponding fee is charged by the governmental entity under applicable ordinances to pay for the service provided, including footing and foundation permits, building permits, certificates of occupancy, business licenses and such customary plan review and inspection services as are customarily and uniformly provided pursuant to or in connection with the issuance thereof.

“Person” means an individual or other legal entity, including a partnership, limited liability company, corporation, PID, special improvement district or other governmental or quasi-governmental authority.

“PID” means a public infrastructure district formed pursuant to the PID Act.

“PID Act” means the Utah Public Infrastructure Act set forth in Utah Code Ann. Section 17B-2a-12, et seq., as amended.

“Project(s)” means a specifically delineated development project located on a portion of the Property, which delineation shall be accomplished by one or more Subdivision Plats or Project Site Plans.

“Project Developer” means the developer of a Project, and may include Master Developer’s successors in interest and assigns of Master Developer’s rights and obligations under this Agreement pertaining to one or more Projects to be developed by such Project Developer.

“Project Site Plan” has that meaning set forth in Section 3.28.

“Project Site Plan Approval” has that meaning set forth in Section 3.28.

“Project Specific Development Agreement” means a development agreement entered into between MIDA and a Project Developer with respect to a specific Project within the Mountainside Resort.

“Project Specific Improvements” means, as further described in Section 3.16, all infrastructure improvements intended for public or private use and located within the boundaries of a Project, including but not limited to sewer lines, water lines, roads, electricity, gas, communications, detention basins, trails, recreational facilities, and, as applicable, Common Areas for the Project.

“Project Specific Parking Study” has the meaning set forth in Section 3.23.

“Public Entity” means MIDA, Wasatch County, a PID, a special or local service district, or another public entity.

“Recreation Facilities” means the public recreational amenities to be located on Parcel MW-T1, Marina West Plat, according to the official plat thereof on file and of record in the office of the Wasatch County Recorder, which Recreation Facilities shall be owned and operated by Wasatch County and/or the JMARA PID.

“Recreation Facility Parking” means permanent public parking facilities available for use of the Recreation Facilities, which Recreation Facility Parking shall be in an amount reasonably determined by Master Developer and JMARA PID and shall be available during winter months for day skier and employee parking demands of the Mountainside Resort.

“Residential Development ERU” means a Development ERU attached to a residential use, including any single-family or multi-family residence that an end-user may buy to occupy or rent, including but not limited to condominium units, lofts, townhomes or other multiplex units, single-family residences, cottages and mother-in-law units, excluding any Commercial Development ERU. For avoidance of doubt, a Residential Development ERU shall not include any hotel, commercial or other hospitality or recreational use. Residential Development ERUs are calculated with respect to the size of a given dwelling (excluding garage space in the case of a single-family residence, and excluding common spaces and garages in the case of any condominium or other multi-family residences) as follows:

Residential Development ERUs	
Dwelling Size	ERUs
Up to 500 sf	0.25
501 sf to 700 sf	0.33
701 sf to 1,000 sf	0.50
1,001 sf to 1,500 sf	0.75
Over 1,500 sf	1.00

“Respondent” has the meaning set forth in Section 10.10(a).

“Reviewer(s)” means a professional retained by MIDA for the purpose of reviewing Development Applications for and on behalf of MIDA submitted with respect to the West Side, including all Development Applications submitted by Master Developer and Project Developers with respect to one or more Projects.

“Standard Parking Requirements” has the meaning set forth in Section 3.23.

“Subdivision Plat” has the meaning set forth in Section 3.27.1.

“Term” has the meaning set forth in Section 2.1.

“Transfer Acknowledgment” has the meaning set forth in Section 8.1.

“Transfer Deed” has the meaning set forth in Section 3.27.3.

“UDERR” means the Utah Division of Environmental Response and Remediation.

“UDWQ” means the Utah Division of Water Quality.

“USACE” means the United States Army Corps of Engineers.

“Water and Sewer Services Agreement” means that certain Water and Sewer Development and Service Agreement, dated as of February 7, 2020, as supplemented by that certain Supplement to Water and Sewer Development Agreement, dated as of the Effective Date, between JSSD, BLX Water Holding LLC, and other affiliates of BLX Water Holding LLC and JSSD.

“West Side” has the meaning set forth in Recital I.

EXHIBIT C
to
MARINA WEST MASTER DEVELOPMENT AGREEMENT

Interpretations

As used in this Agreement, unless a clear contrary intention appears:

- (a) any reference to the singular includes the plural and vice versa, any reference to natural persons includes legal persons and vice versa, and any reference to a gender includes the other gender;
- (b) the words "hereof", "hereby", "herein", and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement;
- (c) any reference to Articles, Sections and Exhibits are, unless otherwise stated, references to Articles, Sections and Exhibits of or to this Agreement, and references in any Section or definition to any clause means such clause of such Section or definition;
- (d) the headings in this Agreement have been inserted for convenience only and shall not be taken into account in its interpretation;
- (e) reference to any agreement (including this Agreement), document or instrument means such agreement, document, or instrument as amended, modified, superseded, replaced or supplemented and in effect from time to time in accordance with the terms thereof and, if applicable, the terms of this Agreement;
- (f) the Exhibits and Schedules hereto form an integral part of this Agreement and are equally binding therewith, and any reference to "this Agreement" shall include such Exhibits and Schedules;
- (g) references to a Person shall include any permitted assignee or successor to such Party in accordance with this Agreement and reference to a Person in a particular capacity excludes such Person in any other capacity;
- (h) if any period is referred to in this Agreement by way of reference to a number of days, the days shall be calculated exclusively of the first and inclusively of the last day unless the last day falls on a day that is not a business day in which case the last day shall be the next succeeding business day;
- (i) the use of "or" is intended to be exclusive and lists alternatives while the use of "and" is intended to be exclusive and each listed item is required;
- (j) references to "\$" or to "dollars" shall mean the lawful currency of the United States of America;
- (k) this Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted and

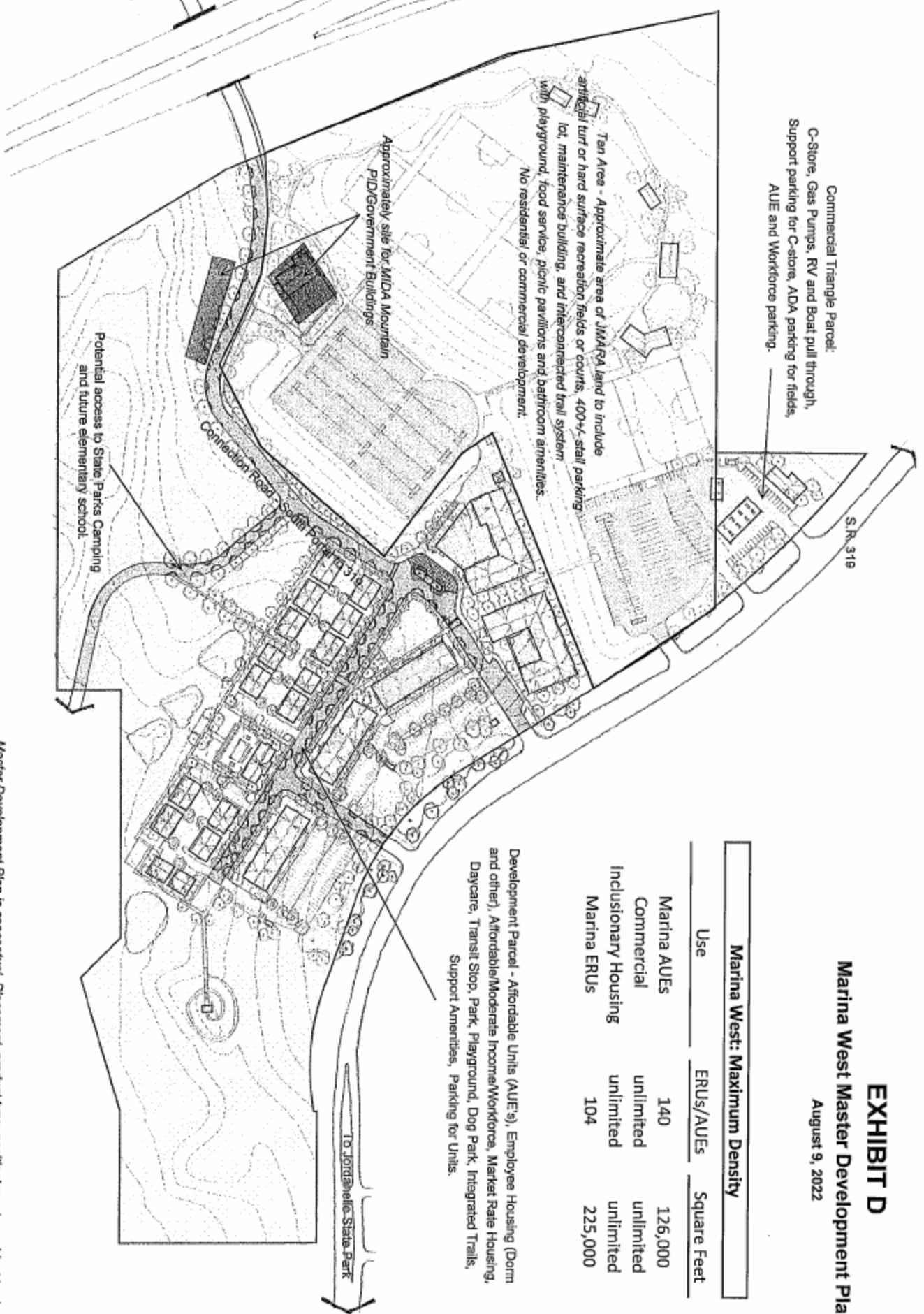
EXHIBIT D

to

MARINA WEST MASTER DEVELOPMENT AGREEMENT

**Marina West Master Development Plan
LON Parcel Master Development Plan**

08/19/2022



Commercial Triangle Parcel:
C-Store, Gas Pumps, RV and Boat pull through,
Support parking for C-store, ADA parking for fields,
AUE and Workforce parking.

Tan Area - Approximate area of JMARA land to include
artificial turf or hard surface recreation fields or courts, 400+/- stall parking
lot, maintenance building, and interconnected trail system
with playground, food service, picnic pavilions and bathroom amenities.
No residential or commercial development.

Approximately site for MIDA Mountain
PID/Government Buildings

Potential access to State Parks Camping
and future elementary school

EXHIBIT D

Marina West Master Development Plan

August 9, 2022

Marina West: Maximum Density		
Use	ERUs/AUEs	Square Feet
Marina AUEs	140	126,000
Commercial	unlimited	unlimited
Inclusionary Housing	unlimited	unlimited
Marina ERUs	104	225,000

Development Parcel - Affordable Units (AUE's), Employee Housing (Dorm and other), Affordable/Moderate Income/Workforce, Market Rate Housing, Daycare, Transit Stop, Park, Playground, Dog Park, Integrated Trails, Support Amenities, Parking for Units.

Master Development Plan is conceptual. Placement, product type, positioning, etc., subject to change.

August 9, 2022

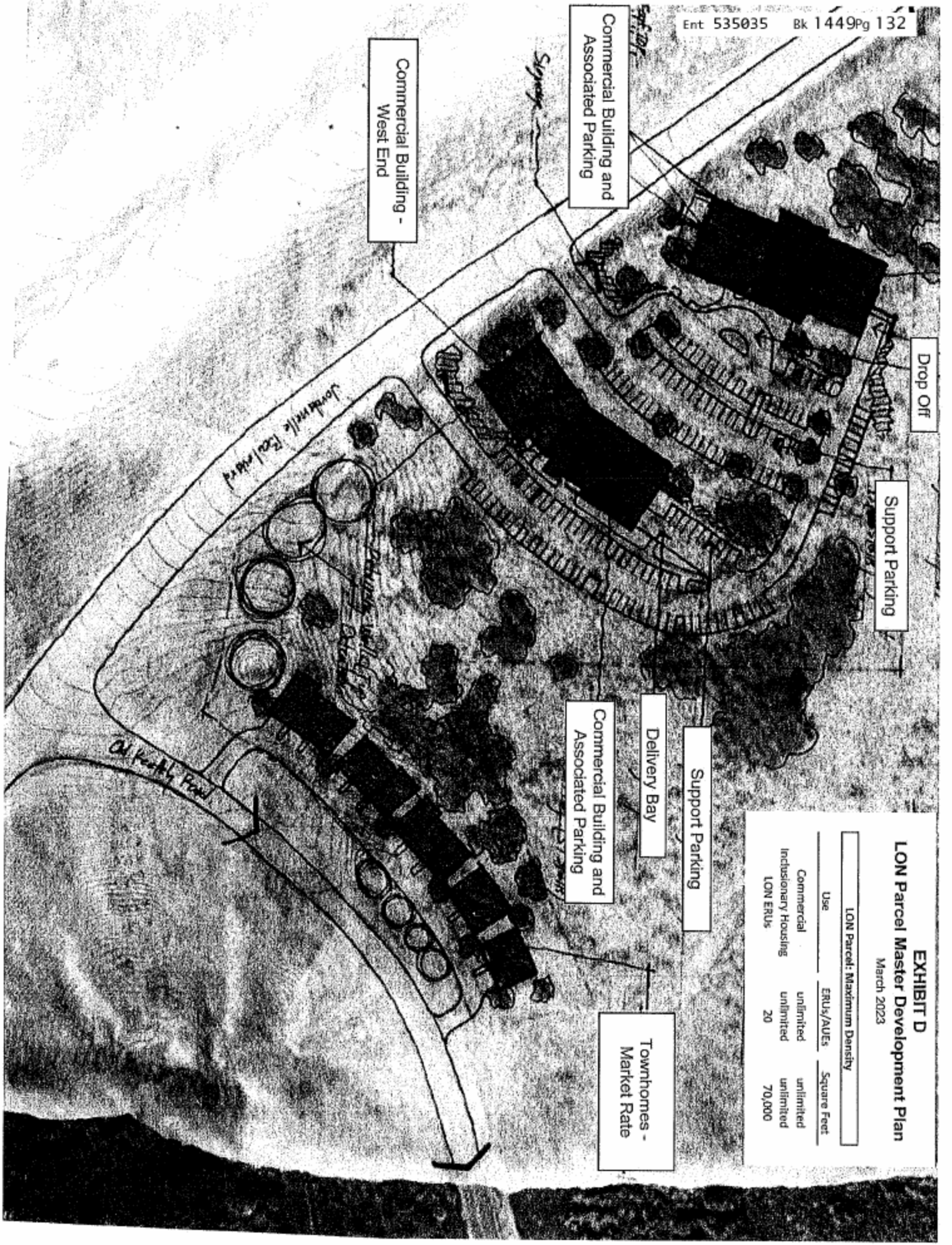


EXHIBIT D
LON Parcel Master Development Plan
 March 2023

LON Parcel: Maximum Density			
Use	ERUs/AUEs	Square Feet	
Commercial	unlimited	unlimited	
Inclusionary Housing	unlimited	unlimited	
LON ERUs	20	70,000	

Commercial Building -
West End

Commercial Building and
Associated Parking

Drop Off

Support Parking

Delivery Bay

Commercial Building and
Associated Parking

Support Parking

Townhomes -
Market Rate

EXHIBIT E
to
MARINA WEST MASTER DEVELOPMENT AGREEMENT

Housing Program

See Attached A&R MI/EHP

EXHIBIT F
to
MARINA WEST MASTER DEVELOPMENT AGREEMENT

District Interlocal Agreements

Interlocal Cooperation Agreement dated September 11, 2012, between JSSD and MIDA, as amended.

Interlocal Cooperation Agreement dated September 11, 2012, between MIDA and the Wasatch County Fire District, as amended by the First Amendment to the Interlocal Cooperation Agreement, dated March 18, 2020, as amended.

Interlocal Cooperation Agreement dated September 11, 2012, between MIDA and the Wasatch County Solid Waste District, as amended.

EXHIBIT G
to
MARINA WEST MASTER DEVELOPMENT AGREEMENT

Existing Fee Schedule Pursuant to MIDA Resolution 2019-14
(Subject to adjustment as set forth in the Agreement)

Footing, Foundation and Vertical Construction Permits

- Currently processed by Wasatch County pursuant to Amended and Restated West Side Interlocal Agreement
- Inspection fees are based on the value of the structure. \$5,608.75 for the first \$1,000,000.00, plus \$3.65 for each additional \$1,000.00, or fraction thereof. Section 4.09.02 G(1)
- Plan Review Fees are 65% of Building Permit (Inspection) fee - Section 4.09.02 G(2)
- Utah State Surcharge. – 1% of Inspection Fees
- MIDA Admin Fee 2.5% of Inspection and Plan Review Fees

Grading and Infrastructure Permits

- Processed by MIDA.
- Plan Review and Inspection at MIDA's actual cost
- MIDA Admin Fee 2.5% of Inspection and Plan Review Fees

EXHIBIT H
to
MARINA WEST MASTER DEVELOPMENT AGREEMENT

319 Connector Road Diagram

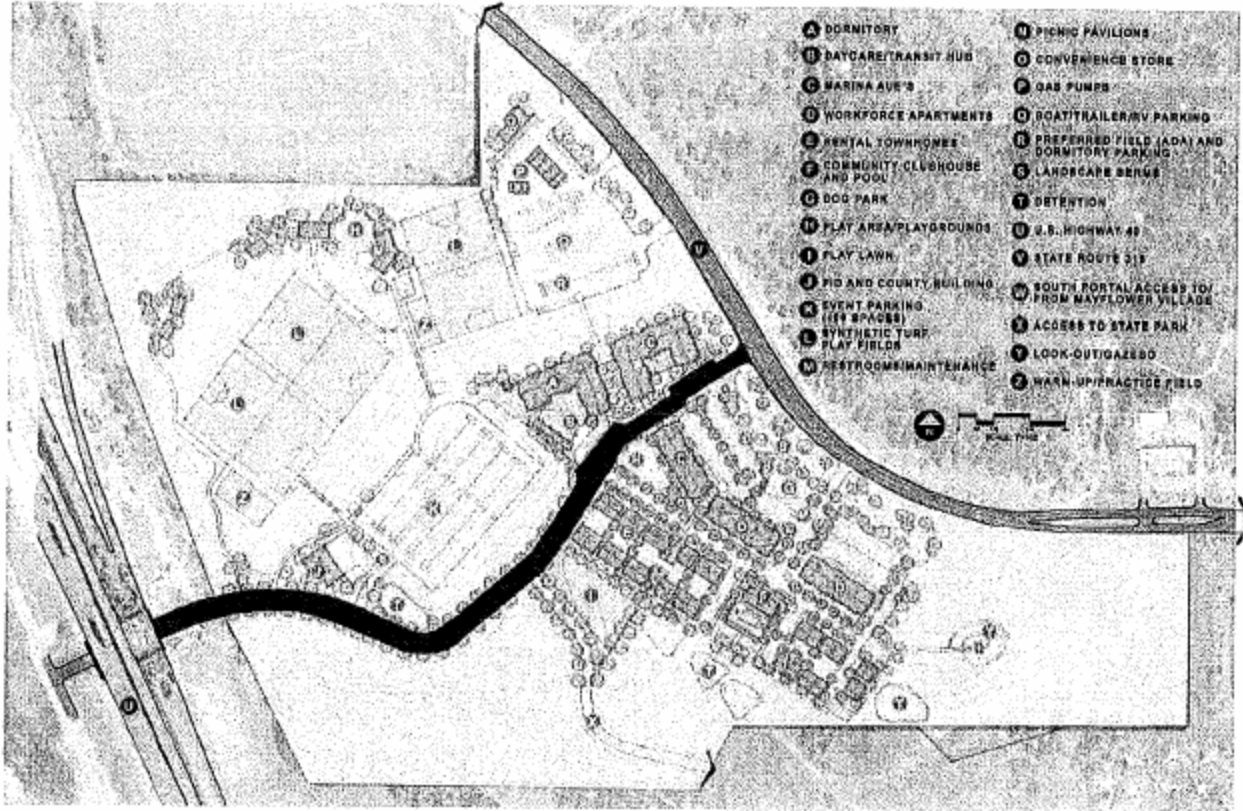


EXHIBIT I
to
MARINA WEST MASTER DEVELOPMENT AGREEMENT

[Reserved]

EXHIBIT J
to
MARINA WEST MASTER DEVELOPMENT AGREEMENT

Detention Pond Maintenance Requirements

1. Proceed with corrective measures for observed problems immediately or as soon as weather conditions permit.
2. Mow grass as required. Remove undesirable vegetation such as trees, bushes, and vines from embankments and pond area.
3. Fill all eroded gullies and vehicle ruts and compact soil. Backfill any hollow spots under concrete spillways or outlet structures and compact soil. Replace any riprap that has washed away from spillways and pipe outlets. Determine the cause of any slides or sloughs and repair. Take corrective action to prevent future recurrence.
4. Remove all trash, debris, tree limbs, or other flow obstructions from detention pond, outlet structures, and pipes. Fill all animal burrows and compact soil. Repair vandalism. Maintain pond and outlet structures in good working order.
5. Do not use pesticides, herbicides, or fertilizers in or around the detention pond. These products will leach from the pond and pollute streams and river.
6. Make sure that the detention pond is draining properly. Detention ponds are designed to release storm water slowly, not hold the water permanently. Improperly maintained ponds can harbor breeding areas for mosquitoes and reduce the storage volume of the pond.
7. Do not place yard waste such as leaves, grass clippings or brush in ponds.
8. Remove vegetation from any cracks in concrete spillways or outlet structures and seal with mastic joint filler. Lubricate and test moving parts on gates, valves, etc. Repaint metal parts to prevent rust. Replace badly rusted parts. Remove any accumulated sediment to restore pond to design volume. Reseed with MIDA approved seed mix as necessary to maintain good vegetative cover on exterior of embankments.

EXHIBIT K
to
MARINA WEST MASTER DEVELOPMENT AGREEMENT

Notice of Compliance

COMPLIANCE CERTIFICATE
[Marina West Master Development Agreement]

THIS COMPLIANCE CERTIFICATE is made and entered into on or before the ____ day of _____, 20__, by MILITARY INSTALLATION DEVELOPMENT AUTHORITY, a political subdivision of the State of Utah (“MIDA”), in favor of BLX MWP-LON LLC (“BLX MWP-LON”), a Delaware limited liability company (“Landowner”) and EX UTAH DEVELOPMENT LLC, a Delaware limited liability company (“Master Developer”) and, together with the Landowner, the “Extell Entities”).

RECITALS:

A. MIDA and the Extell Entities entered into that certain Marina West Master Development Agreement (the “Development Agreement”) dated as of [_____].

Pursuant to Section 6.2.3 of the Development Agreement, MIDA agreed to execute and deliver to Master Developer a certification of the compliance of the Extell Entities with the Development Agreement

Master Developer has requested that MIDA certify the compliance of the Extell Entities with the Development Agreement, and MIDA desires to make such certification herein.

AGREEMENT:

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MIDA hereby represents to and covenants with Extell Entities:

The Master Development Agreement is unmodified and in full force and effect; Exhibit A sets forth a true, complete and correct copy of the Master Development Agreement; and the Master Development Agreement has not been modified, changed, altered, supplemented or amended in any respect except as set forth below:

[_____].

To MIDA’s knowledge, the Extell Entities are not in violation or default under any provision of the Master Development Agreement except as set forth below; and there is no fact or condition which, with notice or lapse of time, would constitute a default by the Extell Entities under the Master Development Agreement:

[_____].

[Insert additional specific certifications, as applicable].

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, has duly executed and delivered this Compliance Certificate as of the day and year first above written.

MIDA:

Military Installation Development Authority

By _____
Its _____

ATTEST:

MIDA Staff

STATE OF UTAH)
 : ss
COUNTY OF WASATCH)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, who executed the foregoing instrument in his capacity as the _____ of the Military Installation Development Authority, a political subdivision of the State of Utah.

NOTARY PUBLIC
Residing at: _____

My Commission Expires:

**EXHIBIT A
TO
COMPLIANCE CERTIFICATE**

Copy of Marina West Master Development Agreement

[see attached]

EXHIBIT L
to
MARINA WEST MASTER DEVELOPMENT AGREEMENT

Form of Transfer Acknowledgment

WHEN RECORDED, RETURN TO:

Extell Development Company
9101 N. Mayflower Village Drive
Park City, Utah 84060
Attention: Executive VP Development

Tax Parcel Nos. (See Exhibit "A")

(Space above for Recorder's use only.)

TRANSFER ACKNOWLEDGMENT

This Transfer Acknowledgment (the "Acknowledgment") is made as of the ___th day of [____], 20__, (the "Effective Date"), by and between [owner of Transfer Property], a Delaware limited liability company ("Landowner") and EX UTAH DEVELOPMENT LLC, a Delaware limited liability company ("Master Developer", together with the Landowner, collectively "Assignor"), and [____] ("Assignee"). Assignor and Assignee are alternatively referred to as the "Parties."

RECITALS

A. Assignor is a party to that certain Marina West Master Development Agreement, dated as of [____], 2023 (the "Agreement"), by and between Assignor and Military Installation Development Authority, a political subdivision of the State of Utah, concerning certain real property located in Wasatch County, Utah more particularly described in the Master Development Agreement (the "Marina West Property"). Capitalized terms not otherwise defined herein shall have the meaning set forth in the Master Development Agreement.

B. In connection with the Landowner's conveyance of a portion of the Marina West Property more particularly described on Exhibit "B" attached hereto (the "Transfer Property") to Assignee, Assignor desires to assign certain of its rights and obligations under the Agreement pertaining specifically to the Transfer Property as more particularly described in this Acknowledgment to Assignee, Assignee desires to accept such assignment.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Assignment and Assumption. Effective upon the Effective Date, Assignor hereby assigns to Assignee its rights and obligations under Section[(s) ____] of the Agreement pertaining specifically to the

Transfer Property only, specifically, Assignor's right to [] (the "Assigned Rights"), and Assignee hereby accepts such assignment and assumes and agrees to be bound by all of the terms and conditions of the Agreement with respect to the Assigned Rights and the Transfer Property.

2. Release. From and after the Effective Date, Assignor shall be released from all obligations under the Agreement arising after the Effective Date with respect to the Assigned Rights and the Transfer Property.

3. Reservation. Assignor reserves all rights and obligations arising under the Agreement that are not expressly included in the Assigned Rights. In the event of any dispute as to whether certain rights or obligations arising under the Agreement are included in the Assigned Rights, Master Developer's determination as to the scope of the Assigned Rights shall be binding on the Parties, absent manifest error.

4. Representations and Warranties of Assignor. Assignor represents and warrants to Assignee that it has full power and authority (including full corporate power and authority) to assign the Assigned Rights to Assignee pursuant to this Acknowledgment. These representations and warranties shall survive any cancellation of this Acknowledgment.

5. Representations and Warranties of Assignee. Assignee represents and warrants to Assignor that it has full power and authority (including full corporate power and authority) to assume the Assigned Rights pursuant to this Acknowledgment. These representations and warranties shall survive any cancellation of this Acknowledgment.

6. Indemnification. Assignee agrees to indemnify, defend and hold Assignor harmless against any claims arising under the Agreement and pertaining specifically to the Assigned Rights and the Transfer Property from and after the Effective Date. Assignor agrees to indemnify, defend and hold Assignor harmless against any claims arising under the Agreement and pertaining specifically to the Assigned Rights and the Transfer Property on and before the Effective Date.

7. Ratification and Survival. Other than those specific provisions amended by this Acknowledgment, all other provisions, rights, and obligations contained in the Agreement are hereby ratified by the Parties, and all of the representations, warranties, covenants and agreements of the Parties as set forth herein shall survive the consummation of the transactions set forth herein. In the event of any conflict between the Agreement and this Acknowledgment, this Acknowledgment shall govern. Any terms not defined herein shall carry those definitions set forth in the Agreement.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Parties have executed this Acknowledgment as of the date first above written.

ASSIGNOR:

MASTER DEVELOPER:

EX UTAH DEVELOPMENT LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

LANDOWNER:

[_____] _____
a Delaware limited liability company

By: _____
Name: _____
Title: _____

ASSIGNEE:

[_____] _____

By: _____
Name: _____
Its: _____

STATE OF NEW YORK)
 ss
 COUNTY OF NEW YORK)

On the ____ day of _____ in the year 20____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged himself to be the _____ of each of EX UTAH DEVELOPMENT LLC and [_____], each a Delaware limited liability company, being authorized to do so, he executed the foregoing instrument for the purposes therein contained, by signing the name of the company, by himself as such officer.

Notary Public
 (SEAL)

STATE OF _____)
 ss
 COUNTY OF _____)

On the ____ day of _____ in the year 20____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged himself/herself to be the _____ of _____, a _____, being authorized to do so, he executed the foregoing instrument for the purposes therein contained, by signing the name of the company, by [himself/herself] as such officer.

Notary Public
 (SEAL)

IN WITNESS WHEREOF, the Parties have executed this Acknowledgment as of the date first above written.

ASSIGNOR:

MASTER DEVELOPER:

EX UTAH DEVELOPMENT LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

LANDOWNER:

a Delaware limited liability company

By: _____
Name: _____
Title: _____

ASSIGNEE:

By: _____
Name: _____
Its: _____

Exhibit A
to
Transfer Acknowledgement

Legal Description of Transfer Property

(See Attached)

4892-6527-6701, v. 17