

**WHISPER RIDGE AT STONE CANYON
DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into as of this 27th day of July, 2007, effective July 27, 2007 (the "Effective Date"), by and between **WHISPER RIDGE DEVELOPMENT, LLC**, a Utah limited liability company, (hereinafter called "Developer"), and **MORGAN COUNTY**, a political subdivision of the State of Utah (hereinafter called the "County"). Developer and the County are, from time to time, hereinafter referred to individually as a "Party" and collectively as the "Parties." Unless otherwise noted herein, this Agreement supersedes and replaces any previous development agreements entered into by and between Developer and the County involving the same Property (defined below).

RECITALS

A. The County, acting pursuant to its authority under Utah Code Annotated, Section 17-27-101, *et seq.*, and Section 17-53-223, and Section 17-53-302(13), as amended, and in furtherance of its land use policies, goals, objectives, ordinances, and regulations, has made certain determinations with respect to the proposed Planned Residential Unit Development ("PRUD") and, therefore, has elected to approve and enter into this Agreement in order to advance the policies, goals, and objectives of the County, and the health, safety, and general welfare of the public.

B. Developer has a legal interest in certain real property consisting of approximately 88.3 acres located in the County as described in Exhibit "A" attached hereto. Upon development of this initial parcel of real property, Developer intends to expand the size of the development from time to time, which expansion will require further approval from the County. Developer acknowledges that for any development in excess of the approximately 88.3 acres of real property described in Exhibit "A" (herein referred to as the "Property"), Developer will be required to enter into a new Development Agreement or an amendment to this Development Agreement, as determined by the County.

C. Developer intends to develop the real property described in Exhibit "A" as a planned residential unit development (PRUD) with mixed uses consisting of one hundred twenty-two (122) lots for residential homes. This Development is commonly known as Whisper Ridge at Stone Canyon and is more particularly described in a Plat on file or to be filed with the Morgan County Recorder, which Plat is incorporated herein by reference. As the Project is expanded, additional Plats shall be filed with the Morgan County Recorder.

D. The County desires to enter into this Agreement because the Agreement establishes planning principles, standards, and procedures to: (1) eliminate uncertainty in planning and guide the orderly development of the Property consistent with the County General Plan, the County Land Use Code, and the conditions imposed by the Planning Commission and County Council; (2) mitigate significant environmental impacts; (3) ensure installation of necessary on-site and off-site public improvements; (4) provide for the preservation of substantial permanent open space; (5) make provision for trail facilities; (6) provide for the timely payment of all fees and charges, including impact fees in the amounts set forth herein; (7) ensure that public services appropriate to the development of the Property are provided; (8) provide for the maintenance of facilities, trails and open space within the development during construction and after completion; and (9) otherwise achieve the goals and purposes of the County and Developer.

E. Developer desires to enter into this Agreement to ensure that Developer may proceed with the Project in accordance with the "Applicable Law" (defined below).

F. The County has undertaken review and planning actions relating to the development of the Property and the Project. These actions are set forth in the official minutes and record of the County Planning Commission and the County Council. A condition of final approval of the Project is that Developer enters into and abides by the terms of this Agreement. The terms of this Agreement apply to the Project and to any and all phases or plats therein. These various review and planning actions are collectively referred to herein as the "Current Approvals."

G. Pursuant to a duly noticed public hearing on _____, the County Council considered and adopted the recommendation of the County's Planning Commission and the Property was re-zoned to R1-20 PRUD (the "Zone Change").

H. By developing the Project in accordance with this Agreement, the Project shall be in compliance with the Morgan County General Plan and all development ordinances, resolutions, rules, regulations policies, standards, and directives of the County.

I. Each Party acknowledges that it is entering into this Agreement voluntarily.

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

AGREEMENT

SECTION 1. EFFECTIVE DATE, TERM AND DEFINITIONS

1.1 Effective Date. This Agreement shall become effective on the date it is executed by Developer and the County (the "Effective Date"). The Effective Date shall be inserted in the introductory paragraph preceding the Recitals.

1.2 Term. The term of this Agreement (the "Term") shall commence upon the Effective Date and continue for a period of twenty-five (25) years. Unless otherwise agreed between the County and Developer, Developer's vested interests and rights contained in this Agreement expire at the end of the Term, or upon termination of this Agreement. Upon termination of this Agreement, the obligations of the Parties to each other hereunder shall terminate, but none of the licenses, building permits, or certificates of occupancy granted prior to expiration of the Term or termination of this Agreement shall be rescinded or limited in any manner.

1.3 Property Affected by this Agreement. The legal description of the Property contained within or that may be contained within boundaries of the development to be known as Whisper Ridge at Stone Canyon is attached and specifically described in Exhibit "A". No additional property may be added to this description for purposes of this Agreement except by written amendment to this Agreement executed and approved by the parties hereto.

1.4 Definitions. Unless the context requires a different meaning, any term or phrase used in this agreement that has its first letter capitalized shall have that meaning given to it by this Agreement. Certain terms and phrases are referenced below; others are defined where they appear in the text of this Agreement, including its Exhibits.

1.4.1 "Applicable Law" shall have the meaning set forth in Section 4.2 of this Agreement.

1.4.2 "Approval Date" shall mean the last date set forth in Recital G of this Agreement.

1.4.3 "Association" shall mean the Whisper Ridge at Stone Canyon Association, a Utah nonprofit corporation, formed in accordance with state laws and authorized to assess fees sufficient to perform the maintenance obligations transferred to it by Developer, including but not limited to its successors and assigns. It is intended that the Association and the Declaration of Covenants, Conditions and Restrictions (the "Declaration") for of the same shall cover all portions of the Project, provided, however, that the Declaration shall have no application to the "North Lots" defined herein below.

1.4.4 "Changes in the Law" shall have that meaning set forth in Section 4.2 of this Agreement.

1.4.5 "Concept Plan" shall mean that Concept Plan prepared by Developer dated _____, 2006, and approved by the County.

1.4.6 "Conditions to Current Approvals" shall have the meaning set forth in Section 3.1(b) of this Agreement.

(electricity, gas, telephone, and all others), detention basins, sidewalks, curb and gutter, trails, recreational facilities and open spaces.

1.4.20 "Subsequent Approval" means a County approval or permit, which is not otherwise provided for in this Agreement, and which is reasonably necessary for completion of the Project as reasonably determined by the County.

SECTION 2. ZONING, CONSTRUCTION DRAWINGS, AND PLAT APPROVAL

2.1 Re-Zoning of the Property.

2.1.1 The County acknowledges that the zoning for the Property is consistent with the General Plan and that the County's zoning maps reflect the Zone Change, it being agreed by the County that all public hearings necessary for the implementation of the Zone Change have been accomplished prior to the date hereto. The County Council, after holding all necessary public hearings, has adopted the Whisper Ridge Concept Plan.

2.1.2 The County Council, after holding all duly noticed public hearings, has adopted this Agreement. The PRUD Ordinance and this Agreement constitute subdivision regulations that supplement and amend the Whisper Ridge Concept Plan (the "Concept Plan"). To the extent of any inconsistencies between the Whisper Ridge Concept Plan and this Agreement, this Agreement shall govern.

2.2 Planning Commission Preliminary Plat Approval.

2.2.1 Prior to commencing construction on any Phase (defined in Section 2.3 below), Developer shall submit a preliminary plat, construction drawings and specifications (each, as may be subsequently amended from time to time in accordance with the provisions of this Agreement and "Plat") and all required submittals (cost estimates, surety, title report, will serve letters, drainage plans, etc.) for such Phase to the County Planning Commission. Each Plat submitted to the County Planning Commission shall comply with all technical requirements of the Land Use Code and subdivision ordinances. Developer shall pay fees for each Plat as are generally required by the County at the time of the submission of the Plat to the County Planning Commission. Timing of said submission and review by County Staff prior to the Planning Commission shall be in accordance with the adopted Planning Department submittal deadline policy.

2.2.2 The County Planning Commission shall review the Plat and all required submittals (cost estimates, surety, title report, will serve letters, drainage plans, etc.) associated with the applicable Phase for completeness, and conformity with this Agreement. To the extent that such Plat is complete and consistent with this Agreement and all applicable federal, state and local laws, rules, regulations and ordinances, the County Planning Commission shall make a recommendation to the County Council for the approval of such Plat. The County Planning Commission

shall hold all duly noticed public hearings required for the approval of such Plat under the Utah Code, the Land Use Code and other County ordinances, as applicable; provided, however, nothing herein shall prevent the County Planning Commission in its discretion from holding any public hearings not required by applicable law. In the event the County Planning Commission determines that such Plat is not complete and consistent with all applicable federal, state and local laws, rules, regulations and ordinances and this Agreement, the County Planning Commission will provide Developer with a reasonably detailed description of any such inconsistencies, in which case Developer shall revise such Plat to remediate any such inconsistencies and resubmit such Plat to the County Planning Commission for approval pursuant to the process set forth above.

2.3 County Council Preliminary Approval of Plat. Following the recommendation from the County Planning Commission that a Plat be approved by the County Council pursuant to Section 2.2 above, such Plat shall be submitted to the County Council for approval. Developer shall be entitled to approval of the Plat provided that the Plat for the applicable Phase is complete and complies with this Agreement and all applicable federal, state and local laws, rules, regulations and ordinances. The County Council shall review the Plat for the applicable Phase for completeness, and conformity with this Agreement, and all applicable federal, state and local laws, rules, regulations and ordinances. To the extent that such Plat is complete and consistent with this Agreement, the Land Use Code, and all applicable federal, state and local laws and ordinances, the County Council shall approve the Plat. The County Council shall hold all duly noticed public hearings required for the approval of such Plat under Utah Code, the Land Use Code and other applicable County ordinances; provided, however, nothing herein shall prevent the County Council in its discretion from holding any public hearings not required by applicable law. In the event the County Council reasonably determines that the Plat is not consistent with this Agreement, the County Council will provide Developer with a reasonably detailed description of any such inconsistencies, in which case Developer shall revise such Plat to remediate any such inconsistencies and resubmit such Plat to the County Council for approval pursuant to the process set forth above.

2.4 Final Plat Approval. Following the preliminary approval of the Plat by the County Council pursuant to Section 2.3 above, the County Council shall authorize Developer to submit a final Plat to the County Staff for review. The County Staff shall review a paper Plat for completeness and conformance to the preliminary approval of the Plat (including any conditions for approval) pursuant to the provisions of Section 1.3 above. If such Plat is complete and conforms to the preliminary approval, the County Staff shall authorize Developer to submit a mylar copy of the final Plat for approval. Developer shall be responsible for obtaining all required signatures on the mylar with the exception of the County Planning Commission and County Council; provided, however that the County shall require all department heads to cooperate with Developer in obtaining such signatures. The signed mylar shall be placed on the agenda of the County Planning Commission for review, approval and signature. Following receipt of the final Plat signature from the County Planning Commission, the County Staff shall place the mylar on the agenda for the County Council for signature and adoption. The final Plat will then be released to the Developer for recordation.

2.5 Building Permits. Following the recordation of the Plat, Developer is hereby authorized to close the sale of lots in accordance with State and local law. The County Staff will issue building permits in accordance with this Agreement, the Declaration, the Land Use Code and applicable federal, state and local laws, rules, regulations and ordinances, provided, however that the Declaration shall have no application to the North Lots. Building permits shall only be issued when required infrastructure for the applicable Plat has been installed and inspected and approved by the County Engineer, which approval shall be limited to confirming that such infrastructure is completed in accordance with this Agreement, the Declaration, and all applicable federal, state and local laws, rules, regulations and ordinances. The County staff shall provide to all applicants for a building permit within Whisper Ridge at Stone Canyon, excluding however, applicants with respect to the North Lots, a notice concerning (a) the required review and approval of improvements by the Whisper Ridge design review committee ("DRC") prior to issuance of a building permit; (b) no access by construction vehicles on Monte Verde Drive; and (c) failure to comply with the requirements of the DRC approval, including but not limited to the requirements of the Declaration, may preclude the issuance of a certificate of occupancy. Excluding permits applicable to the North Lots, no permit shall be issued unless proof of approval from the DRC has been submitted to the County (which proof shall consist of a stamp of the DRC upon the plans and specifications to be submitted to the County containing the approval of the DRC and the date thereof), and the County may refuse to issue a certificate of occupancy in the event of the failure to comply with the approvals of the DRC.

2.6 Approved Use, Density, and General Configuration. Pursuant to the Land Use Code, the County has adopted this Agreement to allow flexibility and initiative in site and building design and location for the Property as a whole in accordance with the requirements set forth herein and therein. The approved use, density, and general configuration for the Property are set forth in the Concept Plan. In accordance with the Land Use Code and the Concept Plan, Developer is entitled to develop 122 dwelling units within the Property (the "Maximum Residential Lots").

SECTION 3. OBLIGATIONS OF DEVELOPER AND THE COUNTY

3.1 Obligations of Developer.

3.1.1 Generally. The parties acknowledge and agree that the County's agreement to perform and abide by the covenants and obligations of the County set forth herein is material consideration for Developer's agreement to perform and abide by the covenants and obligations of Developer set forth herein.

3.1.2 Conditions to Current Approvals. Developer shall comply with all of the following Conditions to Current Approvals:

3.1.2.1 Compliance with Conditions Imposed by County:
Developer agrees to comply with any and all conditions imposed by the

Planning Commission or the County Council during the permitting and approval process as set forth in the official minutes of the County Planning Commission and County Council.

3.1.2.2 Payment of Administrative Fees: Developer agrees to pay all generally applicable Morgan County fees as a condition of developing the Property and Project. All fees, including outstanding fees for prior plan checks (whether or not such checks are currently valid) shall be paid current prior to the recording of any plat or the issuance of any building permit for the Project or any portion thereof.

3.1.2.3 Payment of Impact Fees: Morgan County has enacted an impact fee ordinance. Subject to adjustments approved by the Director and/or the County Council, Developer agrees to pay the Morgan County impact fees due and payable in connection with any structure built by Developer, or Developer's agent, employee, contractor, or subcontractor; provided, however, that Developer shall have no obligation to pay any impact fee applicable attributable solely to the construction of any dwelling unit by the purchaser of a lot.

3.1.3 Declaration. Developer has caused to be recorded against the Property, excluding the North Lots, that certain Declaration of Covenants, Conditions and Restrictions and Easements for Whisper Ridge at Stone Canyons (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Declaration"), which Declaration was recorded in the office of the Morgan County Recorder on _____, 2007, as Entry No. _____ in Book _____ at Page _____. The development and construction of the various portions of the Property for residential purposes shall proceed pursuant to and consistent with the Declaration, which Declaration shall be recorded by the Developer against each such phase or portion of the Property (each a "Phase") as are, from time to time, developed by Developer for residential purposes; provided, however, that the Declaration shall have no application to the North Lots. Consistent with the foregoing intent to exclude the North Lots from any application of the terms and conditions of the Declaration, at any time in this Agreement a reference is made to the Property and the requirements, terms and/or conditions of the Declaration, each and every such reference shall be deemed to automatically exclude the North Lots from such reference. The Declaration shall provide for the creation of the Association which shall maintain the Common Areas (as such term is defined in the Declaration, including but not limited to Landscape Easement areas located within public utility easements) in accordance with the Declaration. At such time as Developer submits a Plat for a particular Phase, Developer shall prepare a budget for the Association showing the costs and expenses expected to be incurred by the Association during the next succeeding three (3) year period (the "HOA Budget"). During the period that Developer owns more than forty percent (40%) of the lots upon which dwelling units shall be constructed, Developer shall contribute such amounts to the Association as are necessary for the Association to meet its obligations under the HOA Budget (taking into account any amounts assessed

against lots subject to the Declaration and owned by third parties). From and after the date that Developer owns forty percent (40%) or less of the lots upon which a dwelling unit shall be constructed, Developer shall only be required to pay to the Association such amounts as are assessed by the Association in accordance with the Declaration against the residential lots owned by Developer. In no event shall the County be responsible or liable for the enforcement of the Declaration.

3.1.4 Open Space. In connection with development of the Property, Developer shall preserve a portion of the Property as open space as provided in this Section 3.1.4. The location of those portions of the applicable Phase to be preserved as improved open space and/or natural open space shall be as set forth in the Concept Plan (such being referred to herein as the "Open Space Plan"). The open spaces applicable to each Phase shall be shown on the Plat for such Phase. The open space in each Phase shall be maintained and owned in accordance with the Declaration, the Plat and this Agreement.

3.1.4.1 Parks. Those portions of the open space which are to be developed as parks shall be developed by Developer substantially in accordance with the Concept Plan. Each park shall be developed in connection with the Phase in which such park is located. The parks shall be owned by the Association and, except as noted below, shall be limited to the use of the members and guests of the Association. So long as the Developer and the Association are afforded the same or greater limitations on liability as set forth in the Utah Code § 57-14-101, *et seq.*, such parks shall be open to the general public; provided, however, nothing herein shall preclude the Association from closing such parks on a periodic basis to preclude any claim of dedication or prescriptive easement. Upon the filing of the Plat for a Phase, Developer shall convey to the Association each of the parks to be maintained by the Association.

3.1.4.2 Trails. Those portions of the open space and those portions of the right-of-way of Whisper Ridge Drive which are to be developed as trails shall be developed by Developer substantially as set forth in the Concept Plan (the "Trail Plans"). The trails shown in the Trail Plans shall be developed in connection with the development of the Phase in which such trails are located. Furthermore, each portion of the trails completed as part of a Phase and not located within the right-of-way of Whisper Ridge Drive shall connect to previously completed trails in neighboring Phases, or if such neighboring Phases have not then been completed, then such trails shall temporarily terminate at a public street. The County shall own all improvements on the trails, including but not limited to the hard surfaces located within the right-of-way of Whisper Ridge Drive, but the Association shall have the right and obligation, at its sole cost and expense, to improve, install, maintain, remove and replace landscaping located in such right-of-way. The Association shall be responsible for maintaining the balance of the trails and parkways (those not located within the right-of-way of a public street), including the landscaping surrounding the same. The trails and

parkways maintained by the County and located within a public right-of-way shall be open for the use and enjoyment by the general public. The trails and parkways maintained by the Association, shall be open to the general public so long as the Developer and the Association are afforded the same or greater limitations on liability as set forth in Utah Code § 57-14-101, *et seq.*; provided, however, nothing herein shall preclude the Association from closing such trails and parkways on a periodic basis to preclude any claim of dedication or prescriptive easement. Any gates within the Property shall not unreasonably prevent the general public from accessing those trails and parkways which are open to the general public. The Association shall have the right to implement rules and regulations for the use of trails and parkways, including those located within the right-of-way, including but not limited to the responsibility of pet owners to properly dispose of the droppings of their pets.

3.1.4.3 Native Open Space. Those portions of the open space which are not being improved by Developer and are to remain as native open space are shown on the Open Space Plan (included within the Concept Plan). Prior to conveyance to the Association, the Developer shall have the right to record one or more documents dedicating and/or reserving such areas as open space. The Association shall own such native open space and shall be responsible for the maintenance thereof; provided, however, that maintenance (if any is allowed at all) shall be in accordance with the requirements of the Declaration. The ownership and maintenance requirements for the native open space are outlined in the Concept Plan. The native open space located within a Phase shall be conveyed to the Association, subject to the open space easements granted and/or reserved by Developer as provided above, at the time of the filing of the Plat for the applicable Phase. The Developer and Association may reserve one or more easements reasonably necessary to preserve access to and from such open space areas.

3.1.5 Height Restrictions. With respect to the development of dwelling units located within each Phase, except as provided below, each residential unit at any point shall not exceed a height of thirty-five feet (35') measured from the lowest final grade elevation below such point. Other restrictions upon height shall be as set forth in Design Guidelines adopted by the Developer which shall be enforceable in accordance with the requirements of the Declaration.

3.1.6 Air Quality. All residential housing shall comply with the air quality standards set forth in the Declaration.

3.1.7 Night Sky. The development of each Phase of the Property, including both public street lighting and private dwelling lighting, shall at all times comply with the night sky provisions set forth in the Land Use Code and the Declaration.

3.1.8 Design Guidelines. During the development of each Phase, Developer shall comply with all Design Guidelines and similar requirements contained in the Declaration.

3.1.9 Double Lots. No Plat submitted to the County Planning Commission shall include any lot which is to be developed as a dwelling unit to be bordered by more than one street, except to the extent such lot is (a) a corner lot, or (b) bordered first by a perpetual landscaped strip.

3.1.10 Construction Access. Construction access to the Property for the development of a Phase shall be limited to Whisper Ridge Drive or other areas designated by Developer. Developer shall place appropriate signage at the entry of the Project which signage shall conform to all applicable federal, state and local laws and ordinances. Access to the Property for development and construction purposes through Monte Verde Subdivisions shall not be allowed.

3.1.11 Access for Adjoining Property Owners. Developer shall work in good faith with property owners who own land adjacent to the Property as of the date hereof (the "Adjacent Property") to enter into one or more agreements with such property owners to provide access to the Adjacent Property from the Property, which may include a right-of-way. The number and location of such access points shall be set forth in such agreement(s), if any, and shall provide that the costs of providing and maintaining such access points shall be shared equally by Developer and such adjacent property owner. Such access points shall be shown on a Plat which is submitted for review in accordance with the provisions of this Agreement.

3.1.12 Occupancy Limit on Residential Housing. Occupancy for the residential housing of the development shall be limited to (i) one (1) family per dwelling unit; or (ii) 4 unrelated persons per dwelling unit.

3.1.13 Special Service District Fees and Charges. The following services will be provided to the Project by special service districts, each of which has issued to Developer a "will serve" letter or other agreement, copies of which have been provided to the County:

Service	Entity Providing Service
Culinary Water	Highland Water Company
Trash Removal	Morgan County
Sanitary Sewer	Mountain Green Sanitary Sewer District

Developer agrees to pay any and all reasonable fees imposed by the District and Water Company in connection with development of the Project, including (but not limited to) fees for plan check and engineering review. Developer shall not be obligated for the payment of fees and/or assessments, which are for hookups,

and/or monthly or other period services which are typically paid by users of such services.

3.1.14 Construction of Project Improvements:

3.1.14.1 Unless otherwise stated herein, the County shall not issue building permits for the construction of residential structures within the Project unless and until all required Project infrastructure improvements for the plat in question are installed by Developer in accordance with County standards and accepted in writing by the County. When all required Project infrastructure improvements (except those as provided in 3.1.14.2. below) are installed and accepted in writing by the County with respect to any single phase, the County shall issue building permits to applicants, so long as the applicant has obtained the approvals of the DRC (as provided in Section 2.5 of this Agreement which specifically excludes the North Lots), makes application for the desired permits and otherwise complies with Applicable Law. Developer agrees that all infrastructure located within the boundaries of the Phase, including but not limited to sewer lines, water lines, roads, electric lines, gas lines, telephone lines, and detention basins, shall be built and completed in accordance with County and other governing entities' standards and accepted by the County for the phase in question in writing prior to the issuance of any building permit within the Phase; provided, however, Developer may defer the installation of the improvements specified in 3.1.14.2 below.

3.1.14.2 Notwithstanding paragraph 3.1.14.1 immediately above, Developer may defer the installation of any common area water features to be installed as part of any phase of the Project during the period of any winter months as long as any water features required by the County are installed prior to July 1 following the winter months.

3.1.14.3 Developer may elect to construct the Project (meaning the 122 lots originally identified in this Agreement) in phases in the order proposed by Developer and approved by the County Staff, unless otherwise required by the Planning Commission in writing.

3.1.14.4 Developer shall construct amenities according to the specifications, as referenced to the Improvement Schedule as attached as Exhibit "B", unless otherwise approved by the Planning Commission. Each phase's improvements shall include as applicable, sanitary and storm sewer systems, culinary water systems, natural gas, electrical and cable lines, Whisper Ridge Drive (to be dedicated to the public), private streets, street lighting, water features, detention pond(s), entry landscaping and berming, entry signage, landscaping improvements, and trails. Notwithstanding the foregoing, each lot owner will be responsible for meeting flood retention holding requirements applicable to such Owner's lot, if any.

3.1.14.5 Construction of roads in each phase will proceed according to the requirements of the County and as illustrated on the Street Plan attached hereto as Exhibit "C" or hereafter approved by the county.

3.1.14.6 Those trees, bushes, plants, and other landscape materials which are to be installed as part of the landscaping of the Project shall be in accordance with the requirements for landscaping as included within the Concept Plan, Design Guidelines and/or Preliminary Approval. Such materials specify the types and sizes of landscape trees, bushes, plants and materials.

3.1.14.7 All areas, streets (public or private), parking lots, and lots will be restricted in the location, manner and style of lighting. All such lighting shall be consistent with the requirements of the Concept Plan and/or the Design Guidelines.

3.1.15 Phasing: Developer may in its discretion develop the Project in two (2) phases, the first phase consisting of 64 Lots and the second phase consisting of the balance of approved Lots. In developing each phase, Developer shall insure the logical extension of the Project Improvements through each phase and throughout the Project, all in conformance with the requirements of this Agreement, the Applicable Law, and the requirements imposed by the County Planning Commission and County Council.

3.1.16 Construction and Maintenance of Amenities: Developer shall construct certain specific amenities in conjunction with the Project in accordance with the following schedule:

Amenity	Date of Substantial Completion
Water Features – (by Phase, if applicable)	Provided that Developer has provided a bond for the improvement of the Water Features, the same may be completed as part of or within 90 days of installation of asphalt upon roads, provided such date may be extended if construction would otherwise be required in the winter.
Trails – (by Phase, if applicable)	Within 90 days after installation of asphalt upon any roads within the Phase which are to be dedicated (provided that trails that are to be connected to sidewalks will be connected as such sidewalks are installed)
Common Area Landscaping - (by	Within 90 days after installation of asphalt upon any roads within the Phase which are to

Phase, if applicable)	be dedicated, provided such date may be extended if construction would otherwise be required in the winter.
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3.1.17 Maintenance: Until the same are conveyed or transferred to the Association, Developer is obligated to maintain (including snowplowing) any and all areas that are not dedicated to the County including private trails, open spaces and any and all other improvements intended for public use within the Project. Maintenance provided by Developer or the Association, as applicable, must meet or exceed a standard of reasonableness as established by the County. The County, at its option (not obligation), may construct or maintain such improvements upon Developer's or Association's failure to do so following written notice to Developer or Association, as applicable, and a reasonable opportunity to cure. The reasonable market value of the County's Services to construct and/or maintain such improvements are hereby agreed to constitute a valid lien on the delinquent Property and may be charged to and collected from Developer and/or Association, as applicable.

3.1.17.1 Maintenance of Open Space and Trails: Developer will grant to the County an open space easement in the form attached hereto as Exhibit "D" and incorporated by reference herein for that area described upon the Concept Plan as Lot E. Developer has also reserved certain portions within the Project as trails detailed in the Trail Plan as identified in the Concept Plan and incorporated herein by reference. All trails will be designed and reviewed with participation from the County. All trails will logically connect housing units with, but not limited to, open space, adjacent parcels and other public areas. Subject to the restrictions contained elsewhere in the Agreement, all trails will be accessible by the general public. Trail design and construction will use the standards and guidelines set in the Land Use Code. Developer shall be responsible to maintain the open space and trails in all respects, including but not limited to landscaping, irrigation, and weed control; provided, however that this obligation may be transferred to the Home Owners' Association in accordance with the terms and conditions of the Declaration. Maintenance provided by Developer or the Home Owners' Association shall meet or exceed a standard of reasonableness and safety as established by the County. In the event Developer or the Home Owners' Association fails to maintain the open space and trails, the County may (but is not obligated to) maintain them or in the alternative create a special service district whose responsibility is to maintain the same. The market value of the cost of this maintenance is hereby agreed to and shall constitute a valid lien on the Property and each of the lots located therein on a priority with and collected at the same time and in the same manner as general County taxes that are or become a lien on the Property. The Home Owners' Association shall be required to hire a professional property management company to manage and maintain all aspects of the Common Area and Trails.

3.1.18 Design: All buildings shall be built in the general style and quality portrayed in the Design Guidelines.

3.1.19 Setbacks. All residential buildings that have frontage on any public or private road shall have a minimum setback of twenty (20) feet (whether or not considered a front yard or side yard); shall have a minimum setback from other interior lots on side yards of ten (10) feet, except where designated upon the Plat as allowing eight (8) feet side yard setbacks; and shall have a minimum setback on rear yards of thirty (30) feet. The Developer and DRC are encouraged to vary the setbacks of buildings as they abut any public or private road to eliminate the feel of "row" housing.

3.1.20 Bonding: Developer shall post performance and warranty bonds in relation to the Project in an amount equal to one hundred fifteen percent (115%) of the costs of improvements as estimated by the County Engineer. The bonds shall conform to the requirements of Section 18-23 of the Morgan County Code.

3.1.21 Model Homes: The use of model homes within the Project by Developer or any building contractor shall be authorized only in the event the County has first issued a County Use Permit.

3.1.22 Signs: Once installed by the Developer, the Association shall be responsible for maintaining at its sole cost and expense all custom street signs, including but not limited to directional signs, street name signs and traffic control signs.

3.2 Obligations of the County.

3.2.1 Generally. The Parties acknowledge and agree that Developer's agreement to perform and abide by the covenants and obligations of Developer set forth herein in material consideration for the County's agreement to perform and abide by the covenants and obligations of the County set forth herein.

3.2.2 Conditions to Current Approvals. The County shall not impose any further Conditions to Current Approvals other than those detailed in this Agreement and in the official minutes of the County Planning Commission and County Council, unless agreed to in writing by the Parties.

3.2.3 Acceptance of Improvements. The County agrees to accept all Project improvements intended for public use and constructed by Developer, or Developer's contractors, subcontractors, agents or employees, provided that (1) the Morgan County Building and Engineering Department reviews and approves the plans for any Project improvements prior to construction; (2) Developer permits Morgan County Building and Engineering representatives to inspect upon request any and all of said Project improvements during the course of construction; (3) the

Project improvements have been inspected by a licensed engineer who certifies that the Project improvements have been constructed in accordance with the plan and specifications; (4) Developer has warranted the Project improvements as required by the Morgan County Building and Engineer Department; and (5) the Project improvements pass a final inspection by the Morgan Building and Engineering Department; and (6) all improvements are in compliance with plans approved by the Planning Commission and County Council and all applicable governmental ordinances. In the case of open space, landscaping, Streetscape improvements and public trail improvements, the Planning Department will perform the reviews, approvals, and inspections described above.

3.2.4 Additional Obligations of County.

3.2.4.1 Road Maintenance. Unless dedicated upon a plat or map, the roads in the Project shall be private roads. It is anticipated that Whisper Ridge Drive will be the only publicly dedicated road. After the road(s) to be dedicated have been constructed in accordance with County standards and the County has accepted them, the roads shall be Class B Roads and shall be placed on the County Class B road map. The County shall maintain the dedicated roads, providing the same level of service provided to other Class B roads in the County. The priority and method of maintenance shall be determined in the sole discretion of the County.

3.2.4.2 Snow Removal. The County shall provide snow-removal on the public roads in the Project. The County shall provide the same level of service provided to other Class B roads in the County. The priority and method of snow-removal shall be determined in the sole discretion of the County.

3.2.4.3 Issuance of Building Permits. The County agrees to issue building permits for structures in the Project only after verifying that the design review committee (the "DRC") of the Project's Association has approved the structure by way of the Association's official stamp or signature on the plans pursuant to the Project's Declaration, provided, however, no such requirement shall be applicable to the North Lots. The County reserves the right to hire its own architect to review all plans and ensure that they are in compliance with the Land Use Code. All fees attributed to design review by the County's architect shall be collected as a line item on each building permit. The County reserves the right to select an architect of its choice.

3.2.4.4 Withholding of Certificate of Occupancy. In the event the County is advised by the Project's Association or DRC that an owner or general contractor is or has disregarded the terms of approval provided by the DRC, or is otherwise not in compliance with the requirements of the Declaration or Design Guidelines, upon written notice to the County from the Project's Association or DRC, the County may in its sole and absolute discretion, withhold the issuance of a certificate of occupancy until such time

as the non-compliance has been remedied. This Section 3.2.4.4 shall have no application to the North Lots.

SECTION 4. VESTED RIGHTS AND APPLICABLE LAW

4.1 Vested Rights.

4.1.1 Generally. As of the Effective Date of this Agreement, Developer shall have the vested right to develop the Property in accordance with this Agreement and Applicable Law.

4.1.2 Reserved Legislative Powers. Nothing in this Agreement shall limit the future exercise of the police power by the County in enacting zoning, subdivision, development, transportation, environmental, open space, and related land use plans, policies, ordinances and regulations after the date of this Agreement. Notwithstanding the retained power of the County to enact such legislation under its police power, such legislation shall not modify Developer's vested right as set forth herein unless facts and circumstances are present which meet the compelling, countervailing public interest exception to the vested rights doctrine in the State of Utah. Any such proposed change affecting the vested rights of the Project shall be of general application to all development activity in the County; and, unless the County declares an emergency, Developer shall be entitled to notice and an opportunity to be heard with respect to the proposed change and its applicability to the Project under the compelling, countervailing public policy exception to the vested rights doctrine. Developer acknowledges that the County cannot control changes in federal or state laws, rules and regulations that might affect a developer's right to develop property, including, without limitation, state and federal environmental laws.

4.2 Applicable Law.

4.2.1 Applicable Law. The rules, regulations, official policies, standards and specifications applicable to the development of the Property (the "Applicable Law") shall be in accordance with those set forth in the Conditions to Current Approvals set forth in this Agreement, and those rules, regulations, official policies, standards and specifications, including County ordinances and resolutions, in force and effect on the date the County Council granted preliminary approval to Developer. However, notwithstanding the foregoing, Developer expressly acknowledges and agrees that nothing in this Agreement shall be deemed to relieve Developer from the obligation to comply with all applicable requirements of the County necessary for approval and recordation of subdivisions plats, including the payment of fees and compliance with all other applicable ordinances, resolutions, regulations, policies and procedures of the County. In addition to the foregoing, any person applying for a building permit within the Project shall be subject to the most current edition of the Land Use Code, the Utah State Building, Plumbing, Mechanical, Electrical Codes, and the International Building Code as enforced by

the County, and other County ordinances relating to the placement and construction of the proposed structure, that are in effect at the time the person files with the County a completed application for building permit.

4.2.2 State and Federal Law. Notwithstanding any other provision of this Agreement, 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 state or federal laws or regulations ("Changes in the Law") applicable to the Property. In the event the Changes in the Law prevent or preclude compliance with one or more provisions of this Agreement, such provisions of the Agreement shall be modified or suspended, or performance thereof delayed, as may be necessary, to comply with the Changes in the Law.

SECTION 5. AMENDMENT

5.1 Amendments Generally. Unless otherwise stated in this Agreement, the Parties may amend this Agreement from time to time, in whole or in part, by mutual written consent. No amendment or modification to this Agreement shall require the consent or approval of any person or entity having an interest in any specific lot, unit or other portion of the Project.

SECTION 6. COOPERATION-IMPLEMENTATION

6.1 Processing of Subsequent Approvals.

6.1.1 Upon submission by Developer of all appropriate applications and processing fees for any Subsequent Approval to be granted by the County, the County shall promptly and diligently commence and complete all steps necessary to act on the Subsequent Approval application including, without limitation, (i) the notice and holding of all required public hearings, and (ii) granting the Subsequent Approval application as set forth below.

6.1.2 The County's obligations under Section 6.1(a) of this Agreement are conditioned on Developer's providing to the County, in a timely manner, all documents, applications, plans, and other information necessary for the County to meet such obligations. It is the express intent of Developer and the County to cooperate and work diligently and in good faith to obtain any and all Subsequent Approvals.

6.1.3 The County may deny an application for a Subsequent Approval by Developer only if (i) such application does not comply with Applicable Law, (ii) such application is inconsistent with the Conditions to Current Approvals, or (iii) the County is unable to make all findings related to the Subsequent Approval required by state law or County ordinance. The County may approve an application for such a Subsequent Approval subject to any conditions necessary to bring the

Subsequent Approval into compliance with state law or County ordinance or to make the Subsequent Approval consistent with the Conditions to Current Approvals, so long as such conditions comply with Section 4.1(b) of this Agreement.

6.1.4 If the County denies any application for a Subsequent Approval, the County must specify the modifications required to obtain approval of such application. Any such specified modifications must be consistent with Applicable Law (including Section 4.1(b) of this Agreement). The County shall approve the application if subsequently resubmitted for the County's review and the application complies with the specified modifications.

6.2 Other Governmental Permits.

6.2.1 Developer shall apply for such other permits and approvals as may be required by other governmental or quasi-governmental agencies in connection with the development of, or the provision of services to the Project.

6.2.2 The County shall cooperate with Developer in its efforts to obtain such permits and approvals, provided that such cooperation complies with Section 4.1(b) of this Agreement. However, the County shall not be required by this Agreement to join, or become a party to any manner of litigation or administrative proceeding instituted to obtain a permit or approval from, or otherwise involving any other governmental or quasi-governmental agency.

SECTION 7. DEFAULT; TERMINATION; ANNUAL REVIEW

7.1 General Provisions.

7.1.1 Defaults. Any failure by either Party to perform any term or provisions of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other Party, 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 30-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 30-day period. Upon the occurrence of an uncured default under this Agreement, the non-defaulting Party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material default, terminate this Agreement. If the default is cured, then no default shall exist and the noticing Party shall take no further action.

7.1.2 Termination. If the County elects to consider terminating this Agreement due to a material default of Developer, then the County shall give to Developer a written notice of intent to terminate this Agreement and the matter shall

be scheduled for consideration and review by the County Council at a duly noticed public meeting. Developer shall have the right to offer written and oral evidence prior to or at the time of said public meeting. If the County Council determines that a material default has occurred and is continuing and elects to terminate this Agreement, the County Council shall send written notice of termination of this Agreement to Developer by certified mail and this Agreement shall thereby be terminated thirty (30) days thereafter. The County may thereafter pursue any and all remedies at law or equity. By presenting evidence at such hearing, Developer does not waive any and all remedies available to Developer at law or in equity.

7.2 Review by County.

7.2.1 Generally. The County may at any time and in its sole discretion request that Developer demonstrate that Developer is in full compliance with the terms and conditions of this Agreement. Developer shall provide any and all information requested by the County within thirty (30) days of the request, or at a later date as agreed between the Parties.

7.2.2 Determination of Non-Compliance. If the County Council finds and determines that Developer has not complied with the terms of this Agreement, and noncompliance may amount to a default if not cured, then the County may deliver a Default Notice pursuant to Section 7.1(a) of this Agreement. If the default is not cured timely by Developer, the County may terminate this Agreement as provided in Section 7.1(b) of this Agreement.

7.3 Default by the County. In the event the County defaults under the terms of this Agreement, Developer shall have all rights and remedies provided in Section 7.1 of this Agreement and provided under Applicable Law.

7.4 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, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulation, new or supplemental environmental regulations, or similar basis for excused performance which is not within the reasonable control of the Party to be excused. 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.

7.5 Annual Review. Developer and County shall (at the discretion of the County) meet annually to review the status of the Project and to review compliance with the terms and conditions of this Agreement.

7.6 Limitation on Liability. No owner, director, manager or officer of the Developer, when acting in his or her capacity as such, shall have any personal recourse, or

deficiency liability associated with this Agreement, except to the extent that liability arises out of fraud or criminal acts of that owner, director, or officer.

SECTION 8. NOTICE OF COMPLIANCE

8.1 Timing and Content. Within fifteen (15) days following any written request which Developer may make from time to time, the County shall execute and deliver to Developer a written "Notice of Compliance," in recordable form, duly executed and acknowledged by the County, 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 Developer. Developer shall be permitted to record the Notice of Compliance.

8.2 Failure to Deliver. Failure to deliver a Notice of Compliance within the time set forth in Section 8.1 shall constitute a presumption that as of fifteen (15) days from the date of Developer's written request (i) this Agreement was in full force and effect without modification except as may be represented by Developer; and (ii) there were no uncured defaults in the performance of Developer. Nothing in this Section, however, shall preclude the County from conducting a review under Section 7.2 or issuing a notice of default, notice of intent to terminate or notice of termination under Section 7.1 of this Agreement for defaults which commenced prior to the presumption created under this Section, and which have continued uncured.

SECTION 9. DEFENSE AND INDEMNITY

9.1 Developer's Actions. Developer shall defend, hold harmless, and indemnify the County and its elected and appointed officers, agents, employees, and representatives from any and all claims, costs, judgments and liabilities (including inverse condemnation) which arise directly or indirectly from the County's approval of the Project, construction of the Project, or operations performed under this Agreement, by (a) Developer or by Developer's contractors, subcontractors, agents or employees, or (b) any one or more persons directly or indirectly employed by, or acting as agent for Developer or any of Developer's contractors or subcontractors.

9.2 Hazardous, Toxic, and/or Contaminating Materials. Developer further agrees to defend and hold harmless the County and its elected and/or appointed boards, officers, employees, and agents from any and all claims, liabilities, damages, costs, fines, penalties and/or charges of any kind whatsoever relating to the existence of hazardous, toxic and/or contaminating materials on the Project solely to the extent caused by the intentional or negligent acts of Developer, or Developer's officers, contractors, subcontractors, employees, or agents.

9.3 County's Actions. Nothing in this Agreement shall be construed to mean that Developer shall defend, indemnify, or hold the County or its elected and appointed representative, 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 County, or its boards, officers, agents, or employees; and/or (ii) the negligent maintenance or repair by the County of improvements that have been offered for dedication and accepted by the County for maintenance.

SECTION 10. CHANGE IN DEVELOPER, ASSIGNMENT, TRANSFER AND NOTICE

10.1 Restrictions Upon Transfer. The rights of the Developer under this Agreement may not be transferred or assigned, in whole or in part, except by written approval of the County. Developer shall give notice to the County of any proposed or requested assignment at least thirty (30) days prior to the effective date of the assignment. County shall not unreasonably withhold its consent to assignment.

10.2 Creation of Home Owners' Associations. It is anticipated that Developer will transfer certain maintenance obligations to the Association. The Association shall be a non-profit corporation formed in accordance with the requirements of the Declaration and state and federal law. Such Association shall have authority to impose fees sufficient to perform the maintenance obligations transferred to it.

10.3 Written Transfer Agreement Required. At such time as Developer transfers Developer's maintenance obligations to the Association, Developer shall do so by written transfer agreement approved by the County; provided, County's approval can not be unreasonably withheld or delayed.

SECTION 11. DEVELOPER WAIVER AND RELEASE, ARBITRATION, AND INSURANCE CERTIFICATES

11.1 Mandatory Non-Binding Arbitration of County Actions. In consideration for the promises contained herein, (the sufficiency of which Developer expressly acknowledges), Developer agrees to submit to non-binding arbitration any and all claims or causes of action against the County, and its elected and appointed officers, agents, employees and representatives, arising out of the County's actions during the approval process on the Project, including but not limited to taking claims under the state or federal constitution, equal protection claims under the state or federal constitution, due process claims under the state or federal constitution, U.S.C. § 1983 claims, equitable claims relating to the interpretation or application of County ordinances, claims challenging the validity, or seeking adjustment of any impact fee, engineering review fee, or other County fee, or claims challenging any exaction required by the County as a Condition to Current Approvals.

Arbitration of any of the foregoing causes of action shall be conducted according to the rules of the American Arbitration Association. If the Parties cannot agree on a single person to arbitrate the matter, a panel of three persons shall be selected, each Party selecting its own person, and those two persons selecting the third. The arbitration shall occur in Morgan County, Utah and each Party shall pay its own costs and attorneys' fees, without regard to which Party prevails.

Developer agrees that a prerequisite to such arbitration shall be the exhaustion of any and all administrative remedies available under state law or County ordinance.

11.2 Insurance Certificates. Prior to beginning construction on the Project, Developer shall cause each general contractor to furnish to the County certificates of general liability insurance indicating that the County has been added as an additional named insured with respect to the activities of such general contractor upon the Project and this Agreement. Until such time as the Project improvements described in Section 3.1.14.1 of this Agreement are completed and approved by the County, such insurance coverage shall be required of each general contractor and the same shall not be terminate or be canceled or the coverage reduced until after thirty (30) days' written notice is given to the County or completion of such contractor's work.

SECTION 12. NO AGENCY, JOINT VENTURE OR PARTNERSHIP

It is specifically understood and agreed to by and between the parties that: (1) the subject Project is a private development; (2) the County has no interest or responsibilities for, or due to, third parties concerning any improvements until such time, and only until such time, that the County accepts the same pursuant to the provisions of this Agreement or in connection with the various Current Approvals or Subsequent Approvals, except as otherwise expressly set forth in this Agreement; (3) Developer shall have full power over and exclusive control of the Property and Project herein described, subject only to the limitations and obligations of Developer under this Agreement, the Conditions to Current Approvals, and Subsequent Approvals, and (4) the County and Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership between the County and Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the County and Developer.

SECTION 13. MISCELLANEOUS

13.1 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.

13.2 Subjection and Subordination. Each person or entity (other than the County and Developer) that holds any beneficial, equitable, or other interests or encumbrance in all or any portion of the Project at any time hereby automatically, and

without the need for any further documentation or consent, subjects and subordinates such interests and encumbrance to this Agreement and all amendments thereof that otherwise comply with this Agreement. Each such person or entity 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, the County and/or the Developer.

13.3 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. Notwithstanding the foregoing, if any material provision of this Agreement, or the application of such provision to a particular situation, is held to be invalid, void or unenforceable by the final order of a court of competent jurisdiction, either Party to this Agreement may, in its sole and absolute discretion, terminate this Agreement by providing written notice of such termination to the other Party.

13.4 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, the Conditions to Current Approvals, and Subsequent Approvals and to provide and secure to the other Party the full and complete enjoyment of its rights and privileges hereunder.

13.5 Construction. Each reference in this Agreement to any of the Conditions to Current Approvals or Subsequent Approvals shall be deemed to refer to the Condition to Current Approval or Subsequent Approval as it may be amended from time to time pursuant to the provisions of this Agreement, whether or not the particular reference refers to such possible amendment.

13.6 Other Miscellaneous Terms. The singular shall include the plural; the masculine gender shall include the feminine; "shall" is mandatory; "may" is permissive.

13.7 Covenants Running with the Land and Manner of Enforcement. The provisions of this Agreement shall constitute real covenants, contract and property rights and equitable servitudes, which shall run with all of the land subject to this Agreement. The burden 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 in the Project 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.

13.8 Method of Enforcement. The County may look to Developer, its successors and/or assigns, an owners' association governing any portion of the Project, or other like association, or individual lot or unit owners in the Project for performance of the provisions of this Agreement relative to the portions of the Project owned or controlled by such party. Any cost incurred by the County to secure performance of the provisions of this Agreement

shall constitute a valid lien on the Project, including prorated portions to individual lots or units in the Project.

13.9 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.

13.10 Remedies. Either Party may, in addition to any other rights or remedies, 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 hereto, or to obtain any remedies consistent with the foregoing and the purpose of this Agreement. In no event shall either Party be entitled to recover from the other Party either directly or indirectly, legal costs or attorneys' fees in any legal or equitable action instituted to enforce the terms of this Agreement.

13.11 Utah Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Utah.

13.12 Other Public Agencies. The County shall not unreasonably withhold, condition, or delay its determination to enter into any agreement with another public agency concerning the subject matter and provisions of this Agreement if necessary or desirable for the development of the Project and if such agreement is consistent with this Agreement and Applicable Law. Nothing in this Agreement shall require that the County take any legal action concerning other public agencies and their provision of services or facilities other than with regard to compliance by any such other public agency with any agreement between such public agency and the County concerning subject matter and provisions of this Agreement.

13.13 Attorneys' Fees. In the event of any litigation or arbitration between the Parties regarding an alleged breach of this Agreement, neither Party shall be entitled to any award of attorneys' fees.

13.14 Covenant of Good Faith and Fair Dealing. Each Party shall use its best 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.

13.15 Requests to Modify Use Restrictions. Developer's successors, heirs, assigns, and transferees shall have the right, without the consent or approval of any other person or entity owning property in any other part of the Project, to request that the County modify any zoning classification, use, density, design, setback, size, height, open space, road design, road dedication, traffic configuration, site plan, or other use restrictions associated with that portion of the Project to which the successor, heir, assign, or

transferee holds title. The County shall consider any such request, but is not required to grant it.

13.16 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.

13.17 No Third-Party Beneficiaries. This Agreement is between the County and Developer. No other Party shall be deemed a third-party beneficiary or have any rights under this Agreement.

SECTION 14. NOTICES

Any notice or communication required hereunder between the County and Developer must be in writing, and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. 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 the County:

MORGAN COUNTY COUNCIL
P.O. Box 886
48 West Young Street
Morgan, Utah 84050
Attn: County Attorney

Fax No.: (801) 945-6006

With copies to: MORGAN COUNTY COUNCIL
P.O. Box 886
48 West Young Street
Morgan, Utah 84050
Attn: County Council Chairman

Fax No.: (801) 945-6006

If to Developer: WHISPER RIDGE DEVELOPMENT, LLC.
3048 E. Cobble Stream Circle
Sandy, UT 84093
Attention: Richard D. Lloyd

With copies to: WHISPER RIDGE DEVELOPMENT, LLC
1081 Birdie Circle
North Salt Lake, UT 84054
Attention David S. Tolman

Dennis K. Poole, Esq.
POOLE & ASSOCIATES, L.C.
4543 South 700 East, Suite 200
Salt Lake County, UT 84107

**SECTION 15. ENTIRE AGREEMENT, COUNTERPARTS
AND EXHIBITS**

Unless otherwise noted herein, this Agreement, including its Exhibits, 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 the County and Developer. The following exhibits are attached to this Agreement and incorporated herein for all purposes:

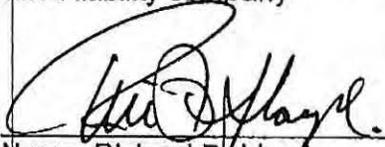
Exhibit "A"	Legal Description
Exhibit "B"	Improvement Schedule
Exhibit "C"	Street Plan
Exhibit "D"	Open Space Easement
Exhibit "E"	North Lots

SECTION 16. RECORDATION OF DEVELOPMENT AGREEMENT

No later than ten (10) days after the County enters into this Agreement, the County Recorder shall cause to be recorded, at Developer's expense, an executed copy of this Agreement, with all Exhibits, the Official Records of the County of Morgan.

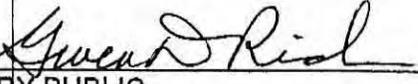
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WHISPER RIDGE DEVELOPMENT, LLC, a
Utah limited liability company

By: 
Name: Richard D. Lloyd
Title: Manager

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

The foregoing instrument was acknowledged before me this 27 day of
July, 2007, by Richard D. Lloyd, who executed
the foregoing instrument in his capacity as the Manager, of Whisper Ridge
Development, LLC, a Utah limited liability company.


NOTARY PUBLIC

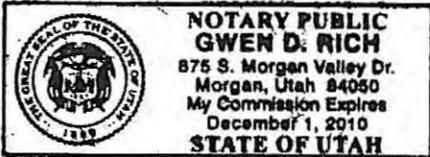


EXHIBIT "A"

**MORGAN - WHISPER RIDGE
DESCRIPTION OF OVERALL PARCEL (PH.1 & 2):**

June 28, 2007

This parcel being a part of Morgan County Parcel Numbers 03-005-014, 03-015-015 and 03-005-015-01 located in the Southwest Quarter of Section 22 and Morgan County Parcel Numbers 03-005-067-04, 03-005-066-04, 03-005-066-11-2 and 03-005-066-11 located in Section 27, Township 5 North, Range 1 East, Salt Lake Base and Meridian, being more particularly described as follows:

Beginning at the South Quarter Corner of Section 22, Township 5 North, Range 1 East, Salt Lake Base and Meridian, and running thence S00°13'58"W along the quarter section line 1378.05 feet; thence East 10.49 feet; thence S00°34'30"W 319.37 feet; thence S 15°05'17"E 136.51 feet; thence S15°10'00"E 588.68 feet; thence S15°29'21"E 83.12 feet; thence N75°07'24"W 161.89 feet; thence S43°30'00"W 37.82 feet; thence S13°01'24"E 713.63 feet to a UDOT Right-of-Way line; thence S70°33'08"W 27.56 feet along said UDOT Right-of-Way line; thence S77°57'06"W 147.20 feet along said UDOT Right-of-Way line; thence Southwesterly 231.51 feet along a 1372.40 foot radius curve to the right through a central angle of 9°39'54", chord bears S82°47'04"W for 231.23 feet along said UDOT Right-of-Way line; thence Northerly along the centerline of Strawberry Creek the following two courses: N21°44'52"E 55.70 feet; thence N41°08'45"E 49.10 feet; thence N02°16'28"W 54.97 feet to a point on the westerly line of said Strawberry Creek; thence along said westerly line the following three courses: N32°46'31"E 29.48 feet; thence N45°01'22"E 81.05 feet; thence N04°25'28"E 38.25 feet; thence N00°22'15"E 97.89 feet to a point on the centerline of said Strawberry Creek; thence along said centerline the following four courses: N16°49'50"W 38.94 feet; thence N01°38'14"W 48.79 feet; thence N17°41'20"W 61.16 feet; thence N17°37'52"E 16.45 feet; thence leaving said centerline and running S89°22'05"E 132.01 feet; thence N13°01'24"W 160.40 feet; thence N00°13'58"E 170.02 feet; thence N82°45'25"W 309.81 feet; thence N61°20'04"W 276.93 feet; thence N13°43'58"W 249.88 feet; thence N15°33'20"E 289.68 feet; thence N03°40'30"E 242.04 feet; thence N08°19'22"W 578.89 feet; thence N10°32'01"W 228.19 feet; thence N17°42'21"W 200.95 feet; thence N17°45'20"W 223.07 feet; thence N30°49'15"E 130.31 feet; thence N00°35'27"E 140.20 feet to the Section line; thence N89°24'33"W 607.26 feet; thence N00°35'27"E 1963.04 feet; thence S82°00'00"E 113.00 feet; thence S67°00'00"E 102.00 feet; thence S79°36'39"E 374.28 feet; thence S62°24'00"E 237.34 feet; thence S00°10'28"E 409.59 feet; thence S89°59'47"E 515.78 feet to the Section Line; thence S00°04'30"W 1333.90 feet along the Section Line to the point of beginning.

Contains 87.918 Acres

EXHIBIT "B"

IMPROVEMENT SCHEDULE

Trail System:

A 6' wide meandering colored concrete trail will be provided in the 29' wide landscaped area along the West side of Whisper Ridge Parkway, which extends from the Old Highway up to the North end of the project.

Entry:

Gazebos and landscaping will be provided at the entry to the project which will also serve as school bus stop shelters. A pond will also be incorporated with the detention area in Parcel A West of the gazebos, with a sidewalk extending part way around it to the North.

Parcel B:

A trail will be built from the existing end of Canyon Drive (Monte Verde Ph.1 Subdivision) on the East side of the project, extending West to Whisper Ridge Parkway through a grass and landscaped area.

Parcel C:

A water feature will be built West of the 6' colored concrete trail on Parcel C, which will include landscaping and a flagstone patio.

EXHIBIT "C"
STREET PLAN

(Attached)

EXHIBIT "D"
OPEN SPACE EASEMENT

(Attached)

EXHIBIT "E"

NORTH LOTS

A parcel of land located in the Southwest Quarter of Section 22, Township 5 North, Range 1 East, Salt Lake Base & Meridian, more particularly described as follows:

Beginning at a point which is N89°24'33"W along the section line 1319.86 feet and N00°35'27"E along the quarter section line 1425.75 feet from the South Quarter Corner of said Section 22, and running thence N00°35'27"E 537.29 feet; thence S82°00'00"E 113.00 feet; thence S67°00'00"E 102.00 feet; thence S79°36'39"E 374.28 feet; thence S62°24'00"E 237.34 feet; thence S00°10'28"E along said West line 409.59 feet; thence N89°59'47"W 589.88 feet; thence N0°00'56"W 11.11 feet to a point on a 25.00 foot radius curve to the right; thence northeasterly along the arc of said curve 29.66 feet through a central angle of 67°58'18" (chord bears N33°58'13"E 27.95 feet) to a point of reverse curvature on a 55.00 foot radius curve to the left; thence along the arc of said curve 217.45 feet through a central angle of 226°31'39" (chord bears N45°18'28"W 101.06 feet) to a point of non-tangency; thence S89°59'03"W 144.95 feet to the point of beginning.

Contains 9.293 acres

When Recorded, Mail To:

Dennis K. Poole, Esq.
POOLE & ASSOCIATES, L.C.
4543 South 700 East, Suite 200
Salt Lake City, Utah 84107

GRANTEE'S ADDRESS:

48 West Young Street
P.O. Box 886
Morgan, Utah 84050

Space above for County Recorder's Use

PARCEL ID NO. _____

OPEN SPACE CONSERVATION EASEMENT

THIS OPEN SPACE CONSERVATION EASEMENT is made this ____ day of _____, 2007, by and between WHISPER RIDGE DEVELOPMENT, LLC, a Utah limited liability company, hereinafter referred to as "Grantor," and MORGAN COUNTY, a political subdivision of the State of Utah, hereinafter referred to as "Grantee."

RECITALS

A. The Grantor is the present owner of the lands described in Exhibit A which is attached hereto and incorporated herein by reference (the "Land").

B. The Grantor recognizes that the Land is open space and it desires to cooperate with the Grantee in preserving land devoted to open space uses.

C. The Grantor is willing to grant and convey to the Grantee a Conservation Easement in the Land (the "Easement") as defined in *Utah Code Annotated* § 57-18-2 for the purpose of preserving and maintaining the Land in a natural, scenic, open condition, including but not limited to incidental recreational, cultural and wildlife habit use consistent with the protection of open space, on the terms and conditions and for the purposes hereinafter set forth. The Grantee is willing to accept the Easement in the Land and accept this instrument of conveyance.

D. The Grantee has determined that the acquisition by the Grantee of the Easement will benefit the public through the preservation of property devoted to open space uses.

E. The grant and conveyance of the Easement by the Grantor to the Grantee will preserve the Land for activities consistent with open space uses in perpetuity in accordance with the specific terms and conditions hereinafter set forth.

NOW, THEREFORE, WITNESSETH, that the Grantor, for and in consideration of Ten Dollars (\$10.00) paid to the Grantor by the Grantee, and other good and valuable consideration, including Grantor's desire to make a Qualified Conservation Contribution to Grantee, the receipt whereof is hereby acknowledged, and the Grantor being therewith fully satisfied, does by these presents grant, bargain, sell, transfer and convey unto the Grantee forever an Open Space Conservation Easement in respect to the Land, hereby perpetually binding the Land to the restrictions limiting permitted activities to open space uses as specifically delineated in the covenants, terms, and conditions contained herein and does also grant such interests, rights and easements, make such covenants, and subject the land to such servitudes as are necessary to bind the Land in perpetuity to such restrictions.

The Grantor and Grantee hereby agree that the Land shall be bound by and permanently subject to the following restrictive covenants, terms, and conditions. None of these covenants, terms, and conditions shall be construed as allowing a use that is not otherwise permitted by applicable state and local laws, codes, standards, and ordinances.

RESTRICTIONS ON USE OF THE LAND

I. **Uses Restricted to Open Space Uses; Open Space Uses Defined.** Use of the Land is permanently restricted to solely open space uses.

A. "Open space uses," as used herein, means:

(1) Maintenance of the Land in a fallow condition or with natural vegetation as may currently exist; and

(2) Non-agricultural uses that conserve and enhance natural, scenic, or designated historic resources and that do not permanently compact, remove, sterilize, pollute, or otherwise impair the use of the soil on the Land.

Open space uses do not include the following: The construction, habitation, or other use of a dwelling unit; construction or expansion of buildings or structures for non-agricultural uses; the construction or use of golf courses, parking lots, athletic fields, campgrounds, or vehicle raceways or animal raceways. Open space uses may include trails for non-motorized use by the public that are maintained and owned by or for the benefit of a government agency or are maintained and owned by a non-profit conservation agency.

II. **Further Restriction on Use of the Land.** Potential uses of the Land are limited in that the Grantor, its successors, and assigns shall only be entitled to use, lease, maintain, or improve the Land for open space uses, and they shall comply with the following terms, conditions, restrictions, and covenants, which are permanently binding on the Land:

A. No subdivision of the Land shall be permitted.

B. No mining, drilling, or extracting of oil, gas, gravel, or minerals on or under the Land shall be permitted that causes disruption of the surface of the Land to any extent inconsistent with open space uses, and no part of the surface of the Land shall be used for storage or processing of gas, oil, or minerals taken from the Land.

C. No subsurface activities, including excavation for underground utilities, pipelines, or other underground installations, shall be permitted that cause permanent disruption of the surface of the Land. Temporarily disrupted soil surfaces shall be restored in a manner consistent with the open space uses, including restoration of the original soil horizon sequence within a reasonable period of time after such installation.

D. No dumping or storage of solid or liquid waste, or of trash, rubbish, or noxious materials shall be permitted.

E. No activities that violate sound soil and water conservation management practices shall be permitted.

F. No signs shall be erected on the Land except for the following purposes:

(1) to state the name of the property and the name and address of the owner;

or
(2) to advertise any use or activity consistent with the agricultural or open space uses as herein defined.

III. **Use of the Land to Satisfy Open Space Requirements for Development or Use of Other Real Property.** Except as is otherwise provided below, in the event that an application is made at any time to a federal, state, or local governmental authority for permission to make use of any other real property including, but not limited to, real property that is contiguous to any of the Land hereby restricted, which proposed use is conditioned by such government authority on the existence of a specified quantity of open space or other restrictions on development, the Land may be used to contribute toward the satisfaction of any such open space requirement.

ADDITIONAL COVENANTS AND AGREEMENTS

The Grantor and Grantee further agree as follows:

- I. **Covenant Against Encumbrances.** The Grantor covenants that it has not done or executed, or allowed to be done or executed, any act, deed, or thing whatsoever whereby the Easement hereby conveyed, or any part thereof, now or at any time hereafter, will or may be charged or encumbered in any manner or way whatsoever.
- II. **Remedies.** If the Grantor, its successors, assigns, agents, or employees violate or allow the violation of any of the terms, conditions, restrictions, and covenants set forth herein, then the Grantee will be entitled to all remedies available at law or in equity, including, but not limited to, injunctive relief, rescission of contract, or damages, including attorneys' fees and court costs reasonably incurred by the Grantee in prosecuting such action(s). No waiver or waivers by the Grantee, or by its successors or assigns, of any breach of a term, condition, restriction, or covenant or of any other term, condition, restriction, or covenant contained herein.
- III. **No Alteration or Amendment.** The terms, conditions, restrictions, and covenants contained herein shall not be altered or amended unless such alteration or amendment shall be made with the written consent of the Grantee, or its successors or assigns.
- IV. **Restrictions Binding on Successors.** The Grantor and Grantee agree that the terms, conditions, restrictions, and covenants contained herein shall be binding upon the Grantor, its agents, personal representatives, heirs, assigns, and all other successors in interest to the Land and possessors of the Land, and shall be permanent terms, conditions, restrictions, covenants, servitudes, and easements running with and perpetually binding the Land.
- V. **Transfer of Rights by Grantee.** The Grantee agrees that the Easement shall not be sold, given, divested, transferred, or otherwise reconveyed in whole or in part in any manner without Grantor's prior consent. The Grantor, its successors or assigns, shall be given the right of first refusal to purchase the Easement in the Land provided such disposition and reconveyance be lawfully approved.
- VI. **Condemnation.** If the Land is subject to any condemnation action, and if a mutually acceptable agreement as to the compensation to be provided to the Grantee is not reached between Grantee and Grantor within a reasonable period of time, the Grantor will request that the Grantee be made a party to such action in order that it be fully compensated for the loss of, or devaluation in, the Easement hereby conveyed.
- VII. **No Affirmative Obligations; Indemnification.** Grantee, in acquiring the Easement and related interests described herein, assumes no affirmative obligations whatsoever for the management, supervision or control of the Land or of any activities occurring on the Land. Grantor and/or its successors in interest shall indemnify Grantee and hold Grantee harmless from all damages, costs (including, but not limited to, attorneys' fees and other costs of defense incurred by Grantee), and other expenses of every kind arising from or incident to any claim or action for damages, injury, or loss suffered or alleged to have been suffered on or with respect to the Land. This provision shall be binding upon the Grantor for so long as it holds fee title to the Land, and shall bind their successors in interest to the fee title to the Land.
- VIII. **Grantee's Right to Enter onto the Land.** After giving reasonable notice to the possessors of the Land, the Grantee or its authorized representative shall have the right to enter from time to time onto the Land for the sole purposes of inspection and enforcements of the terms, conditions, restrictions and covenants hereby imposed.
- IX. **Public Use of Land.** In the event that Grantor or its successors and assigns permits the public use of the Land in a manner consistent with the terms and conditions of the Easement, Grantor reserves all rights and defenses afforded private owners of land who make the same available for public recreational uses as provided by the Limitation of Landowner Liability-Public Recreation, *Utah Code Annotated* § 57-14-1, *et seq.*, or any replacement statutes.

X. **Severability.** If any section or provision of this instrument shall be held by any court of competent jurisdiction to be unenforceable, this instrument shall be construed as though such section or provision had not been included in it, and the remainder of this instrument shall be enforced as the expression of the parties' intentions. If any section or provision of this instrument is found to be subject to two constructions, one of which would render such section or provision invalid, and one of which would render such section or provision valid, then the latter construction shall prevail. If any section or provision of this instrument is determined to be ambiguous or unclear, it shall be interpreted in accordance with the policies and provisions expressed in *Utah Code Annotated* § 57-18-1 et seq.

IN WITNESS WHEREOF, the parties have hereunto set their hand and seals the day and year first above written.

GRANTOR:

WHISPER RIDGE DEVELOPMENT, LLC, a Utah limited liability company

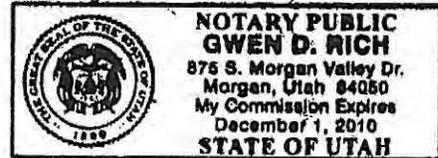
By:


Name: Richard D. Lloyd
Title: Manager

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

The foregoing instrument was acknowledged before me this 27 day of July, 2007, by Richard D. Lloyd, who executed the foregoing instrument in his capacity as the Manager of WHISPER RIDGE DEVELOPMENT, LLC, a Utah limited liability company.


NOTARY PUBLIC



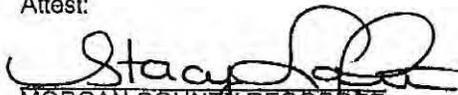
GRANTEE:

MORGAN COUNTY, a political subdivision of the State of Utah

By:


Name: Bruce Sanders
Title: Chair

Attest:


MORGAN COUNTY RECORDER
CLERK

STATE OF UTAH)
) ss.
COUNTY OF MORGAN)

The foregoing instrument was acknowledged before me this 27 day of July, 2007, by Bruce Sanders, who executed the foregoing instrument in his capacity as the Morgan County Chair, and by Stacy Lalitte, who executed the foregoing instrument in her capacity as the Morgan County Recorder.

Clerk

Gwen D. Rich

NOTARY PUBLIC

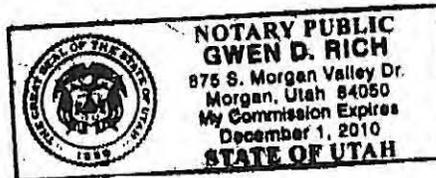


EXHIBIT A

Parcel E, WHISPER RIDGE AT STONE CANYON PHASE 1 SUBDIVISION,
according to the official plan on file at the offices of the Morgan County
Recorder.

**FIRST AMENDMENT TO THE WHISPER RIDGE AT STONE CANYON
DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO THE WHISPER RIDGE AT STONE CANYON DEVELOPMENT AGREEMENT (this "Amendment") is made as of the 14th day of January, 2014, by and between Henry Walker Construction of Northern Utah, LLC (as assignor) (the "Developer"), and Morgan County, a political subdivision of the State of Utah (the "County"). Defined terms used and not otherwise defined herein shall have the meanings set forth in the Development Agreement (as defined below).

RECITALS

A. Whisper Ridge Development, LLC, was the original "Developer" pursuant to that certain Whisper Ridge At Stone Canyon Development Agreement, dated July 27, 2007, and recorded as Entry 108742, Book 251, Page 617 in the office of the Morgan County Recorder (the "Development Agreement").

B. Whisper Ridge Development, LLC, ceased development on the project and Bank of American Fork, a Utah corporation took possession of the project. Developer, through its affiliates, subsequently purchased the project from Bank of American Fork.

C. Developer, as assignor, and the County desire to amend the Development Agreement as set forth herein.

NOW, THEREFORE, in consideration of the agreements and obligations set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Successor Developer. Pursuant to Section 10.1 of the Development Agreement, the rights of the "Developer" under the Development Agreement may not be transferred or assigned without the written approval of the County. The foregoing notwithstanding, Section 1.4.11 of the Development Agreement defines "Developer" to include any successors and/or assigns of "Developer". Section 13.7 of the Development Agreement states that the Development Agreement "runs with all of the land subject to this Agreement" and that the burden and benefit of the Development Agreement shall bind and inure to the benefit of each of the parties successors, heirs, assigns and transferees. Finally, Section 13.8 permits the County to look to the property owners in the Project for performance of the provisions of the Development Agreement. As set forth in the recitals above, Developer is the largest property owner in the Project and received an assignment of all rights, title and interest of the prior "Developer" in connection with its acquisition of the Whisper Ridge Subdivision. In accordance with the foregoing, the Developer and the County both acknowledge and agree that Developer has all rights, title and interest in and to the Development Agreement, inures to all benefits thereunder and Developer agrees to perform all obligations of "Developer" under the Development Agreement.

2. Definition of Open Space. The following definition of "Open Space" is hereby added to the Development Agreement as Section 1.4.20:

“1.4.20 “Open Space” shall mean any/all real property owned and any improvements thereon dedicated and indicated on the plat for the common use and enjoyment of the property owners within the Project.”

3. Construction of Project Improvements on Parcel C. The following sentence is hereby added to Section 3.1.4:

“Developer shall be permitted to construct an underground utility vault on Parcel C in accordance with the drawings provided by Developer to the County.”

The drawings provided to the County in connection with this Section are attached to this Amendment as Exhibit A.

4. Parcel C Utility Vault. Exhibit B to the Development Agreement (Improvement Schedule) is hereby amended to include that an underground utility vault may be built on Parcel C in accordance with the drawing attached hereto as Exhibit A. All other items set forth on Exhibit B to the Development Agreement shall remain unamended.

5. Height Restrictions. Section 3.1.5 of the Development Agreement is hereby deleted in its entirety and replaced with the following:

“3.1.5 Height Restrictions. With respect to the development of dwelling units located within each Phase, each residential unit at any point shall adhere to current Morgan County height standards.”

6. Parcel C Setbacks. The following is hereby added after the final sentence of Section 3.1.19:

“The required minimum setbacks for Parcel C shall be ten feet (10’) on all sides.”

7. Approved Use on Parcel C. A new Section 3.1.23 is hereby added to the Development Agreement as follows:

3.1.23. Parcel C Use. The construction and operation of an underground utility vault on Parcel C shall be authorized and permitted in accordance with Exhibit A hereto and without the need for a conditional use permit. Developer is still required to obtain the necessary building permit to construct the underground utility vault on Parcel C.

8. Secondary Access. A new Section 3.1.24 is hereby added to the Development Agreement as follows:

3.1.24. Secondary Access. The Emergency Access, as recorded on the Whisper Ridge at Stone Canyon Phase I PRUD plat, shall remain unobstructed and maintained in a manner to permit vehicular travel in order to provide a secondary access to Phase II of the Project.

9. Incorporation by Reference. The terms of the Development Agreement (as amended hereby) are hereby incorporated herein by this reference.

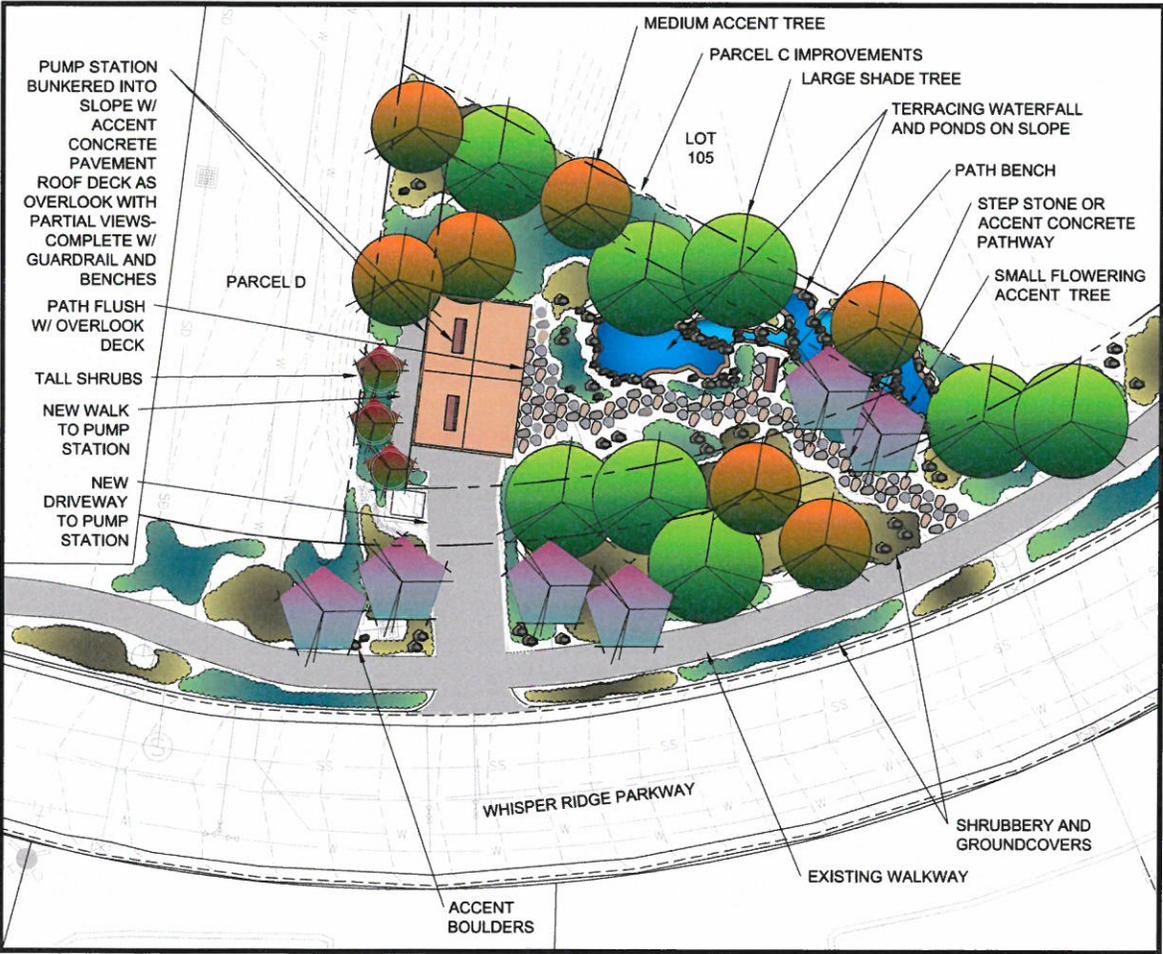
10. Counterparts. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

[SIGNATURES TO FOLLOW]

EXHIBIT A

PARCEL C BOOSTER PUMP STATION SITE AT WHISPER RIDGE MOUNTAIN GREEN, UT

PRELIMINARY LANDSCAPE ENHANCEMENTS PLAN



PREPARED BY:
 STANTEC CONSULTING SERVICES INC.
 3995 S 700 E, SUITE 300
 SALT LAKE CITY, UT 84107
 (801) 261-0090 UPDATED: 12-06-13/CB/SB

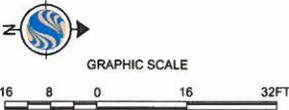


EXHIBIT "B"

MORGAN - WHISPER RIDGE
DESCRIPTION OF OVERALL PARCEL (PH.1 & 2):

June 28, 2007

00-0005-3056

This parcel being a part of Morgan County Parcel Numbers 03-005-015/00-0003³³³⁰ and 03-005-015-01 located in the Southwest Quarter of Section 22 and Morgan County Parcel Numbers 03-005-03-005-017-10, 03-005-017-10-1 and (see below) located in Section 27, Township 5 North, Range 1 East, Salt Lake Base and Meridian, being more particularly described as follows:

00-0073-8238

00-0075-2244

Beginning at the South Quarter Corner of Section 22, Township 5 North, Range 1 East, Salt Lake Base and Meridian, and running thence S00°13'58"W along the quarter section line 1378.05 feet; thence East 10.49 feet; thence S00°34'30"W 319.37 feet; thence S 15°05'17"E 136.51 feet; thence S15°10'00"E 588.68 feet; thence S15°29'21"E 83.12 feet; thence N75°07'24"W 161.89 feet; thence S43°30'00"W 37.82 feet; thence S13°01'24"E 713.63 feet to a UDOT Right-of-Way line; thence S70°33'08"W 27.56 feet along said UDOT Right-of-Way line; thence S77°57'06"W 147.20 feet along said UDOT Right-of-Way line; thence Southwesterly 231.51 feet along a 1372.40 foot radius curve to the right through a central angle of 9°39'54", chord bears S82°47'04"W for 231.23 feet along said UDOT Right-of-Way line; thence Northerly along the centerline of Strawberry Creek the following two courses: N21°44'52"E 55.70 feet; thence N41°08'45"E 49.10 feet; thence N02°16'28"W 54.97 feet to a point on the westerly line of said Strawberry Creek; thence along said westerly line the following three courses: N32°46'31"E 29.48 feet; thence N45°01'22"E 81.05 feet; thence N04°25'28"E 38.25 feet; thence N00°22'15"E 97.89 feet to a point on the centerline of said Strawberry Creek; thence along said centerline the following four courses: N16°49'50"W 38.94 feet; thence N01°38'14"W 48.79 feet; thence N17°41'20"W 61.16 feet; thence N17°37'52"E 18.45 feet; thence leaving said centerline and running S89°22'05"E 132.01 feet; thence N13°01'24"W 160.40 feet; thence N00°13'58"E 170.02 feet; thence N82°45'25"W 309.81 feet; thence N61°20'04"W 276.93 feet; thence N13°43'58"W 249.88 feet; thence N15°33'20"E 289.68 feet; thence N03°40'30"E 242.04 feet; thence N08°19'22"W 578.89 feet; thence N10°32'01"W 228.19 feet; thence N17°42'21"W 200.95 feet; thence N17°45'20"W 223.07 feet; thence N30°49'15"E 130.31 feet; thence N00°35'27"E 140.20 feet to the Section line; thence N89°24'33"W 607.26 feet; thence N00°35'27"E 1963.04 feet; thence S82°00'00"E 113.00 feet; thence S67°00'00"E 102.00 feet; thence S79°36'39"E 374.28 feet; thence S82°24'00"E 237.34 feet; thence S00°10'28"E 409.59 feet; thence S89°59'47"E 515.78 feet to the Section Line; thence S00°04'30"W 1333.90 feet along the Section Line to the point of beginning.

Contains 87.918 Acres

* 03-WHRID1-0101 THRU
03-WHRID1-0164 §
03-WHRID1-05-A-NA THRU
03-WHRID1-05-C-NA §
03-WHRID1-05-D §
03-WHRID1-05-E-NA §
03-WHRID1-05 F

00-0075-1101

THRU

00-0075-1170