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REC FOR: WEBER COUNTY PLANNING

ZONING DEVELOPMENT AGREEMENT (ZDA)

FOR THE

WINDMILL WEST ESTATES SUBDIVISION

Dated March 27, **2024**

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WHEN RECORDED, RETURN TO

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ZONING DEVELOPMENT AGREEMENT (ZDA)

FOR THE

WEST WINDMILL ESTATES SUBDIVISION

15-050-0032

WEBER COUNTY, UTAH

DATED March 27 **, 2024**

THIS ZONING DEVELOPMENT AGREEMENT ("ZDA") is made and entered as of the 27 day of March, 2024, by and between Weber County, a political subdivision of the State of Utah ("County"), and Aspen Heights, LLC a Utah company ("Master Developer"), as the owner and developer of a long term, mixed use, master planned development project known as Ali Farms (the "Project"). The County and Master Developer are sometimes collectively referred to in this ZDA as the "Parties."

RECITALS

A. The capitalized terms used in these Recitals are defined in Section 1.2, below.

B. Master Developer is the owner of approximately 25.21 acres of real property located within the unincorporated boundaries of the County as more fully described in Exhibit A (the "Property") and mapped in Exhibit B on which it proposes to develop the Project.

C. Simultaneous to and dependent on the execution of the ZDA the County has rezoned the Property from the A-1 zone to the R1-15 and R-3 Zones.

D. Master Developer, or the successors or heirs of the Property, is willing to design and construct the Project in a manner that is in harmony with, and is intended to promote, the long range policies, goals, and objectives of the Western Weber Planning Area's general plan, zoning, and development regulations in order to receive the benefits of vesting for certain uses and zoning designations under the terms of this ZDA, as more fully set forth below.

E. Master Developer and the County desire that the Property is developed in a unified and consistent fashion pursuant to memorializing a relationship between them viz. a viz. certain transactions, entitlements, dedications, and other requirements that are necessary for the Project.

F. Development of the Property will include all or part of the Intended Uses, as specified in this ZDA.

G. Development of the Project as a master planned development pursuant to this ZDA is acknowledged by the parties to be consistent with the Act, and the Code, and operate to the benefit of the County, Master Developer, and the general public.

H. The Board of County Commissioners has reviewed this ZDA and determined that it is consistent with the Act, the Code as applied to the Property.

I. Development of the Property pursuant to this ZDA will result in significant benefits to the County by providing economic growth, a diversity of uses and service, socially sustainable development practices, and assurances to the County that the Property will be developed in accordance with this ZDA.

I. Development of the Property pursuant to this ZDA will result in significant benefits to the Master Developer by providing assurances to Master Developer that it will have the ability to develop the Property in accordance with this ZDA.

J. Master Developer and the County have cooperated in the preparation of this ZDA.

K. The parties desire to enter into this ZDA to specify the rights and responsibilities of the Master Developer to develop the Property as part of the Project as expressed in this ZDA and the rights and responsibilities of the County to allow and regulate such development pursuant to the requirements of the ZDA.

L. The parties understand and intend that this ZDA is a "development agreement" within the meaning of, and entered into pursuant to the terms of Utah Code Ann., §17-27a-102.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and Master Developer hereby agree to the following:

TERMS

1. Incorporation of Recitals and Exhibits/Definitions.

1.1. Incorporation. The foregoing Recitals and Exhibits A-D are hereby incorporated into this ZDA.

1.2. Definitions. For purposes of this Agreement, the following terms, phrases, words, and their derivations shall have the meaning given herein where capitalized; Words not defined herein shall have the same meaning as provided by the Code. When consistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and the use of any gender shall apply to all genders whenever the context requires. The words "shall" and "will" are mandatory and the word "may" is permissive. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority. If specific provisions of law referred to herein are renumbered, then the reference shall be read to refer to the renumbered provision.

1.2.1. Act means the County Land Use, Development, and Management Act, Utah Code Ann. §§17-27a-101, *et seq.*

1.2.2. Applicant means a person or entity submitting a Development Application, a Modification Application or a request for an Administrative Decision.

1.2.3. Basic Improvements means those improvements that are necessary for the overall development of the Project but for which may not be provided as Project Infrastructure subject to an individual parcel's Development Application. These improvements are generally necessary for the logical and efficient development of the Property over time. Depending on the specific and final configuration of an approved site plan, this may include internal vehicle and pedestrian circulation routes

in the event lack of circulation routes yields less than two points of egress or cross-accessibility from lot-to-lot or parcel-to-parcel within the site. This shall include all items specified herein as Basic Improvements.

1.2.4. **Building Permit** means the County's building permit or building permit review process, as specified in County Laws.

1.2.5. **Buildout** means the completion of all of the development on all of the Property for all of the Project.

1.2.6. **Code** means the County's Code containing its land use regulations adopted pursuant to the Act.

1.2.7. **County** means Weber County, a political subdivision of the State of Utah.

1.2.8. **County Consultants** means those outside consultants employed by the County in various specialized disciplines such as traffic, hydrology, legal, or drainage for reviewing certain aspects of the development of the Project.

1.2.9. **County Laws** means the ordinances, policies, standards, and procedures of the County related to zoning, subdivisions, development, public improvements, and other similar or related matters that have been and may be adopted in the future.

1.2.10. **Design Review** means the County's design review process, as specified in County Laws.

1.2.11. **Board of County Commissioners** means the elected County Commission of Weber County.

1.2.12. **Default** means a material breach of this ZDA.

1.2.13. **Denial** means a formal denial issued by the final decision-making body of the County for a particular type of Development Application but does not include review comments or "redlines" by County Staff.

1.2.14. **Development Standards** means a set of standards approved by the County as a part of the approval of the Master Plan and this ZDA controlling certain aspects of the deigns and construction of the development of Property including setbacks, building sizes, height limitations, parking and signage; and, the design and construction standards for buildings, roadways, and infrastructure.

1.2.15. **Development Application** means an application to the County for development of a portion of the Project including a Subdivision, a Design Review, a Building Permit, or any other permit, certificate, or other authorization from the County required for development of the Project.

1.2.16. **Impact Fees** means those fees, assessments, or payments of money imposed by the County as a condition on development activity as specified in Utah Code Ann., §§ 11-36-101, *et seq.*

1.2.17. **Intended Uses** means those permitted and conditional uses identified in this Agreement.

1.2.18. **Master Developer** means Aspen Heights LLC, a Utah company and its assignees or transferees as permitted by this ZDA.

1.2.19. Master Plan means Exhibit "C," a conceptual master plan for the Project which is hereby approved by the County as part of this ZDA that sets forth general guidelines for the proposed future development of the Property.

1.2.20. Modification Application means an application to amend this ZDA.

1.2.21. Non-County Agency means a governmental, quasi-governmental entity, or water or sanitary sewer authority, other than those of the County, which has jurisdiction over the approval of any aspect of the Project.

1.2.22. Notice means any notice to or from any party to this ZDA that is either required or permitted to be given to another party.

1.2.23. Outsourc[e][ing] means the process of the County contracting with County Consultants to provide technical support in the review and approval of the various aspects of a Development Application as is more fully set out in this ZDA.

1.2.24. Parcel means any parcel of land within the Property created by any means other than a Subdivision plat, upon which development is not approved.

1.2.25. Pathway means a 10-foot wide multi-use paved pathway designed to county engineer's specifications.

1.2.26. Phase means the development of a portion of the Project at a point in a logical sequence as determined by Master Developer.

1.2.27. Planning Commission means the Planning Commission for the area in which the Property is located.

1.2.28. Project means the development to be constructed on the Property pursuant to this ZDA with the associated public and private facilities, Intended Uses, and all of the other aspects approved as part of this ZDA including its exhibits.

1.2.29. Project Infrastructure means those items of public or private infrastructure which are specified in this ZDA, by the Code, or as a condition of the approval of a Development Application because that are necessary for development of the Property such as local roads or utilities and that are located on the portion of the Property which is subject to a Development Application.

1.2.30. Property means the real property subject to this ZDA as more fully described in Exhibit "A" and mapped in Exhibit "B."

1.2.31. Subdeveloper means an entity not "related" (as determined by Internal Revenue Service regulations) to Master Developer which purchases a Parcel for Subdivision platting pursuant to future development.

1.2.32. Subdivision means the division of any portion of the Project into a subdivision pursuant to State Law and/or the Code.

1.2.33. Subdivision Application means the application to create a Subdivision.

1.2.34. ZDA means this Zoning Development Agreement including all of its Exhibits.

2. Effective Date, Expiration, Termination.

2.1. Effective Date. The Effective Date of this Agreement is the latter of:

2.1.1. The last date upon which it is signed by any of the Parties hereto;

2.1.2. The recordation of this Agreement; or

2.1.3. The recordation of the rezone ordinance to which this Agreement is associated and inextricably linked.

2.2. Term and Expiration.

2.2.1. Term of Agreement Related To Development of the Property. The term of this ZDA as it relates to the development of the Property or the establishment of new uses on the Property shall be until December 31, 2030, unless earlier terminated or modified by written amendment as set forth herein, or unless the use is abandoned as governed by County Laws. In the case of abandonment, this ZDA shall terminate on the date abandonment has been determined. If, on December 31, 2030, the Master Developer has not been notified of any Default, or if any Default is in the process of being cured as provided herein, then this term shall be automatically extended until December 31, 2035. Upon termination, the rights and responsibilities herein related to establishing new development on the Property or establishing new uses on the Property shall terminate and the zone shall automatically revert to the original zone without Notice. Existing development and uses lawfully established under this ZDA prior to termination shall be deemed nonconforming rights, as governed by County Laws and the Act.

2.2.2. Term of Agreement Related to Ongoing Performance Responsibilities. The term of this ZDA as it relates to ongoing operations, performance, or maintenance responsibilities, including but not limited to compliance with outdoor lighting requirements, landscaping requirements, noise requirements, berming or buffering requirements, provision of a publicly accessible park, or Pathway requirements, shall remain in effect as legislatively adopted land use provisions. Typical legislative action shall be required to make changes thereto.

2.3. Termination. This Agreement may be terminated by mutual written agreement of the Parties to this Agreement. This Agreement automatically terminates, without notice, in the following circumstances:

2.3.1. The term of this Agreement expires and is not extended as provided above;

2.3.2. The Project is abandoned or the use is discontinued, as provided for by Weber County Code Chapter 108-12; or

2.3.3. The Developer defaults on any provision of this Agreement and the default is not resolved as specified in Section 13 of this Agreement.

3. Development of the Project and Application of Development Requirements. Development of the Project shall be in accordance with the County Laws, and this ZDA and its Exhibits. In the event of a conflict between the County's Laws and this ZDA, the more specific provisions of the ZDA and its Exhibits shall control. In the event of a conflict between the Exhibits of this ZDA and the main body of this ZDA, the main body shall control. The County acknowledges that the Master Plan satisfies the requirement under the Code for submission of a concept plan for the development of the Property as referenced in Title 102, Chapter 5, Rezone Procedures of the Code.

4. **Intended Uses.** The Intended Uses permitted in the Project include all uses allowed in the R1-15 and R-3 Zones, as currently codified.

5. **Zoning and Vested Rights.**

5.1. **Vested Rights Granted by Approval of this ZDA.** Master Developer shall have the vested right to develop and construct the Project on the Property in accordance with the R1-15 and R-3 Zones and the Intended Uses, Development Standards and other matters specifically addressed in the Master Plan subject to compliance with the terms and conditions of this ZDA and other applicable County Laws as more fully set forth in this ZDA. The Parties intend that the rights granted to Master Developer under this ZDA are contractual and also those rights that exist under statute, common law and at equity. The parties specifically intend that this ZDA grants to Master Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann., §17-27a-508.

5.1.1. **Examples of Exceptions to Vested Rights.** The Parties understand and agree that the Project will be required to comply with future changes to County Laws that do not limit or interfere with the vested rights granted pursuant to the terms of this ZDA. The following are examples for illustrative purposes of a non-exhaustive list of the type of future laws that may be enacted by the County that would be applicable to the Project:

5.1.1.1. **Master Developer Agreement.** Future laws that Master Developer agrees in writing to the application thereof to the Project;

5.1.1.2. **Compliance with State and Federal Laws.** Future laws which are generally applicable to all properties in the County and which are required to comply with State and Federal laws and regulations affecting the Project;

5.1.1.3. **Safety Code Updates.** Future laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare; or

5.1.1.4. **Taxes.** Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the County to all properties, applications, persons and entities similarly situated.

5.1.1.5. **Fees.** Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the County (or a portion of the County as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law.

5.1.1.6. **Impact Fees.** Impact Fees or modifications thereto which are lawfully adopted, imposed and collected.

5.2. **Reserved Legislative Powers.** Master Developer acknowledges that the County is restricted in its authority to limit its police powers by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the County all of

its police power that cannot be so limited. Notwithstanding the retained power of the County to enact such legislation under its police powers, any such legislation shall only be applied to modify the vested rights of Master Developer as referenced in section 5.1 above under the terms of this ZDA based upon policies, facts and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine in the State of Utah as codified in Utah Code Ann.§ 17-27a-508. 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 in good faith the County declares an emergency, Master Developer shall be entitled to prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the Project under the compelling, countervailing public interest exception to the vested rights doctrine.

6. Approval Processes for Development Applications.

6.1. Phasing. The County acknowledges that Master Developer, assignees of Master Developer, and/or Subdevelopers who have purchased Parcels of the Property may submit multiple applications from time-to-time to develop and/or construct portions of the Master Plan for the Project in Phases. Allowance for phasing is subject to each Phase providing for the logical extension or improvements of the public road system as conceptually represented in the Master Plan, and logical extension of infrastructure and utilities through and throughout the Project as approved by the County in compliance with the terms of this ZDA; and other applicable provisions of the County Laws. Each Phase shall include its proportionate share of public space and public improvements, including the platting of a proportionate share of open space, even if such improvement are not within or immediately adjacent to the rest of the subject Phase.

6.2. Processing Under County Laws. Approval processes for Development Applications shall be as provided in the County Laws except as otherwise provided in this ZDA. Development Applications shall be approved by the County if they comply with the County Laws and conform to this ZDA.

6.3. County's Cooperation in Processing Development Applications. The County shall cooperate reasonably in promptly and fairly processing Development Applications.

6.4. Non-County Agency Reviews. If any aspect or a portion of a Development Application is governed exclusively by a Non-County Agency an approval for these aspects shall only be reviewed by the County to confirm compliance with this ZDA and the County Laws. The Applicant shall timely notify the County of any such submittals and promptly provide the County with a copy of the requested submissions. The County may only grant final approval for any Development Application subject to compliance by Applicant with any conditions required for such Non-County Agency's approval.

6.5. Acceptance of Certifications Required for Development Applications. Any Development Application requiring the signature, endorsement, or certification and/or stamping by a person holding a license or professional certification required by the State of Utah in a particular discipline shall be so signed, endorsed, certified or stamped signifying that the contents of the Development Application comply with the applicable regulatory standards of the County. The Development Application shall thus generally only be reviewed by the County to confirm compliance with this ZDA and the County Laws. It is not the intent of this Section to preclude the normal process of review by the County, such as the Planning Department, County Engineer, County Attorney, County Surveyor, etc, "redlining", commenting on or suggesting alternatives to the proposed designs or specifications in the Development Application. Generally, the County should endeavor to make all of its redlines, comments or suggestions at the time of the first review of the Development Application unless any changes to the Development

Application or new information becomes known that raise new issues that need to be addressed.

6.6. **Expert Review of Certifications Required for Development Applications.** If the County, notwithstanding such a certification by Applicant's experts, subjects the Development Application to a review by County Consultants then payment of the reasonable and actual costs of the County Consultants' review shall be the responsibility of Applicant.

6.7. **Independent Technical Analyses for Development Applications.** If the County needs technical expertise beyond the County's internal resources to determine impacts of a Development Application such as for structures, bridges, water tanks, "threatened and endangered species," or any other matters specified by the County in writing as being extraordinary circumstances which are not required by the County's Vested Laws to be certified by such experts as part of a Development Application, the County may engage such experts as County Consultants with the actual and reasonable costs being the responsibility of Applicant.

6.8. **County Denial of a Development Application.**

6.8.1. **Staff Denial or Recommendation for Denial.** If the County staff intends to deny or recommend Denial of a Development Application, the County staff shall provide a written explanation advising the Applicant of the reasons for recommending Denial including specifying the reasons the County staff believes that the Development Application is not consistent with this ZDA, the Master Plan and/or the County Laws.

6.8.2. **Meet and Confer regarding Development Application Denials.** The County and Applicant shall meet within thirty business days of any recommendation for Denial by the County staff to resolve the issues specified in the recommendation for Denial of a Development Application.

6.8.3. **County Denials of Development Applications Based on Denials from Non-County Agencies.** If the County's Denial of a Development Application is based on the Denial of the Development Application by a Non-County Agency, any such Denial may be appealed by Master Developer through the appropriate procedures for such a decision as provided in the Code.

6.9. **Parcel Sales.** Master Developer may obtain approval of a Subdivision that does not create any individually developable lots in the Parcel without being subject to any requirement in the County Laws to complete or provide security for the Project Infrastructure at the time of the Subdivision except that the County may require as a part of the Subdivision of the Parcel the construction of perimeter infrastructure such as curb and gutter, sidewalks and fire hydrants if reasonably necessary given the location of the Parcel Sale in relation to other development and the respective timing of the completion of such developments. The responsibility for completing and providing security for completion of any Project Infrastructure in the Parcel shall be that of the Developer or a Subdeveloper upon a further Subdivision of the Parcel that creates individually developable lots. The provisions of the foregoing notwithstanding, no division shall be made that disproportionately splits the public spaces or public improvements anticipated by this Agreement or County Laws without first providing adequate security in a manner satisfactory to County to ensure those public improvements or spaces are provided.

7. Public Improvements.

7.1. **Basic Improvements.** The following are Basic Improvements and unless otherwise specified shall be executed or installed prior to the first certificate of occupancy.

7.1.1. **Right-of-Way Dedication and Construction of 4700 West Street.** As part of this ZDA, Master Developer agrees to dedicate, at no cost to the County, such additional right of way as may be necessary to preserve a full sixty-six foot (66') half-width along the entire frontage of the Property adjacent to 4700 West. Developer agrees that the half-width of 4700 West Street shall be improved to current county standards as set forth in the General Street Design and Right-Of-Way Cross Sections located in Section 104-22-7.010

7.1.2. All roads shown with a 60' right-of-way, as depicted on the concept plan (Attachment C), shall be dedicated to the County per County standards.

7.1.3. **Sanitary Sewer.** Master Developer recognizes that the County does not provide sewer services for the area. Prior to issuance of the first Building Permit for the Project, Master Developer shall have the right and the obligation to construct or cause to be constructed the following:

7.1.3.1. A sewer lift station and associated appurtenances and pipes necessary to serve the area's sewering needs, as provided on the County's sewer Master Plan for the area;

7.1.3.2. A pressurized sanitary sewer main of sufficient size to convey the area's anticipated future volume of sewage to an existing gravity-fed sewer main; and

7.1.3.3. A gravity sanitary sewer collection system to and across the Property, stubbing to adjacent properties, of sufficient size to convey the anticipated future volume of sewage from development to the sewer lift station. The collection system shall be of sufficient size and capacity to adequately serve the lift station's area at full build-out. Master Developer hereby agrees not to protest an annexation into a local sewer district, if deemed required by the County, and to pay all costs associated with the annexation.

Master Developer will create a pioneering agreement for the Sewer Lift Station and its total costs. The Pioneering agreement will dictate that any landowner, developer, county, city, or school district that connects to this lift station, provided by the Master Developer and shall pay its prorated share back to Master Developer.

7.1.4. **Culinary and Secondary Water.** Prior to issuance of the first Building Permit for the Project, Master Developer shall have the right and the obligation to construct or cause to be constructed culinary water and secondary water infrastructure to and across the Property. Master Developer recognizes that the County does not provide culinary or secondary water to the area. Master Developer agrees to secure both culinary and secondary water from an existing culinary and secondary water provider in the area.

7.1.5. **Storm Water.** Prior to issuance of the first certificate of occupancy, Master Developer shall have the right and obligation to install a storm water drainage and detention system sufficient to support the storm water and drainage needs of the Project and adjacent public street. The system shall be sized to support the anticipated storm water and drainage detention needs of the Project at full build-

out such that multiple new drainage or detention facilities are avoided if possible in the future.

7.1.6. Public Parks. Master Developer agrees to:

7.1.6.1. Install at least 0.5 acres for a Project park, as generally shown on the Master Plan. The park shall be privately owned, operated and maintained by the Project's homeowner's association, and shall be generally open and accessible to the public from dawn until dusk throughout the calendar year.

7.1.6.1.1. The park shall be installed prior to certificate of occupancy of the twentieth single family residential unit, or the first multifamily residential building, whichever comes first. The area of the public park may also be used for storm water storage.

7.1.6.1.2. The Master Developer shall be responsible for constructing a tree-lined walkway around the exterior perimeter of the park parcel with shade trees and benches at reasonable intervals as determined by the Master Developer, but no less than 10 of each.

7.1.6.1.3. At least 20% of the park shall be landscaped in turf grass and shall be sprinkle irrigated.

7.1.7. Pathways. Master Developer agrees to install:

7.1.7.1. A 10-foot wide asphalt or concrete Pathway immediately adjacent to the canal that runs along the north boundary of the Property extending all the way to 4700 West, and to the north and west, and partially through, the Property.

7.1.7.2. Pathway Along Existing Street. Master Developer shall install a 10-foot wide concrete Pathway parallel to and within the right-of-way of 4700 West Street.

7.2. Nonbasic Improvements.

7.2.1. Streets, generally. Master Developer agrees to dedicate and construct, at no cost to the County, such additional rights-of-way and streets as may be necessary to provide required lot frontages and circulation throughout the Subdivision.

7.2.2. Street and Pathway Shade Trees. Each street and each Pathway shall be lined with shade trees. County agrees that Master Developer may choose the species of shade tree as long as County determines the selected species does not create an unreasonable or unmitigatable conflict with public infrastructure. Master Developer agrees to select a tree species and tree spacing such that at full maturity the crowns of the trees have a high likelihood of converging. Developer agrees to submit with each Development Application a review and recommendations from a professional arborist or landscape architect regarding the types of trees proposed and their appropriate planting and maintenance methods that will be provided by Master Developer.

7.2.3. **Utilities and Project Infrastructure.** Master Developer shall have the right and the obligation to construct or cause to be constructed and installed all portions of the Project Infrastructure which are required as a condition of approval of the Development Application. Master Developer has an obligation to gain relevant utility provider approval for the Project. County has no obligation to assist Master Developer in gaining utility provider approval, but shall not unreasonably oppose or prohibit utility line extension to the Project when the utility is reasonably necessary to support the Project.

7.3. **Approval of Infrastructure as a Part of a Development Approval.** Any Development Application for a Subdivision or a Design Review shall include a plan for constructing the Project Infrastructure and shall demonstrate that the proposed Project Infrastructure is compatible with the overall development of the Project at Buildout.

7.3.1. **Review by County.** The County shall promptly review the proposed Project Infrastructure to determine its compatibility with the overall development of the Project at Buildout in accordance applicable with County Laws, the Master Plan and this ZDA.

7.3.2. **Resolution of Disputes Regarding Project Infrastructure.** If the County determines that the proposed Project Infrastructure is not compatible with the overall development of the Project at Buildout in accordance with applicable County Laws, the Master Plan and this ZDA, then any such dispute shall be subject to the meet and confer provisions of Section 6.8.

8. **Other Improvements, Construction Requirements, Standards, and Regulations.**

8.1. **Park District Donation.** Master Developer agrees to donate $2,500.00 per residential dwelling unit to the Taylor West Weber Parks district as a voluntary contribution toward establishing a local park to serve the Project and surrounding general area. The per-lot donation shall be given prior to recordation of each subdivision plat. Master Developer understands that, other than the enforcement of this part of the Agreement, the County has no control over the Park District or how the park district spends the donation, and will hold the County harmless if the funds are not spent in accordance with Master Developer's desires.

8.2. **Landscaping and Vegetation.** Master Developer shall provide landscaping and vegetation to all parts of the Property, excluding private property, as Phases are installed, as required by the Code. In the event any vegetation required by this ZDA or the Code dies, the Master Developer agrees to replace it during the next available planting season. Other than landscaping as part of Basic Improvements, County agrees that landscaping may be proposed at the time of Design Review or other site plan review process.

8.3. **Architectural theme.** The architectural theme of the Project is agrarian. All townhomes building fronts that are visible from 4700 West Street shall be constructed In general accordance with, at a minimum, the design elements and theme as follows:

8.3.1. **Design theme.** All buildings shall have architectural styling and materials that implement agrarian-style architecture. Agrarian-style architecture shall incorporate at least three of the following six options:

8.3.1.1. Either a gable roof at a 6/12 or greater slope, a gambrel roof, or a monitor roof.

8.3.1.2. A shed-roof at a 4/12 or greater slope that is attached to the side of the building but not attached to the main roof structure.

8.3.1.3. A clerestory or cupola.

8.3.1.4. Gable-style dormer windows.

8.3.1.5. Covered front porch that spans 35 percent of the width of the building not including the garage.

8.3.1.6. Front entries to include transom sidelight windows.

8.3.2. Building form. A building's street-facing façade shall be designed to have a base, body, and varying roofline, each of varying design features and building material.

8.3.3. Rooflines. Rooflines shall be broken every 50 feet, with no less than a 12 inch shift between adjacent rooflines.

8.3.4. Building massing. The wall massing of building facades shall be broken at least every 40 feet with no less than a six inch shift in the plain of adjacent walls. Each street-facing façade shall be designed and constructed to have a building base, building body, and varying building roofline, each having varying building materials or design techniques.

8.3.5. Building material. Building façade walls shall be finished with no less than two diverse types of material. The primary building material shall be fiber cement siding or similar appearing siding.. At least one of the building materials used on the building façade shall also be used on all other sides of the building.

8.3.5.1. Brick or stone may be used in place of wood if approved by the Land Use Authority.

8.3.5.2. Metal siding may be used on the building's body, as long as the building's base is made of brick or stone, and as long as the metal siding is broken horizontally by brick or stone every twenty feet, and is treated to create a natural-appearing aged patina.

8.3.6. Colors. At least two muted earth-tone colors are required. In the Eden area, no more than 70 percent of a building's facade shall be white.

8.4. Project Design.

8.4.1. 4700 West Street Oriented Buildings. The townhomes adjacent to 4700 West shall be oriented such that the front entrance faces and opens onto the 4700 West sidewalk.

8.4.1.1. Front Setback: The 4700 West townhomes shall be setback no greater than 10 feet from the public right-of-way. There shall be no minimum setback for these townhomes.

8.4.1.2. Driveway and Parking: Developer agrees that the vehicle access to the street-adjacent townhomes will be from within the Project, and not directly from 4700 West.

8.5. **Outdoor lighting.** Master Developer agrees to the application of Title 108, Chapter 16 "Outdoor Lighting" to the Project.

8.6. **Street and Pathway Connectivity.** Master Developer voluntarily agrees to comply with Section 106-2-4.030 "Connectivity-Incentivized Subdivision," and County agrees to provide Master Developer all of the benefits offered therein.

9. **Payment of Fees.**

9.1. **General Requirement of Payment of Fees.** Master Developer and/or a Subdeveloper shall pay to the County all fees (including, but not limited to, plan review fees, Impact Fees, hookup fees and inspection fees) in amounts specified in the County Laws.

10. **Provision of Services.** The County agrees to provide all County services to the Project that it provides from time-to-time to other residents and properties within the County including, but not limited to, police and other emergency services. Such services shall be provided to the Project at the same levels of services, on the same terms and at the same rates as provided to other residents and properties in the County.

10.1. **Special Event Services.** Master Developer agrees to cooperate with the Weber County Sheriff's Department and other emergency service agencies prior to any event that will attract a crowd bigger than is typical during day-to-day business operations. County agrees to provide police presence and additional crowd control. Master Developer, successors, or assigns, agree to compensate County for any disproportionate demand of providing additional police presence or crowd control.

11. **Default.**

11.1. **Notice.** If Master Developer or a Subdeveloper or the County fails to perform their respective obligations hereunder or to comply with the terms hereof, the party believing that a Default has occurred shall provide Notice to the other party. If the County believes that the Default has been committed by a Subdeveloper then the County shall also provide a courtesy copy of the Notice to Master Developer.

11.2. **Contents of the Notice of Default. The Notice of Default shall:**

11.2.1. **Claim of Default.** Specify the claimed event of Default;

11.2.2. **Identification of Provisions.** Identify with particularity the provisions of any applicable law, rule, regulation or provision of this ZDA that is claimed to be in Default;

11.2.3. **Specify Materiality.** Identify why the Default is claimed to be material; and

11.2.4. **Optional Proposed Cure.** If the County chooses, in its discretion, propose a method and time for curing the Default which shall be of no less than sixty (60) days duration.

11.3. **Meet and Confer.** Upon the issuance of a Notice of Default the parties shall engage in the "Meet and Confer" process specified in Section 6.8.

11.4. **Remedies.** If the parties are not able to resolve the Default by "Meet and Confer" then the parties may have the following remedies:

11.4.1. **Legal Remedies.** The rights and remedies available at law and in equity, including injunctive relief and specific performance, but not damages.

11.4.2. Enforcement of Security. The right to draw on any security posted or provided in connection with the Project and relating to remedying of the particular Default.

11.4.3. Withholding Further Development Approvals. The right to withhold all further reviews, approvals, licenses, Building Permits and/or other permits for development of the Project in the case of a Default by Master Developer, or in the case of a Default by a Subdeveloper, development of those Parcels owned by the Subdeveloper until the Default has been cured.

11.5. Extended Cure Period. If any Default cannot be reasonably cured within sixty days, then such cure period shall be extended so long as the defaulting party can provide evidence that it is pursuing a cure with reasonable diligence.

11.6. Cumulative Rights. The rights and remedies set forth herein shall be cumulative.

12. Notices. All notices required or permitted under this Amended Development Agreement shall, in addition to any other means of transmission, be given in writing by certified mail and regular mail to the following address:

To the Master Developer:

The Aspen Heights, LLC
Attn: Phil Holland
590 N Kay Drive ST 112
Kaysville, UT

To the County:

Weber County
Attn: County Commission Chair
2380 Washington BLVD
Suite 360
Ogden, Utah 84401

With a copy to:

Chris Crockett
Deputy County Attorney
2380 Washington BLVD
Suite 230
Ogden, Utah 84401

AND

Rick Grover
Planning Director
2380 Washington BLVD
Suite 240
Ogden, Utah 84401

12.1. **Effectiveness Of Notice.** Except as otherwise provided in this ZDA, each Notice shall be effective and shall be deemed delivered on the earlier of:

12.1.1. Physical Delivery. Its actual receipt, if delivered personally, by courier service, or by facsimile provided that a copy of the facsimile Notice is mailed or personally delivered as set forth herein on the same day and the sending party has confirmation of transmission receipt of the Notice).

12.1.2. Electronic Delivery. Its actual receipt if delivered electronically by email provided that a copy of the email is printed out in physical form and mailed or personally delivered as set forth herein on the same day and the sending party has an electronic receipt of the delivery of the Notice

12.1.3. Mail Delivery. On the day the Notice is postmarked for mailing, postage prepaid, by First Class or Certified United States Mail and actually deposited in or delivered to the United States Mail. Any party may change its address for Notice under this ZDA by giving written Notice to the other party in accordance with the provisions of this Section.

13. **Amendment.** Any future amendments to this ZDA shall be considered as Modification Applications subject to the following processes.

13.1. **Who may Submit Modification Applications.** Only the County and Master Developer or an assignee that succeeds to all of the rights and obligations of Master Developer under this ZDA (and not including a Subdeveloper) may submit a Modification Application.

13.2. **Modification Application Contents. Modification Applications shall:**

13.2.1. **Identification of Property.** Identify the property or properties affected by the Modification Application.

13.2.2. **Description of Effect.** Describe the effect of the Modification Application on the affected portions of the Project.

13.2.3. **Identification of Non-County Agencies.** Identify any Non-County agencies potentially having jurisdiction over the Modification Application.

13.2.4. **Map.** Provide a map of any affected property and all property within one thousand feet (1000') showing the present or Intended Uses and density of all such properties.

13.2.5. **Fee.** Modification Applications shall be accompanied by a fee in an amount reasonably estimated by the County to cover the costs of processing the Modification Application.

13.3. **County Cooperation in Processing Modification Applications.** The County shall cooperate reasonably in promptly and fairly processing Modification Applications.

13.4. **Planning Commission Review of Modification Applications.**

13.4.1. **Review.** All aspects of a Modification Application required by law to be reviewed by the Planning Commission shall be considered by the Planning Commission as soon as reasonably possible in light of the nature and/or complexity of the Modification Application.

13.4.2. **Recommendation.** The Planning Commission's vote on the Modification Application shall be only a recommendation and shall not have any binding effect on the consideration of the Modification Application by the Board of County Commissioners.

13.5. **Board of County Commissioners' Review of Modification Application.** After the Planning Commission, if required by law, has made or been deemed to have made its recommendation of the Modification Application the Board of County Commissioners shall consider the Modification Application.

13.6. **Board of County Commissioners' Denial of Modification Applications.** If the Board of County Commissioners does not approve the Modification Application, the Board of County Commissioners shall provide a written explanation advising the Applicant of the reasons for Denial including specifying the reasons the County believes that the Modification Application is not consistent with the intent of this ZDA, the Master Plan and/or the County Laws.

14. Miscellaneous Provisions.

14.1. **Entire Agreement.** This ZDA, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all parties.

14.2. **Headings.** The captions used in this ZDA are for convenience only and are not intended to be substantive provisions or evidences of intent.

14.3. **No Third Party Rights/No Joint Venture.** This ZDA does not create a joint venture relationship, partnership or agency relationship between the County and Master Developer. Further, the parties do not intend this ZDA to create any third-party beneficiary rights. The parties acknowledge that this ZDA refers to a private development and that the County has no interest in, responsibility for or duty to any third parties concerning any improvements to the Property unless the County has accepted the dedication of such improvements at which time all rights and responsibilities for the dedicated public improvement shall be the County's.

14.4. **Assignability.** The rights and responsibilities of Master Developer under this ZDA may be assigned in whole or in part by Master Developer with the consent of the County as provided herein.

14.4.1. **Sales not an Assignment.** Master Developer's selling or conveying a lot in any approved Subdivision or Parcels or any other real estate interest within the Project, to builders, users, or Subdevelopers, shall not be deemed to be an "assignment" subject to the above-referenced approval by the County unless specifically designated as such an assignment by the Master Developer. Despite the selling or conveyance, Master Developer still maintains all rights, responsibilities, and obligations of this ZDA relative to development on the sold or conveyed property.

14.4.2. **Related Party Transfer.** Master Developer's transfer of all or any part of the Property to any entity "related" to Master Developer (as defined by regulations of the Internal Revenue Service), Master Developer's entry into a joint venture for the development of the Project or Master Developer's pledging of part or all of the Project as security for financing shall also not be deemed to be an "assignment" subject to the above-referenced approval by the County unless specifically designated as such an assignment by the Master Developer. Master Developer

shall give the County Notice of any event specified in this sub-section within ten (10) days after the event has occurred. Such Notice shall include providing the County with all necessary contact information for the newly responsible party.

14.4.3. Notice. Master Developer shall give Notice to the County of any proposed assignment and provide such information regarding the proposed assignee that the County may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the County with all necessary contact information for the proposed assignee.

14.4.4. Deemed Approved. Unless the County objects in writing within thirty business days the County shall be deemed to have approved of and consented to the assignment.

14.4.5. Partial Assignment. If any proposed assignment is for less than all of Master Developer's rights and responsibilities, then the assignee shall be responsible for the performance of each of the obligations contained in this ZDA to which the assignee succeeds. Upon any such approved partial assignment, Master Developer shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned.

14.4.6. Grounds for Denying Assignment. The County may only withhold its consent for the reasons listed herein.

14.4.6.1. If the County is not reasonably satisfied of the assignees ability to perform the obligations of Master Developer proposed to be assigned;

14.4.6.2. If the County has reasonable concern that the assignment will separate the Project in a manner that creates unreasonable additional demand for any type of governmental service, including additional demand for coordination amongst assignees or other administrative review services not otherwise anticipated at the time of the execution of this ZDA; or

14.4.6.3. If the County has reasonable concern that the assignment will separate the Project in a manner that negates the purpose of master planning the Project area as one complete master planned development.

14.4.7. Assignee Bound by this ZDA. Any assignee shall consent in writing to be bound by the assigned terms and conditions of this ZDA as a condition precedent to the effectiveness of the assignment.

14.5. Binding Effect. If Master Developer sells or conveys Parcels of lands to Subdevelopers or related parties, the lands so sold and conveyed shall bear the same rights, privileges, and Intended Uses as applicable to such Parcel and be subject to the same limitations and rights of the County when owned by Master Developer and as set forth in this ZDA without any required approval, review, or consent by the County except as otherwise provided herein.

14.6. No Waiver. Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

14.7. **Severability.** If any provision of this ZDA is held by a court of competent jurisdiction to be invalid for any reason, the parties consider and intend that this ZDA shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this ZDA shall remain in full force and affect.

14.8. **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this ZDA which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

14.9. **Time is of the Essence.** Time is of the essence to this ZDA and every right or responsibility shall be performed within the times specified.

14.10. **Appointment of Representatives.** To further the commitment of the parties to cooperate in the implementation of this ZDA, the County and Master Developer each shall designate and appoint a representative to act as a liaison between the County and its various departments and the Master Developer. The initial representative for the County shall be the Planning Division Director and the initial representative for Master Developer shall be the presiding member of Aspen Heights, LLC. The parties may change their designated representatives by Notice.

14.11. **Mutual Drafting.** Each party has participated in negotiating and drafting this ZDA and therefore no provision of this ZDA shall be construed for or against either party based on which party drafted any particular portion of this ZDA.

14.12. **Applicable Law.** This ZDA is entered into in Weber County in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah's choice of law rules.

14.13. **Venue.** Any action to enforce this ZDA shall be brought only in the Second Judicial District Court for the State of Utah, Weber County.

14.14. **Recordation and Running with the Land.** This ZDA shall be recorded in the chain of title for the Project. This ZDA shall be deemed to run with the land.

14.15. **Authority.** The parties to this ZDA each warrant that they have all of the necessary authority to execute this ZDA. Specifically, on behalf of the County, the signature of the Chair of the Board of County Commissioners for the County is affixed to this ZDA lawfully binding the County. This ZDA is approved as to form and is further certified as having been lawfully adopted by the County by the signature of the County Attorney.

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

MASTER DEVELOPER

Aspen Heights, LLC

By: Richard Crowley
Its: Manager

COUNTY

Weber County

By: James Harvey, Chair
Board of County Commissioners

Approved as to form and legality:

Chris Crockett, Deputy County Attorney

Attest:

Ricky Hatch, CPA, Clerk/Auditor

CLERK / AUDITOR OFFICIAL SEAL WEBER COUNTY, UTAH

DEVELOPER ACKNOWLEDGEMENT

STATE OF UTAH

COUNTY OF ~~WEBER~~ Davis

On the 27th day of March, 2024, personally appeared before me Richard Crowley who being duly sworn, did say that he is the Manager of Aspen Heights, LLC a Utah limited liability company, and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

NOTARY PUBLIC

DAN BADDLEY
NOTARY PUBLIC • STATE OF UTAH
COMMISSION NO. 718317
COMM. EXP. 5-24-2025

TABLE OF EXHIBITS

Exhibit "A"	**Legal Description of Property**
Exhibit "B"	**General Map of Legal Description**
Exhibit "C"	**Master Plan**

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

PART OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 6 NORTH,RANGE 2 WEST, SALT LAKE BASE & MERIDIAN, BEGINNING AT A POINTON THE WEST LINE OF 4700 WEST STREET, NORTH 89D05'23" WEST40.00 FEET AND NORTH 1D06'08" EAST 267.82 FEET (DEED 204.60),AND BEING ON AN OLD FENCE LINE KNOWN AS THE COMMON BOUNDARYLINE FROM THE SOUTH QUARTER CORNER OF SAID SECTION 17, RUNNINGTHENCE NORTH 89D01'38" WEST 1310.58 FEET ALONG SAID FENCE,THENCE NORTH 0D44'20" EAST 777.76 FEET TO AN EXISTING FENCE,KNOWN AS THE COMMON BOUNDARY LINE, THENCE SOUTH 88D56'48" EAST292.55 FEET ALONG FENCE, THENCE NORTH 1D09'05" EAST 242.66FEET ALONG SAID FENCE; THENCE SOUTH 89D09'36" EAST 688.92FEET; THENCE SOUTH 1D49'43" WEST 506.66 FEET TO AN EXISTINGFENCE KNOWN AS THE COMMON BOUNDARY LINE; THENCE SOUTH89D03'56" EAST 337.78 FEET ALONG SAID FENCE TO THE WEST LINEOF 4700 WEST STREET; THENCE SOUTH 1D06'08" WEST 515.29 FEETALONG SAID WEST LINE TO THE POINT OF BEGINNING.

EXHIBIT "B"

GENERAL MAP OF LEGAL DESCRIPTION

SW. 1/4

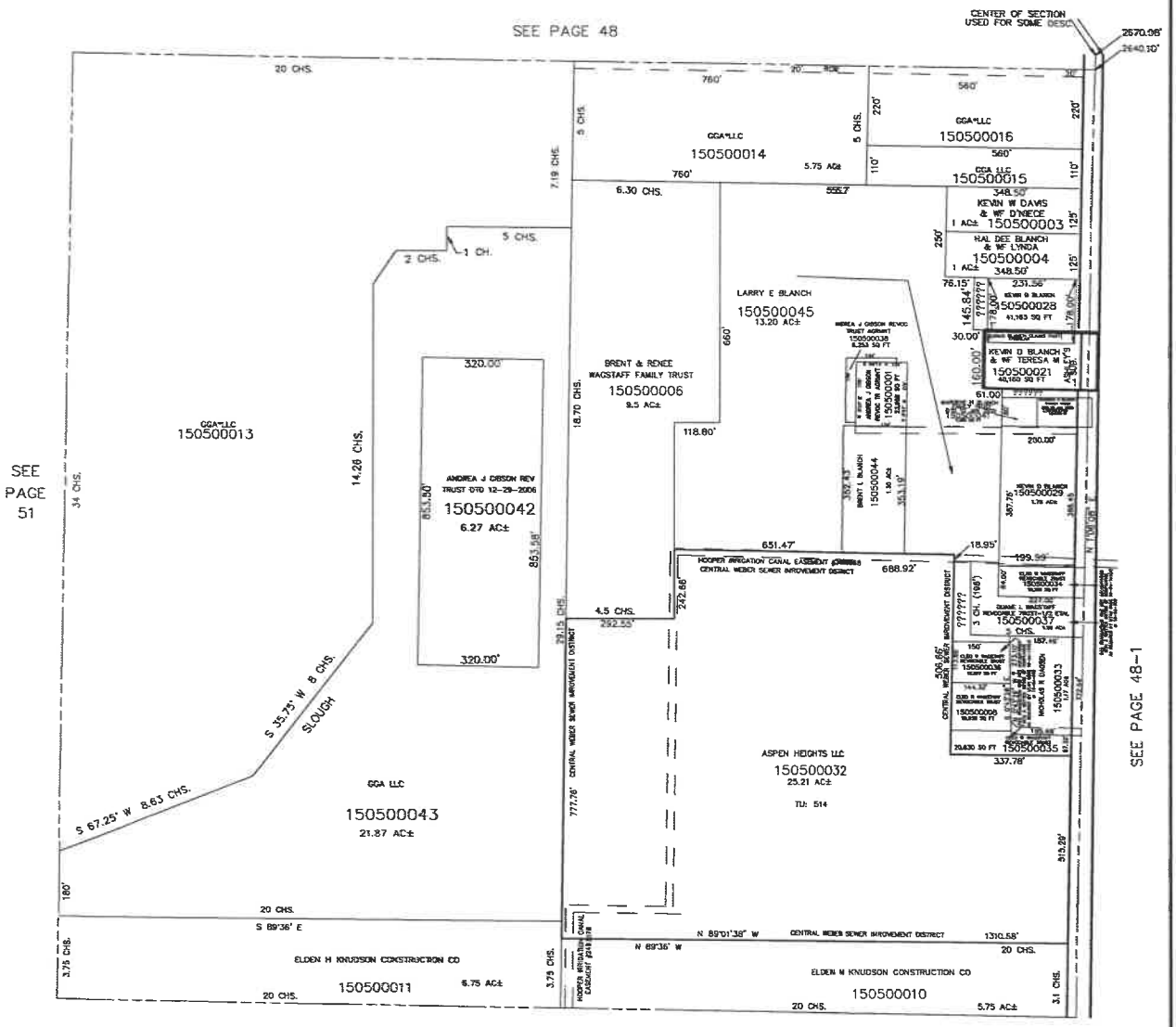
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SECTION 17, T.6N., R.2W., S.L.B. & M.

IN WEBER COUNTY

TAXING UNIT: 516, 514

SCALE 1" = 200'



15

FOR TAX PURPOSES ONLY

KBR 12-91

EXHIBIT "C"

CONCEPT DEVELOPMENT PLAN



80 0 80 160 240

Scale: 1" = 80'

Windmill West I

Weber County, Utah

THESE PLANS AND SPECIFICATIONS ARE THE PROPERTY OF REEVE & ASSOCIATES, INC., 5160 S. 1500 W., RIVERDALE, UTAH 84405, AND SHALL NOT BE PHOTOCOPIED, RE-DRAWN, OR USED ON ANY PROJECT OTHER THAN THE PROJECT SPECIFICALLY DESIGNED FOR, WITHOUT THEIR WRITTEN PERMISSION. THE OWNERS AND ENGINEERS OF REEVE & ASSOCIATES, INC. DISCLAIM ANY LIABILITY FOR ANY CHANGES OR MODIFICATIONS MADE TO THESE PLANS OR THE DESIGN THEREIN WITHOUT THEIR CONSENT.

Reeve & Associates, Inc. - Solutions You Can Build On

Reeve & Associates, Inc.

REVISIONS

DESCRIPTION	DATE

Windmill West I

PART OF THE SW 1/4 OF SECTION 17, T.6N., R.2W., S.L.B. & M., U.S. SURVEY
WEBER COUNTY, UTAH

Access Exhibit

Project Info.

Engineer: N. Reeve
Planner: C. Cave
Designer: E. Roche
Date: 2-5-24
Name: WINDMILL WEST I
Number: 7805-02

Sheet 3 of 3 Sheets