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WHEN RECORDED RETURN TO:

REDEVELOPMENT AGENCY OF SALT LAKE CITY
Room 418, City and County Building
451 South State Street
Salt Lake City, Utah 84111
Attention: David J. Oka

Sidwell No. 08-25-452-013 and 08-25-452-015

DEVELOPMENT AGREEMENT

(Property Located on Lot 1, Block 151, Plat "A", Salt Lake City, Utah)

Between

WEST CAPITOL HILL, LLC

and

REDEVELOPMENT AGENCY OF SALT LAKE CITY

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DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "**Agreement**") is made and entered into this 25th day of July, 2006, by and between the REDEVELOPMENT AGENCY OF SALT LAKE CITY, a public agency ("**Agency**") and WEST CAPITOL HILL, LLC, a Utah limited liability company ("**Developer**"), both of whom are collectively referred to herein as the **Parties**, and individually as a **Party**.

ARTICLE 1

Subject of Agreement

1.1 Purpose of Agreement. In furtherance of the objectives of the Utah Community Development and Renewal Act, Section 17C, Chapter 1, Utah Code Annotated 1953, as amended (the "**Redevelopment Act**"), the Agency has undertaken a program for the clearance and reconstruction of blighted areas in Salt Lake City and in connection therewith has undertaken a project to redevelop portions of Lot 1, Block 151, Plat "A", Salt Lake City Survey, in Salt Lake City, Utah.

1.2 The Redevelopment Plan. Agency has prepared and approved, and City has adopted a Redevelopment Plan, known as the "West Capitol Hill Redevelopment Plan", as such Redevelopment Plan has been and may be amended from time to time. The Redevelopment Plan and amendments thereto are on file in the office of the Agency.

1.3 Defined Terms. As used herein, the following terms shall have the meanings respectively indicated:

1.3.1 "**Agency**" means the Redevelopment Agency of Salt Lake City, a public agency exercising its functions and powers and organized and existing under the Redevelopment Act, and includes any successor designated by Agency or succeeding to Agency.

1.3.2 "**Agency Deed**" means the special warranty deed from Agency to Developer conveying title to the Property. The Agency Deed contains various

covenants including, but not limited to, land use and development requirements, limitations on the right to convey and encumber and revesting rights in the event of default.

1.3.3 **"Certificate of Completion"** shall have the meaning contemplated in Section 3.13.

1.3.4 **"City"** means Salt Lake City Corporation, a municipal corporation.

1.3.5 **"Construction Documents"** are defined in Section 3.1 of this Agreement.

1.3.6 **"Contractor"** means the contractor hired by Developer to construct the Developer Improvements.

1.3.7 **"Contract Documents"** are defined in Section 3.5 of this Agreement.

1.3.8 **"Covenants"** means that certain Declaration of Covenants, Conditions and Restrictions which has been approved by the Agency and executed by Developer and recorded in the Official Records concurrently with Closing, as provided in the Purchase Agreement.

1.3.9 **"Design Guidelines"** means those guidelines adopted by the Agency pertaining to the Property, a copy of which are attached hereto as Exhibit "A."

1.3.10 **"Design Control Documents"** means this Agreement, the Redevelopment Plan, the Final Construction Drawings, the Site Plan and the Design Guidelines.

1.3.11 **"Developer"** means West Capitol Hill, LLC, a Utah limited liability company, 4915 South Waimea Way, Salt Lake City, Utah 84117.

1.3.12 **"Developer Improvements"** means the on-site and off-site improvements, to be constructed in accordance with this Agreement, including, but not limited to, building improvements, common area improvements, off-site improvements, parking improvements, drainage and other improvements to be completed by Developer on the Property as described in Exhibit "B" attached hereto and incorporated by this reference. Additionally, Developer Improvements shall include all sidewalks constructed on or around the Property which shall be constructed in accordance with City standards and design criteria in effect at the time of the commencement of such construction.

1.3.13 **"Final Construction Drawings and Specifications"** shall have

the meaning set forth in the Purchase Agreement.

1.3.14 “**Official Records**” means the official records of the Salt Lake County Recorder, State of Utah.

1.3.15 “**Property**” means the real property upon which the Developer Improvements are to be constructed, as more particularly described on Exhibit “C” attached hereto and incorporated herein by reference.

1.3.16 “**Purchase Agreement**” means that certain Purchase and Sale Agreement between the Parties pursuant to which Developer purchased the Property from Agency.

1.3.17 “**Redevelopment Plan**” means the redevelopment plan described in Section 1.2 of this Agreement.

1.3.18 “**Schedule**” means the schedule for submission of and review of the Contract Documents and the schedule for commencement and completion of the Developer Improvements as set forth in Exhibit “D”.

1.3.19 “**Site Plan**” means the site plan which generally depicts the Property and the configuration of the improvements to be made to the Property (including the Developer Improvements), which site plan is attached hereto as Exhibit “E” and incorporated herein by this reference.

1.3.20 “**Substantial Completion**” means completion of all items of construction in accordance with the Construction Documents and the requirements of all governmental authorities and fire underwriters, except for “punchlist items.” “Punchlist items” means items which are qualitatively minor and which do not impair Developer’s ability to use the Developer Improvements for their intended purpose or impair Developer’s ability to occupy the Developer Improvements.

1.4 Conveyance of Property. Agency has conveyed (or will convey pursuant to the terms of the Purchase Agreement) the Property to Developer. Pursuant to the terms and provisions of the Agency Deed, Developer has agreed to undertake certain obligations, including construction and development responsibilities as provided for in this Agreement. This Agreement or a memorandum thereof may be recorded in the Official Records at Agency’s option.

ARTICLE 2

Agreement to Develop

Developer agrees to cause the Property to be developed and occupied in accordance with the terms and provisions set forth in the Agency Deed and the Design Control Documents.

ARTICLE 3

Developer Improvements and Construction Obligations

3.1 Construction Documents. Pursuant to the Purchase Agreement, Developer has submitted to Agency and Agency has approved a Basic Concept Design (as such term is defined in the Purchase Agreement), Preliminary Construction Drawings (as such term is defined in the Purchase Agreement) and Final Construction Drawings and Specifications (as such term is defined in the Purchase Agreement) for the Developer Improvements. The Basic Concept Design, Preliminary Construction Drawings and the Final Construction Drawings and Specifications are collectively referred to as the “**Construction Documents**”.

3.2 Developer's Responsibilities. Developer shall be solely responsible for errors and omissions in the Construction Documents, change orders thereto, and shop drawings and other submittals interpreting them and for their accuracy, suitability, technical adequacy and compliance with applicable laws, codes, ordinances and regulations. Agency's reviews and approvals of all or any portion of the Construction Documents and/or delivery of a Certificate of Completion are solely for the purpose of determining the general conformance of the Developer Improvements with the original design concept or intent, and shall not constitute an opinion or agreement by Agency that the Developer Improvements are structurally or otherwise sufficient or that the Construction Documents are accurate or in compliance with applicable laws; nor shall such approval impose any present or future liability on Agency or waive any of Agency's rights hereunder. Developer shall be solely responsible for structural and other defects in the Developer Improvements and compliance with all building codes and other laws and requirements of governmental authorities.

3.3 Cost of Construction of Developer Improvements. The cost of developing and constructing the Developer Improvements and all other costs related thereto shall be borne solely by Developer.

3.4 Construction Schedule: Approval of Material Deviations. Developer shall promptly begin and thereafter diligently prosecute to completion the construction of the Developer Improvements in accordance with the Schedule and the Construction Documents. Developer acknowledges and agrees that it shall complete each of the two phases of the Developer Improvements within one (1) year from the date of this Agreement. Developer shall obtain Agency's prior written approval of any material deviation from the submissions which have been approved by the Agency. Developer shall obtain Agency's prior written approval to any change order to the contract with the Contractor which results in an increase or decrease in

the contract price of Ten Thousand Dollars (\$10,000), or more, or any change order that changes the original design concept or intent for the Developer Improvements as set forth in the Construction Documents.

3.5 Contract Documents. On or before the date set forth in the Schedule, or as otherwise agreed to by Agency, Developer shall bid the construction of the Developer Improvements and enter into one or more standard forms construction contract, approved by Agency, to cause the Developer Improvements to be constructed. Unless otherwise first approved in writing by Agency, one such contract for all such work shall be let by Developer; provided, however, Developer may obtain separate contracts for the Developer's Improvements in each phase, as described in Section 4.1 below. Each such contract shall be fully executed prior to the date set forth in the Schedule. The foregoing construction contract(s) is sometimes referred to as the "**Contract Documents**". The Contract Documents shall include supplemental general conditions protective of Agency, including, but not limited to, provisions that (a) Agency be named as an indemnified party in accordance with paragraphs 3.18.1 and 10.1.4 of the standard ALA A-201 General Conditions and (b) Agency be named as an additional named insured on the general liability insurance policy of the Contractor. The Contract Documents shall require that all work be performed in accordance with the Construction Documents, shall (i) set forth commencement and completion dates consistent with the Schedule, (ii) provide that Agency is an intended third party beneficiary of the Contract Documents, (iii) provide that warranties made by the contractor are made to both Agency and Developer, (iv) require that all change orders which increase or decrease the contract price by Ten Thousand Dollars (\$10,000), or more, must be signed by both Agency and Developer, and (v) provide that the Contract Documents are contingently assigned to Agency (permitting Agency to assume the position of Developer in the event of a default by Developer under this Agreement).

3.6 Bonds; Financial Assurance. The Contract Documents shall include provisions requiring a bond of the Contractor covering completion, performance and payment for labor and materials with respect to the work to be performed, which bond shall name the Contractor as principal and the Parties, jointly and severally, as obligees, with a corporate surety or sureties approved by the Parties. Any bond shall comply with the then current Agency bonding criteria. Work shall not commence until the bonds in the full amount of the Contract Documents have been placed. The bonds shall be in an amount equal to the full amount of the contract price (which bonds shall be increased, if necessary, to reflect increased costs resulting from such change orders approved in writing by the Parties). The bonds shall be secured from a surety authorized to do business in the State of Utah and rated B+ or better by the A. M. Best Company at the time of issuance of the bonds and holding certificates of authority as an acceptable surety on federal bonds as listed by the United States Department of Treasury (Circular 570, as amended) in its most recent list at the time of issuance of the bonds. The penal sum shall be within the maximum specified for such surety. The attorney-in-fact who executes the bonds on behalf of the surety shall affix to the bonds a certified and current copy of his or her power of attorney.

3.7 Indemnity. Developer assumes all responsibility, both before and after the

issuance of the Certificate of Completion of the Developer Improvements, and holds and indemnifies Agency, its officers, employees and agents harmless from all liability, loss, damage, costs or expenses (including attorneys' fees and court costs) arising from or as a result of the death of a person or any accident, injury, loss or damage caused to any person or the property of any person which shall occur on or adjacent to the Property to the extent directly or indirectly caused by the acts, errors or omissions of Developer or its agents, employees, servants or contractors and whether such damage shall accrue or be discovered before or after termination of this Agreement. Developer shall defend Agency in any such action with counsel chosen by Agency. Without limiting the foregoing, but subject to the foregoing limitations with respect to causation, the indemnity shall extend to:

3.7.1 Construction by or through Developer of the Developer Improvements or any other work or thing done in, on or about the Property or a part thereof;

3.7.2 Any use, non-use, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Property, areas adjacent thereto or improvements thereon by or through Developer, or any nuisance made or suffered thereon or any failure by Developer to keep the Property or improvements thereon or of any street, alley, parking area or facility, sidewalk, curb, vault, passageway, gutter, tunnel, bridge or space comprising a part thereof in a safe condition;

3.7.3 Any fire, accident, injury (including death) or damage to any person or property occurring in, on or about the Property, areas adjacent thereto or improvements thereon or any part thereof or in, on or about any street, alley, parking area or facility, sidewalk, curb, vault, passageway, gutter, tunnel, bridge or space comprising a part thereof;

3.7.4 Any lien or claim which may be alleged to have arisen against or on the Property or improvements thereon or any part thereof or any of the assets of, or funds appropriated to, Agency or any liability which may be asserted against Agency with respect thereto; and

3.7.5 The death of any owner, occupant or invitee or any accident, injury, loss or damage caused to any such person or its or their property.

3.8 Insurance. During the term of this Agreement, Developer, at its sole cost and expense, shall maintain or cause to be maintained the following insurance:

3.8.1 Generally. Insurance on the improvements on the Property against loss or damage by fire and lightning and all of the hazards ordinarily included in the all-risk coverage endorsement, in an amount not less than the then full replacement value of such improvements;

3.8.2 Comprehensive general liability and property damage insurance (including contractual liability coverage) against claims for personal injury or death, or property damage suffered by others occurring on or about such party's property within the Property, such public liability insurance to afford protection to the limit of not less than One Million Dollars (\$1,000,000) with respect to bodily injury or death by any one person and not less than One Million Dollars (\$1,000,000) with respect to bodily injury or death to any number of persons in any one accident or occurrence and such property damage insurance to afford protection to the limit of not less than One Million Dollars (\$1,000,000) in respect of any one accident or occurrence;

3.8.3 Developer shall furnish a certificate of insurance in form reasonably acceptable to Agency countersigned by an authorized agent of the insurance carrier on a form of the insurance carrier setting forth the general provisions of the insurance coverage. Developer shall also deliver an additional endorsement to such policy which shall name the City and Agency and their respective officers, agents, and employees as additional insureds under the policy. The certificate by the insurance carrier shall contain a statement of obligation on the part of the carrier to notify Agency of any material change, cancellation or termination of the coverage at least thirty (30) days in advance of the effective date of any such material change, cancellation or termination. Coverage provided hereunder by Developer shall be primary insurance and not contributing with any insurance maintained by Agency or City, and the policy shall contain such an endorsement. The insurance policy or the certificate of insurance shall contain a waiver of subrogation for the benefit of Agency and City. The required certificate and endorsement shall be furnished by Developer upon execution of this Agreement. Developer shall also furnish or cause to be furnished to Agency evidence satisfactory to Agency that any contractor with whom it has contracted for the performance of work on the Property or otherwise pursuant to this Agreement carries workers' compensation insurance as required by law. The obligations set forth in this Section shall remain in effect until a final Certificate of Completion has been furnished for all of the Developer Improvements on the Property as hereafter provided in Section 3.13 of this Agreement.

3.8.4 Contractor's Insurance. Prior to commencing any construction activities at the Property, Developer shall cause the Contractor to maintain insurance from companies authorized to do business in the State of Utah and rated A- or better by A.M. Best Company at the time of the issuance of such policies, with at least the following minimum insurance coverages:

3.8.4.1 Workers' compensation insurance in the amount of the statutory limit;

3.8.4.2 Employers' liability insurance in an amount not less than One Million Dollars (\$1,000,000);

3.8.4.3 Comprehensive General and Comprehensive Auto Liability, as follows: (i) "Combined Single Limit" (covering bodily injury liability, death and property damage) in any one occurrence of not less than One Million Dollars (\$1,000,000); (ii) Independent Contractors' Liability or Owner's Protective Liability with the same coverage as set forth in (i) above; (iii) Products/Completed Operations Coverage which shall be kept in effect for two (2) years after completion of work; (iv) "XCU" Hazard Endorsement, if applicable; (v) "Broad Form" Property Damage Endorsements; (vi) "Personal Injury" Endorsements; (vii) "Blanket Contractual Liability" Endorsement; and

3.8.4.4 Contractual Liability Insurance which shall have limits not less than combined single limits of One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate.

Developer and Agency shall be additional named insureds on the Contractor's General Liability Insurance. The Contractor's General Liability Insurance and the Contractual Liability Insurance shall be provided on an "occurrence" form and not on a "claims made" form. Developer shall cause the General Contractor to maintain such insurance without interruption for a period of two (2) years after the date of the Substantial Completion of the Developer Improvements.

3.8.5 Generally. Developer shall not nor shall Developer permit work to be commenced on the Developer Improvements until all of the insurance required pursuant to this Article shall have been obtained. Developer shall furnish to Agency certificates of insurance verifying that such insurance has been obtained. Developer shall, and shall obtain the agreement of Contractor to, permit Agency, upon request, to examine the original insurance policies required hereby along with any endorsements thereto. Developer shall provide in its contracts with the Contractor that if the Contractor at any time neglects or refuses to provide the insurance required herein, or should such insurance be canceled, the Developer shall have the right, but not the obligation, to procure the same at the cost and expense of the Contractor, and the cost thereof may be deducted by Developer from any monies then due or thereafter to become due to the Contractor. Developer shall promptly exercise its rights under such contracts.

3.9 City and Other Governmental Agency Permits. Before any preliminary work or commencement of any construction, development or work upon the Property, Developer shall, at its own expense, secure or cause to be secured any and all permits which may lawfully be required by the City or any other governmental agency affected by or having jurisdiction over such construction, development or work.

3.10 Rights of Access. For the purpose of assuring compliance with this Agreement, representatives of Agency and City shall have the right of access to the Property without charges or fees during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the Developer Improvements. In addition, Agency and the City shall have the right to enter the Property or any part thereof at all reasonable times for the purpose of exercising Agency's remedies, including cure rights contained in this Agreement and for the construction, reconstruction, maintenance, repair or service of any public improvements or public facilities located on the Property.

3.11 Local, State and Federal Laws. Developer shall carry out the construction of the Developer Improvements in conformity with all applicable federal, state and local laws, ordinances, governmental orders and permits.

3.12 Antidiscrimination During Construction. Developer, for itself and its successors and assigns, agrees that in the construction of the Developer Improvements provided for in this Agreement, Developer will not discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex, marital status, disability, national origin or ancestry.

3.13 Certificate of Completion. After completion of all construction and development of the Developer Improvements required by this Agreement to be completed by Developer and presentation by Developer of satisfactory evidence, determined solely by Agency, that the Developer Improvements have been completed, including, but not limited to, a Certificate of Occupancy from the City, Agency shall furnish Developer with a "**Certificate of Completion**" as to such Developer Improvements upon written request therefor by Developer. Such Certificate of Completion shall be a preliminary determination of satisfactory completion of Developer's obligations required by this Agreement with respect to the Property and the Certificate of Completion shall so state. Notwithstanding any issuance of a Certificate of Completion, the duty of Developer to construct the Developer Improvements in accordance with the Construction Documents and Contract Documents shall survive the issuance of a Certificate of Completion and causes of action related to Developer Improvements shall be limited solely by the applicable statute of limitations. Developer shall also remain liable to guaranty against all deficiencies in material and workmanship for a period of one year after completion of the Developer Improvements. A Certificate of Completion shall be in recordable form and may, at the option of Developer, be recorded in the Recorder's Office of Salt Lake County. If Agency refuses or fails to furnish a Certificate of Completion after written request from Developer and after the Developer has obtained a Certificate of Occupancy from the City, Agency shall, within thirty (30) days of written request therefor, provide Developer with a written statement of the reasons Agency refused or failed to furnish a Certificate of Completion. The statement shall also contain Agency's opinion of the actions Developer must take to obtain a Certificate of Completion. Such Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any other entity, including, without limitation, any lessee, any subsequent purchaser or the holder of any mortgage, or any insurer of a mortgage

securing money loaned to finance the Developer Improvements, or any part thereof. So long as Developer complies with the requirements in this paragraph with respect to the first phase of the Developer Improvements as contemplated by Section 4.1 and Exhibit "B", Agency agrees to issue a partial Certificate of Completion applicable to such first phase of the Developer Improvements.

3.14 Rights of Agency on Revesting. Upon the revesting in Agency of title to the Property or any part thereof as provided in the Agency Deed, Agency may elect (but is not required) to assume the Contract Documents or enter into new contract documents with a new contractor and complete construction of the Developer Improvements or such other improvements as it determines appropriate. Following completion of such improvements (if Agency so elects) or otherwise following the revesting of title to the Property, or any part thereof, Agency shall use reasonable efforts to resell such Property, subject to any first mortgage or deed of trust permitted by this Agreement, or such part thereof, in such manner as Agency shall find feasible and consistent with applicable law to a qualified and responsible party or parties (as determined by Agency), who will assume the obligation of making or completing the Developer Improvements, or such other improvements in their stead, as shall be satisfactory to Agency and in accordance with the uses specified for the Property. Upon such resale of the Property, or part thereof, the proceeds thereof, which Developer acknowledges may be insufficient for such purposes, shall be applied:

3.14.1 First, to reimburse Agency, on its own behalf, or on behalf of the City, for all costs and expenses of Agency incident to the sale and/or conveyance of the Property, or portions thereof, for all costs and expenses incurred by Agency, including, but not limited to, salaries to personnel, in connection with the recapture, management, maintenance, repair, construction of improvements and resale of the Property or portion thereof (but less any income derived by Agency from the Property or portion thereof in connection with such management); all taxes, assessments, and water, sewer and other charges with respect to such Property or portion thereof; any payments made or necessary to be made to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of Developer, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the improvements or any part thereof on the Property or portion thereof; and any amounts otherwise owing Agency by Developer and its successor or transferee; and

3.14.2 Second, to reimburse Developer, its successor or transferee, up to the amount equal to (1) the sum of the purchase price paid to Agency by Developer for the Property (or allocable to the portion thereof) pursuant to the Purchase Agreement; (2) the reasonable costs incurred for the development of the Property or the portion thereof and for the improvements existing on the Property or the portion thereof at the time of the reentry and repossession, less (3) any gains or income withdrawn or made by Developer from the Property or the portion

thereof or the improvements thereon.

3.14.3 Any balance remaining after such reimbursements shall be retained by Agency as its property.

ARTICLE 4

Transfer; Financial Encumbrances

4.1 Restrictions on Transfer of Property, Developer Improvements, and Assignment of Agreement. Prior to the issuance by Agency of a Certificate of Completion, Developer shall not, without the prior written approval of Agency (which may be withheld in its sole and absolute discretion) (i) sell, transfer, or convey, directly or indirectly, the whole or any part of the Property or the buildings or structures thereon; or (ii) transfer, assign or convey this Agreement or Developer's obligations hereunder; provided, the Parties acknowledge and agree that the Developer Improvements may be constructed in two phases which are described in Exhibit "B" so long as Developer commences construction of the second phase within at least 120 days from the Substantial Completion of the first phase. "Commencement of construction" shall mean the issuance of a building permit for the second phase. In the event Developer fully completes the first phase of the Developer Improvements and obtains a partial Certificate of Completion certifying that such first phase is complete as required by this Agreement, Developer may convey all or part of such first phase of the Developer Improvements without Agency's prior written approval, so long as such conveyance complies with the Agency Deed, the Covenants, this Agreement and all requirements of law. Developer shall not permit any change in the general partner(s), if applicable, or in the ownership or with respect to the parties which own an interest in Developer prior to the issuance of a Certificate of Completion for all of Developer Improvements, without the prior written consent of Agency, which consent may be withheld in Agency's sole and absolute discretion. The prohibitions in this Section shall not be deemed to prevent the granting of easements or permits to facilitate the construction of the Developer Improvements or the mortgages or deeds of trust described in Section 4.2 below.

4.2 No Encumbrances Except Mortgages, Deeds of Trust, or Other Financing for Development. No mortgages, deeds of trust, or other forms of conveyance required for any financing shall be permitted before issuance of a Certificate of Completion; provided, however, a first mortgage or first deed of trust securing an amount not to exceed Nine Hundred Ninety Thousand Dollars (\$990,000) shall be permitted only for the purpose of securing loans of funds to be used for financing the construction of Developer Improvements as contemplated by the Purchase Agreement. Developer shall notify the Agency in writing in advance of any such first mortgage or first deed of trust if Developer proposes to enter into the same before issuance of a Certificate of Completion of the construction of the Developer Improvements on the Property or the portion thereof to be subject to such financing arrangement. In addition, Developer shall provide Agency such information and documents in connection with such financing arrangement as Agency may request. Developer shall not enter into any such financing without the prior written approval of Agency, which approval may be withheld in Agency's sole and absolute

discretion. Such financing arrangement shall be deemed disapproved if not approved in writing by Agency within ten (10) days after written notice thereof to Agency. Notwithstanding anything to the contrary in this Agreement or in the Purchase Agreement, Developer shall not obtain any mortgage or deed of trust until and unless Developer has obtained a building permit acceptable to Agency, as more particularly provided in the Purchase Agreement. The lender for any approved financing shall provide Agency notice of any default or breach by Developer under such financing until such time as Agency issues a Certificate of Completion.

4.3 Right of Agency to Cure Mortgage or Deed of Trust Default. In the event of a mortgage or deed of trust default or breach by Developer prior to the completion of the construction of the Developer Improvements on the Property or any part thereof, Agency may (but is not obligated to) cure the default. In such event, Agency shall be entitled to reimbursement from Developer of all costs and expenses incurred by Agency in curing such default. Agency shall also be entitled to record a lien upon the Property, other than any portion thereof for which Agency has previously issued a Certificate of Completion as permitted in this Agreement. Any such lien shall be subject to the first mortgages or deed of trust obtained by Developer for the acquisition and/or construction of such Property or the Developer Improvements thereon, as permitted herein and may be foreclosed in the manner for foreclosing on mechanic liens.

4.4 Copy of Notice of Default to Mortgagee; Mortgagee's Option to Cure Defaults. Whenever the Agency shall deliver or make any notice or demand to the Developer with respect to any breach or default by the Developer, in its obligations or covenants under this Agreement, the Agency shall at the same time deliver to each holder of record of a mortgage or trust deed authorized by this Agreement a copy of such notice or demand, and each such holder shall, insofar as the rights of the Agency are concerned, have the right, at its option, to cure or remedy such breach or default to the extent that it relates to the part of the Property covered by its mortgage or trust deed, and to add the costs thereof to the mortgage debt and the lien of its mortgage; provided, that if the breach or default is with respect to construction of the Developer Improvements, nothing contained in this Section or any other Section or provision of this Agreement shall be deemed to permit or authorize such holder, either before or after foreclosure or action in lieu thereto, to undertake or continue the construction or completion of the Developer Improvements, beyond the extent necessary to conserve or protect Developer Improvements, or construction already made, without first having expressly assumed the obligation to the Agency, by written agreement satisfactory to the Agency, to complete, in the manner provided in this Agreement, the Developer Improvements on the Property or the part thereof to which the lien or title of such holder relates, and submitted evidence satisfactory to the Agency that it has the qualifications and financial responsibility necessary to perform such obligation. Any such holder who shall properly complete the Developer Improvements relating to the Property or applicable part thereof shall be entitled, upon written request made to the Agency to a certification or certifications by the Agency to such effect in the manner provided in Section 3.13 of this Agreement, and any such certification shall, if so requested by such holder, mean and provide that any remedies or rights with respect to recapture of or reversion or reversioning of title to the Property that the Agency shall have or be entitled to because of the failure of Developer or any

successor in interest to cure or remedy any default with respect to the construction of the Developer Improvements on other parts or parcels of the Property, or because of any other default in or breach of this Agreement by the Developer or successor in interest, shall not apply to the Property to which such certification relates.

4.5 Agency's Option to Pay Mortgage Debt or Purchase Property. In any case where, subsequent to default or breach by the Developer under this Agreement, the holder of any mortgage or trust deed on the Property or part thereof authorized hereunder:

4.5.1 has the right, but does not exercise, or would otherwise have the right but cannot, because of inability or failure to submit evidence satisfactory to the Agency that it has the necessary qualifications and financial responsibility or otherwise, to exercise the option to construct or complete the Developer Improvements relating to the Property or a part thereof covered by its mortgage or to which it has obtained title, and such inability or failure continues for a period of thirty (30) days after the holder has been notified or informed of the default or breach; or

4.5.2 undertakes construction or completion of the Developer Improvements but does not complete such construction within such period as agreed upon by the Agency and such holder, and such default shall not have been cured within sixty (60) days after written demand by the Agency so to do, the Agency shall (and every mortgage instrument made prior to completion of the Developer Improvements with respect to the Property by the Developer shall so provide), have the option to either: (1) pay to the holder the amount of the mortgage debt and secure an assignment of such debt and of the mortgage, or (2) in the event ownership of the Property, or part thereof, has vested in such holder by way of foreclosure or action in lieu thereof, the Agency shall be entitled to a conveyance by special warranty deed to it of the Property or part thereof. If the Agency elects option (2), the Agency shall pay to such holder an amount equal to the sum of: (a) the mortgage debt at the time of foreclosure or action in lieu thereof, less all appropriate credits, including those resulting from collection and application of rentals received during foreclosure proceedings; (b) all reasonable expenses with respect to the foreclosure; (c) the net reasonable expenses, if any, exclusive of general overhead, incurred by such holder in and as a direct result of the subsequent management of the Property; (d) the reasonable costs of any Developer Improvements made by such holder; and (e) an amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage debt and such debt had continued in existence.

ARTICLE 5

Other Obligations

5.1 Valuation of Property for Tax Purposes. Developer shall pay all real estate taxes or assessments due with respect to the Property. For purposes of ad valorem and similar taxes and assessments relating to the Property, Developer acknowledges that the Property with the Developer Improvements will have a value, upon completion of all Developer Improvements, of not less than One Million, One Hundred Thousand Dollars (\$1,100,000.00), and Developer shall not contest such value. Notwithstanding the foregoing, upon the sale of any portion of the Property, as permitted herein (following the issuance of a Certificate of Completion), Developer shall be relieved of its obligation to pay real estate taxes and assessments for the period after the date of such permitted sale (with any such taxes and assessments being prorated with the buyer of such portion of the Property as of the date of such sale), and this Section 5.1 shall terminate as to such portion of the Property.

5.2 One Percent for Art. One Thousand Dollars (\$1000.00) (representing one percent of the purchase price paid by Developer to Agency for the Property) shall, at the election of Developer, either be (i) donated by Developer to the "Percent for Art Fund" as set forth in Section 2.30 of the City Ordinances or any successor ordinance or policy, or (ii) paid by Developer for the installation of an art feature(s) on the Property which may be integrated into the Developer Improvements. In the event Developer elects to install an art feature(s) on the Property, it shall first obtain Agency's written approval of the art feature(s) and its location. Developer shall complete its donation to the Percent for Art Fund or its installation of an art feature(s) on the Property, as the case may be, in connection with its completion of the Developer Improvements, and following its payment of the construction loan for the Developer Improvements. Developer shall not be entitled to receive a Certificate of Completion until such time as it has satisfied the requirements of this Section.

ARTICLE 6

Defaults and Remedies

6.1 Agency's Defaults. Agency shall be deemed to be in default hereunder in the event Agency shall, for any reason other than Developer's default, fail to meet, comply with, or perform any covenant, agreement or obligation on its part required within the time limits and the manner required in this Agreement. In the event Agency shall be deemed to be in default hereunder, Developer may, at its sole and exclusive remedy, obtain specific performance of such duties. Notwithstanding anything to the contrary above Developer shall, upon the occurrence of any default hereunder by Agency provide written notice of such default to Agency which sets forth the provision of this Agreement which is alleged to have been violated, the manner in which Agency can cure such default and notification that Developer intends to exercise its remedy of specific performance if such default is not cured within thirty (30) days. In the event Agency cures such default within such thirty (30) day period or, if such default is not reasonably

curable within such cure period, Agency has commenced to cure such default and diligently pursues a cure to completion, Agency shall not be deemed in default and Developer shall not have the remedy of specific performance as provided herein.

6.2 Developer's Default. In the event Developer shall fail to perform any of its duties or obligations hereunder, at the time for performance set forth herein, Agency may exercise any one or more of the following remedies:

6.2.1 Obtain damages resulting from such default;

6.2.2 Obtain specific performance of such duties;

6.2.3 If Developer shall fail to pay any costs or expenses set forth herein or perform any obligations herein, Agency shall have the right (but not the obligation) to pay and/or perform the same and to bill Developer for the amount so paid and the costs incurred in so performing any obligations. In the event Developer does not reimburse Agency within fifteen (15) days after the presentation of a bill for the amounts expended, Agency shall, at its election, have a lien on the Property to the extent of the amount paid or expended by Agency but not reimbursed by Developer, which amount shall bear interest at the rate of 18% per annum. Such lien may be filed for record by Agency as a claim against Developer in any form permitted by law. The lien so claimed shall attach from the date of recordation in the amount claimed by Agency with interest thereon at the above-stated rate. The lien may be enforced and foreclosed in any manner allowed by law, including, but not limited to, suits to foreclose a mortgage or mechanic's lien under the applicable laws of the State of Utah. Such lien, when so filed of record against the Property described in such lien, shall be prior and superior to any right, title, interest, lien or claim which is acquired or attaches to the Property after the time of recording the claim of lien; and/or

6.2.4 Assert such other rights or remedies it may have hereunder, pursuant to the Agency Deed, the Covenants, and at law or in equity.

The various rights and remedies herein contained and reserved to Agency, except as herein otherwise expressly provided, shall not be considered as exclusive of any other right or remedy of Agency, but shall be construed as cumulative and shall be in addition to every other remedy now or hereafter existing at law, in equity or by statute. No delay or omission of the right to exercise any power or remedy by Agency shall impair any such right, power or remedy or be construed as a waiver of any default or non-performance or an acquiescence therein.

ARTICLE 7

General Provisions

7.1 Captions. The captions, headings, and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify or modify the terms and provisions hereof.

7.2 Number and Gender of Words. Whenever herein the singular number is used, the same shall include the plural where appropriate, and words of any gender shall include each other gender where appropriate.

7.3 Attorneys' Fees. If either Party to this Agreement or their successors and assigns commences a dispute resolution proceeding, whether litigation, arbitration or otherwise, respecting any question between the Parties to this Agreement arising out of or relating to this Agreement or the breach thereof, the prevailing party in such dispute resolution proceeding shall be entitled to the recovery of a reasonable attorneys' fee and all other reasonable incurred costs and expenses of the successful prosecution or defense of such proceeding. The term "dispute resolution proceeding" as used above shall be deemed to include appeals from a lower court judgment or arbitration award and it shall include proceedings in the Federal Bankruptcy Court, whether or not they are adversary proceedings or contested matters. For purposes of proceedings in the Federal Bankruptcy Court, the term "prevailing party" as used above shall be deemed to mean the prevailing party in an adversary proceeding or contested matter, or any other actions taken by the non-bankrupt party which are reasonably necessary to protect its rights.

7.4 Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be given by (i) Federal Express (or other established express delivery service which maintains delivery records), (ii) hand delivery, or (iii) certified or registered mail, postage prepaid, return receipt requested, to the Parties at the following addresses, or such other addresses as the Parties (or their successors and assigns) may designate from time to time by written notice in the above manner:

To Developer: West Capitol Hill, LLC
4915 South Waimea Way
Salt Lake City, Utah 84117
Attn: Nathan A. Anderson

If to Agency: Redevelopment Agency of Salt Lake City
Room 418, City & County Building
451 South State Street
Salt Lake City, UT 84111
Attn: Executive Director

with copies to: Jones Waldo Holbrook & McDonough PC
170 South Main Street, Suite 1500
Salt Lake City, Utah 84101

Attn: Elizabeth M. Haslam

Such communications may also be given by facsimile transmission, provided any such communication is concurrently given by one of the above methods. Notices shall be deemed effective upon the receipt, or upon attempted delivery thereof if the delivery is refused by the intended recipient or if delivery is impossible because the intended recipient has failed to provide a reasonable means of accomplishing delivery.

7.5 Governing Law. This Agreement is intended to be performed in the State of Utah, and the laws of Utah shall govern the validity, construction, enforcement and interpretation of this Agreement, unless otherwise specified herein.

7.6 Amendments. This Agreement may be amended or supplemented only by an instrument in writing executed by both Agency and Developer.

7.7 Invalid Provisions. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never composed a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement.

7.8 Further Acts. In addition to the acts and deeds recited herein and contemplated to be performed, executed and delivered by Agency and Developer, Agency and Developer agree to perform, execute and deliver or cause to be performed, executed, and delivered any and all such further acts, deeds and assurances as may be necessary to consummate the transactions contemplated hereby.

7.9 Survival. Except as otherwise provided for herein, all agreements, covenants, representations and warranties contained herein shall survive the expiration or termination of this Agreement and the performance by Developer of its obligations hereunder.

7.10 Warranty Against Payment of Consideration for Agreement. The Developer represents and warrants that neither it nor any of its members, managers, employees or officers has: (1) provided an illegal gift or payoff to an Agency officer or employee or former Agency officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in City conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, an Agency officer or employee or former Agency officer or employee to breach any of the ethical standards set forth in the City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code.

7.11 Non-liability of Agency Officials and Employees. No member, official, or employee of Agency shall be personally liable to Developer, or any successor in interest, in the event of any default or breach by Agency, or for any amount which may become due to Developer or its successor, or on any obligation under the terms of this Agreement.

7.12 Recordation. At Agency's election, this Agreement or a memorandum of this Agreement shall be recorded in the office of the Salt County Recorder.

7.13 No Relationship of Principal and Agent. Nothing contained in this Agreement, nor any acts of the Parties, shall be deemed or construed to create the relationship of principal and agent, or of limited or general partnership, or of joint venture or of any other similar association between Agency, its successors or assigns, or Developer, its successors or assigns.

7.14 No Presumption. This Agreement shall be interpreted and construed only by the contents hereof and there shall be no presumption or standard of construction in favor of or against either Party.

7.15 No Third Party Beneficiaries. This Agreement shall be for the sole benefit and protection of Developer, Agency, and the City, and no other person shall have any rights, privileges, or benefits hereunder except a permitted assignee of any of such parties or as expressly contemplated herein.


7.16 Exercise of Discretion. Except where any Party has expressly reserved herein the right to take any action or to grant, deny, or withhold any consent or approval in such Party's sole discretion (or words of similar import), such Party agrees that the exercise of such right or the granting or withholding of such consent or approval shall not be unreasonably withheld or delayed.

7.17 Exhibits. All references to "Exhibits" contained herein are references to exhibits attached hereto, all of which are made a part hereof for all purposes.

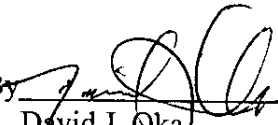
[Remainder of page intentionally left blank.
Signature page follows immediately.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

**REDEVELOPMENT AGENCY OF SALT
LAKE CITY**

By 

Ross C. Anderson
Its Chief Administrative Officer

By 

David J. Oka
Its Executive Director

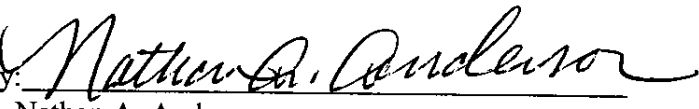
Approved as to legal form:

Jones, Waldo, Holbrook & McDonough

By 

DEVELOPER

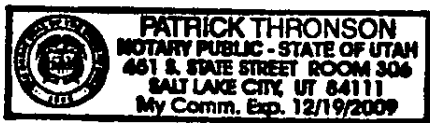
WEST CAPITOL HILL, LLC
a Utah limited liability company

By 

Nathan A. Anderson
Its Manager

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On the 27 of July, 2006 personally appeared before me Ross C. Anderson, who being by me duly sworn did say that he is the Chief Administrative Officer of the Redevelopment Agency of Salt Lake City, and that the within and foregoing instrument was signed on behalf of said Agency.



Patrick Thronson
NOTARY PUBLIC

My Commission Expires:

12/19/2009

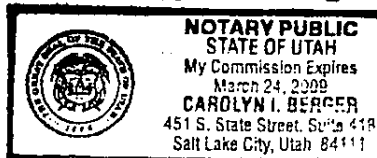
STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On the 27 day of July, 2006 personally appeared before me David J. Oka, who being by me duly sworn did say he is the Executive Director of the Redevelopment Agency of Salt Lake City, and that the within and foregoing instrument was signed on behalf of the Agency.

My Commission Expires:

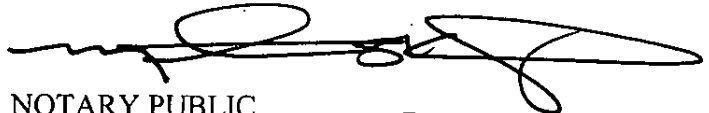
3/24/09

Carolyn I Berger



STATE OF UTAH)
) : ss.
COUNTY OF SALT LAKE)

On this 25th day of July, 2006 personally appeared before me Nathan A. Anderson, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he is the manager of West Capitol Hill, LLC, a Utah limited liability company and that said document was signed by him in behalf of said limited liability company by authority of its operating agreement.



NOTARY PUBLIC
Residing at: Midvale, Utah

My Commission Expires:

3-31-08



EXHIBIT "A"

DESIGN GUIDELINES

The design of the Developer Improvements shall adhere to the provisions and permitted uses of a mixed-use zoning district as set forth in Section 21A.32.130 of the Salt Lake City Zoning Ordinance.

Design Review Process

- VIII. Determine if Board desires design review committee for project and if Board wants RAC to act as DRC or separate body.
- IX. Design Review Committee.
- A. If applicable, with Executive Director, Mayor, and Board approval, create the design review committee. The committee should include, at a minimum, the designated City planner for the area, a transportation representative, a representative from Engineering or Public Services, a representative from Permits and Licensing and the Agency's urban design consultant.
 - B. If applicable, with Executive Director, Mayor, and Board approval, create a RAC Subcommittee made up of 3-4 members with no more than one architect/design professional to be appointed to the subcommittee.
- X. If the offering documents included design guidelines, these should be the controlling review document for the Agency's review.
- XI. The Agency's typical design review process includes three reviews. These are:
- A. Basic Concept Design - shall include plans, elevations, and sections of the Developer Improvements as they are to be constructed on the Property and a description of the structural, mechanical and electrical systems;
 - 1. Approved by the RDA Board of Directors during selection process
 - B. Preliminary Construction Drawings - should be consistent with the approved basic concept drawings and include plans, drawings and related documents for all improvements, including landscaping and grading;
 - 1. Requires submission of City's DRT comments which may require changes to design
 - 2. Approved by RAC Design Review Subcommittee
 - C. Final Construction Drawings and Specifications - includes all drawings, specifications and related documents necessary for construction and completion of the Developer Improvements and in sufficient detail to obtain a building permit. The final construction documents should be based upon and conform to the preliminary construction documents and contain modifications and changes, if any, required by Agency as a condition to approval of the preliminary construction documents.

1. Requires adherence to City's DRT requirements
 2. Reviewed and recommended by RAC Design Review Subcommittee
 3. Approved by RDA Board of Directors along with the terms of the Development Agreements.
- XII. Alert the developer to the Board's meeting schedule and require that design submittals be made at least one-week in advance, unless there are extenuating circumstances.
- XIII. RDA Staff Duties. Project Manager and Agency's urban design consultant review the documents to determine their conformance with each item in the design guidelines and the prior submittal.
- A. If there are no design guidelines, review for obvious design problems. Pay particular attention to:
 1. Overall shape and orientation of the buildings and massing from the street
 2. Entrances, windows and exterior features of the buildings and their relationship to the street
 3. How parking is handled and the inclusion of lots of landscaping if surface parking is proposed
 4. Building materials and colors
 5. Location of service areas including electrical and gas meters, trash bins, etc.
 6. Lighting, landscaping, and site features
 7. Compliance with Crime Prevention Through Environmental Design (CPTED) recommendation
 - B. For each submission, if there is a DRC call a committee meeting to discuss the documents and develop a consensus recommendation; if there is no DRC meet with the City department representatives. At the meeting, attempt to draft the specific language you will incorporate into the approval resolution. Request appropriate committee members or City staff to attend the Board meeting when the developer will make his/her presentation.
 - C. Prepare a resolution for Board approval (or disapproval) of the documents, calling out any items which are subject to a future design revision or more information.
 - D. Prepare the Board memo noting the process steps taken to date in the "background" section and the issues raised by you, the urban design consultant and the committee members in the "analysis and issues" section.

EXHIBIT "B"

DEVELOPER IMPROVEMENTS

The Developer shall construct the Developer Improvements in accordance with the provisions and permitted uses of a mixed-use zoning district as set forth in Section 21.A.32.130 of the Salt Lake City Zoning Ordinance and the Plans approved by the Agency.

- (a) Developer shall construct two, three-story residential buildings for a total of eight townhome units on 701 North 300 West. The development shall be constructed in two phases, with the each phase resulting in a four-unit building. Each townhome unit shall be constructed as follows:
 - The first floor shall include a tandem, two-car garage with an adjacent driveway fronting 700 North. Attached to the garage shall be a half bathroom and ground-floor living space that can also be utilized as office or storage area (a minimum total of 280 square feet).
 - The second floor shall have a front entryway that connects to a kitchen, dining area, great room, entertainment/storage area and a half bathroom.
 - The third floor shall have three bedrooms, two full bathrooms and a laundry room.
- (b) Developer shall construct three of the townhome units to be ADA visitable. Each of those units will contain one zero-step entrance, main floor interior doors – including bathrooms – with 32 inches of clear passage space, and at least half a bath on the main floor.
- (c) All eight of the townhome units shall initially be sold at market rate (not subsidized) prices.
- (d) All eight of the townhome units shall be "owner-occupied" with a restriction against rental to any person who is not a titled owner. No townhome unit shall ever be rented or primarily used for commercial purposes.
- (e) Developer shall have the option to retain one of the units as personal living space for a maximum period of eighteen months. Upon expiration of the maximum occupancy period, the subject unit is to be sold under the same terms as the other units. The Agency reserves the right to periodically inspect the subject unit for contractual compliance or to request documentation associated with the property transfer .

- (f) Individual lot widths and off-street parking requirements for the development shall require approval by the Salt Lake City Planning Commission.
- (g) The Developer Improvements shall be approved by Salt Lake City prior to final approval by the Agency. Developer shall also construct landscaping, sidewalks, curbs, street lighting, brick work or other beautification and amenities located on the Property as required by such approvals, including but not limited to:
 - Exterior materials will primarily consist of a stucco finish, glass and red brick veneer.
 - All of the garages will have flat paneled garage doors with overhead lighting.
 - All of the backyards will be landscaped with full fencing to provide for a safe and secure area.

EXHIBIT "C"

PROPERTY DESCRIPTION

The following parcels of real property that are located in Salt Lake County, Utah:

Parcel 1: 701 North 300 West

Beginning at the southeast corner of Lot 1, Block 151, Plat "A", Salt Lake City Survey, running North 82 and ½ feet; thence West 8 rods; thence South 82 and ½ feet; thence East 8 rods to beginning.

Parcel Identification No. 08-25-452-013

Parcel 2: 314 West 700 North

Beginning 8 rods West from the southeast corner of Lot 1, Block 151, Plat "A", Salt Lake City Survey, running thence West 64 feet; thence North 8.5 rods; thence East 64 feet; thence South 8.5 rods to beginning.

Parcel Identification No. 08-25-452-015

EXHIBIT "D"

SCHEDULE

[Agreement references to "schedule"]

1.3.21 "**Schedule**" means the **schedule** for submission of and review of the Contract Documents and the schedule for commencement and completion of the Developer Improvements as set forth in Exhibit "D".

3.4 Construction Schedule: Approval of Material Deviations. Developer shall promptly begin and thereafter diligently prosecute to completion the construction of the Developer Improvements in accordance with the **Schedule** and the Construction Documents.

3.5 Contract Documents. On or before the date set forth in the **Schedule**, or as otherwise agreed to by Agency, Developer shall bid the construction of the Developer Improvements and enter into a standard form construction contract, approved by Agency, to cause the Developer Improvements to be constructed. Unless otherwise first approved in writing by Agency, one such contract for all such work shall be let by Developer. Such contract shall be fully executed prior to the date set forth in the **Schedule**.

Section 3.5 The Contract Documents shall require that all work be performed in accordance with the Construction Documents, shall (i) set forth commencement and completion dates consistent with the **Schedule**

Timeline for West Capitol Hill Townhomes, A PUD.

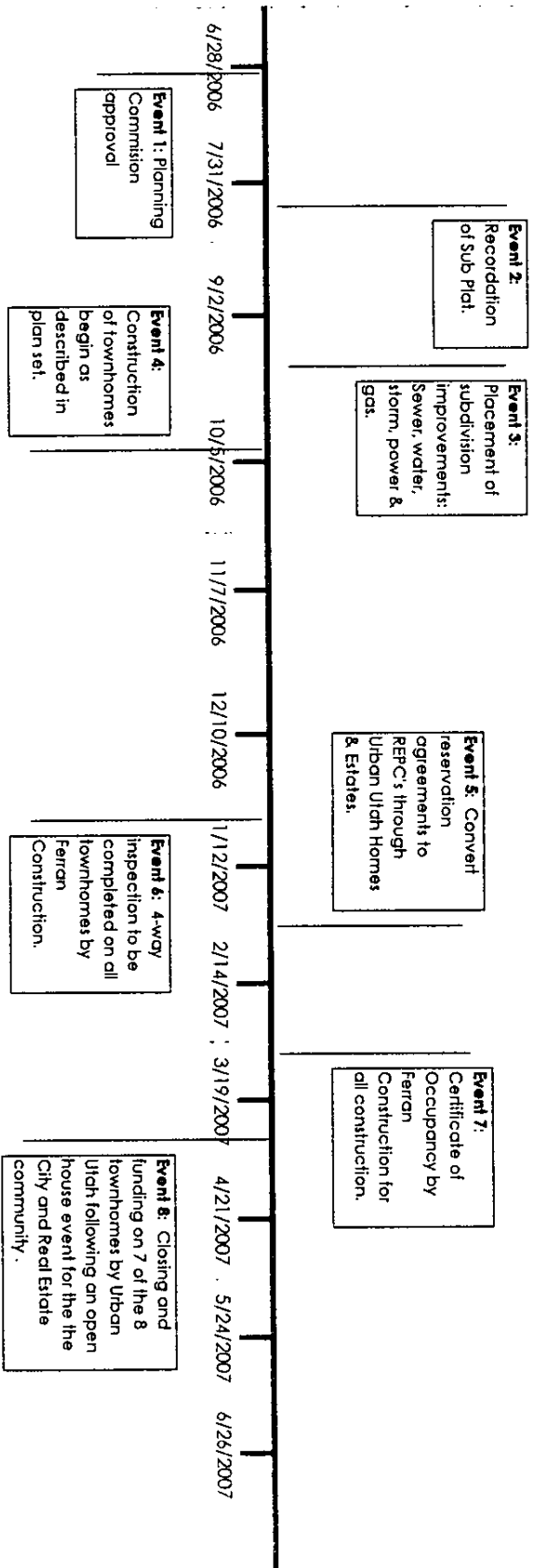


EXHIBIT "E"

SITE PLAN

