

**AMENDMENT
TO
MASTER DEVELOPMENT PLAN AGREEMENT
FOR
MT. SARATOGA PROJECT**

THIS AMENDMENT TO THE MT. SARATOGA MASTER DEVELOPMENT PLAN AGREEMENT (“this Amendment”) is made and entered into as of September 14, 2004 by and between the CITY OF SARATOGA SPRINGS (the “City”), MT. SARATOGA, INC. (“Developer”) and GIBRALTAR DEVELOPMENT, LLC (the “Additional Developer”).

RECITALS:

A. On January 13, 2004 the City Council approved the Master Development Plan for the Mt. Saratoga Project and on January 27, 2004 the City Council approved the Master Development Plan Agreement for the Mt. Saratoga Master Development Plan dated effective as of January 28, 2004. The Mt. Saratoga Master Development Plan Agreement was recorded in the Utah County Recorder’s Office on February 9, 2004 as Entry No. 14908:2004.

B. The Additional Developer owns or has contract rights to purchase 80 acres of land (the “Additional Developer’s Land”) located directly adjacent to “Developer’s Land” covered by the Mt. Saratoga Master Development Plan. The Additional Developer’s Land has been annexed to the City and has been zoned R-1 – Single Family Residential.

C. The Developer and the Additional Developer desire that the Additional Developer’s Land be included in and be developed as part of the Mt. Saratoga Master Development Plan. An amendment of the Mt. Saratoga Master Development Plan has been or is being reviewed and approved by the City’s Planning Commission and the City Council concurrent with this Amendment.

D. This Amendment is being entered into by the City, the Developer and the Additional Developer to set out the rights and obligations of the Additional Developer with respect to the development of the Additional Developer’s Land pursuant to the Amended Mt. Saratoga Master Development Plan and the City’s ordinances, guidelines and policies. This Amendment is also being entered into to approve new Exhibits A, B, C-1, C-2, D-1, D-2, E-1, E-2, E-3, E-4, F, G, & H to the Amended Mt. Saratoga Master Development Plan Agreement. These new exhibits are being approved as the result of changes necessitated by the addition of the Additional Developer’s Land to the Mt. Saratoga Master Development Plan and as the result of additional changed circumstances and conditions.

AGREEMENT:

NOW THEREFORE, for and in consideration of the mutual covenants, terms and conditions hereinafter set out, as well as the consideration set forth in the Recitals, the parties hereby agree as follows:

1. Commitment of the Additional Developer and the Additional Developer's Land. The Additional Developer hereby commits to and agrees to be bound by all of the terms of the Mt. Saratoga Master Development Plan Agreement including the Design Guidelines and all other Exhibits thereto as amended by this Amendment. The parties agree that unless the context clearly otherwise requires or expressly provides, all references to Developer's Land in the Mt. Saratoga Master Development Plan Agreement shall include the land described in Exhibit A attached to this Amendment and shall include the Additional Developer's Land as well as the original Developer's Land. This Agreement shall be recorded against Developer's Land as described in Exhibit A hereto. The agreements contained herein shall be deemed to run with the land and shall be binding on all successors in ownership of Developer's Land specifically including the Additional Developer's Land.

2. Amendment of Section 1.2 of Master Development Plan Agreement. Section 1.2 of the Mt. Saratoga Master Development Plan Agreement is amended to read in its entirety as follows:

1.2. Amended Master Development Plan. The Amended Mt. Saratoga Master Development Plan Approved by the City concurrent with this Amendment of the Mt. Saratoga Master Development Plan Agreement provides for the proposed development of 1,664 single family residential units, 524 multi family units, and certain commercial uses in multiple phases as depicted in the Amended Mt. Saratoga Master Development Plan attached as Exhibit B to this Amendment to the Mt. Saratoga Master Development Agreement and incorporated into therein by this reference. The Amended Mt. Saratoga Master Development Plan sets out the configurations, uses and densities for development of Developer's Land as well as the location of roads, parks and other public, quasi public and private facilities to be constructed on Developer's Land. The phasing of the development of Developer's Land shall be as provided in the Amended Mt. Saratoga Master Development Plan and this Mt. Saratoga Master Development Plan Agreement.

3. Approval of Amendment to Master Development Plan and Master Development Plan Agreement. The Planning Commission has recommended, after appropriate notice and hearings, that the Mt. Saratoga Master Development Plan be amended to be the Amended Mt. Saratoga Master Development Plan attached to this Amendment and incorporated by this Amendment to the Amended Mt. Saratoga Master Development Plan Agreement be approved subject to the terms, conditions and requirements of the Master development Plan Agreement as Amended by this Amendment, including the Design Standards attached thereto. Based upon the recommendation of the Planning Commission and after public hearing and notice as required by the City's Development Code, the City Council approves the Amended Mt. Saratoga Master Development Plan and this

Amendment to the Mt. Saratoga Master Development Plan Agreement and authorizes and directs the Mayor to execute this Amendment for and on behalf of the City.

4. General Plan Map and Zoning. In approving the Amended Mt. Saratoga Master Development Plan attached to and incorporated in this Amended Mt. Saratoga Master Development Plan Agreement, the Planning Commission and the City Council have determined that the uses and densities provided in the Amended Mt. Saratoga Master Development Plan for the Additional Developer’s Land are consistent with and are in accordance with the General Plan Map for the City and the zoning of the Additional Developer’s Land.

5. Approval of Revised Exhibits. In approving this Amendment to the Mt. Saratoga Master Development Plan Agreement, the Planning Commission and the City Council have specifically approved the revised Exhibits A, B, C-1, C-2, D-1, D-2, E-1, E-2, E-3, E-4, F, G, & H attached to this Amendment. The above numbered revised Exhibits shall replace and take the place of the same numbered Exhibits attached to the Mt. Saratoga Master Development Plan Agreement.

6. Amendment of Section 5.3 of Master Development Plan Agreement. Section 5.3 of the Mt. Saratoga Master Development Plan Agreement is amended to read in its entirety as follows:

5.3. Notices. Any notice given under this Agreement shall be in writing and shall be delivered personally, be sent by facsimile transmission (“Fax”) or be mailed by first class or express mail, addressed as follows:

To City: City of Saratoga Springs
 Attention: City Manager
 2015 South Redwood Road
 Saratoga Springs, Utah 84043
 Fax No. (801) 766-9794

To Developers: Lynn A. Clingo, President
 MT. SARATOGA, INC.
 282 West River Bend Lane
 Suite #350
 Provo, Utah 84604
 Fax No. (801) 764-9998

Mark R. Palesh, Manager
 The Millennium Associates, LLC
 5729 West 10770 North
 Highland, Utah 84003
 Fax No. (801) 756-7534

Ken Bushman, Manager
 GIBRALTAR DEVELOPMENT, LLC
 315 South 500 East, Suite #202
 American Fork, Utah 84003
 Fax No. (801) 763-5905

or to such other address as any party may designate by written notice to the other party as herein provided. Notice shall be deemed given when actually received if personally delivered; if by fax, when the fax is received, except that if the fax is received after normal business hours of the office at which it is received, on the next regular business day; and if by mail, the earlier of the day actually

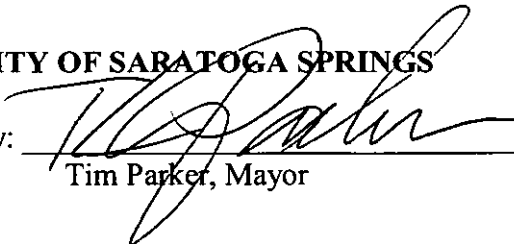
received or the third business day after the notice is deposited in the United States mail properly addressed and postage prepaid.

7. Developer's Liability and Authority. Except as the context clearly otherwise requires or expressly provides, all references to Developer in the Amended Mt. Saratoga Master Development Plan Agreement shall include both the original Developer and the Additional Developer, jointly and severally. Any amendments or changes to the Amended Mt. Saratoga Master Development Plan or the Amended Mt. Saratoga Master Development Plan Agreement by agreed to by both Developers and approved by the City.

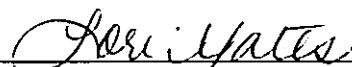
8. Effect of Amendment. Except as specifically modified by this Amendment, all terms of the Mt. Saratoga Master Development Plan Agreement shall remain unchanged and shall remain in full force and effect, and the original Developer and the Additional Developer and the City hereby reaffirm all of the terms of the Mt. Saratoga Master Development Plan Agreement as amended by this Amendment.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first hereinabove written.

CITY OF SARATOGA SPRINGS


By: 
Tim Parker, Mayor

ATTEST:

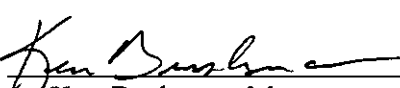
By: 
Lori Yates, City Recorder



MT. SARATOGA, INC.

By:  PRESIDENT
Lynn A. Clingo, President

GIBRALTAR DEVELOPMENT, LLC

By: 
Ken Bushman, Manager

STATE OF UTAH)

ENT 93455:2007 P6 5 of 7

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COUNTY OF UTAH)

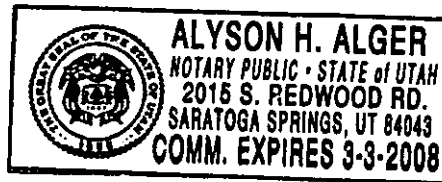
The foregoing instrument was acknowledged before me this 27th day of September, 2004, by (Tim) T.L. PARKER as Mayor and Lori Yates as Recorder of the City of Saratoga Springs.

My commission expires:

Alyson H. Alger
Notary Public

3-3-2008

Residing at: 2015 S. Redwood Rd.



STATE OF UTAH)

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ENT 93455:2007 PG 6 of 7

COUNTY OF UTAH)

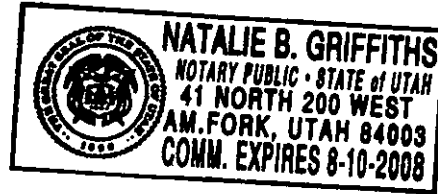
The foregoing instrument was acknowledged before me this 29 day of September, 2004, by Lynn A. Clingo, President, Mt. Saratoga, Inc.

Natalie B. Griffiths
Natalie B. Griffiths
Notary Public

My Commission Expires: 8-10-2008

Residing at: 41 North 200 West

American Fork, UT 84003



STATE OF UTAH)

ENT 93455:2007 PG 7 of 7

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COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this 27 day of September, 2004, by Ken Bushman, Manager, Gibraltar Development, LLC.



Notary Public

My Commission Expires: 6-16-2008

Residing at: Pleasant Grove

