

DEVELOPMENT AGREEMENT

Between

WEBER COUNTY, UTAH (COUNTY)

and

STEWARD LAND HOLDINGS, LLC, (DEVELOPER)

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DEVELOPMENT AGREEMENT

Anselmi Acres

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between Weber County, Utah ("County") and STEWARD LAND HOLDINGS, LLC (known as "Developer") (County and Developer known herein as the "Parties.").

RECITALS

WHEREAS, The Developer desires and intends to develop a residential subdivision (the "Project") in the unincorporated area of Western Weber County. Key components of the Project include approximately thirty-seven (37) detached single-family residential dwellings;

WHEREAS, The Developer's objective is to develop approximately thirty-seven (37) single family lots that complement the character of the community and is financially successful;

WHEREAS, The County's objective is to approve only development that supports and advances the health, safety, and welfare of the community, as generally described in the general plan and as otherwise determined appropriate by the Board of County Commissioners;

WHEREAS, The Project is currently zoned A-1 and Developer desires to rezone the Project to the RE-15 zone consistent with the terms and provisions contained herein; and

WHEREAS, The Project will be located on land referred to herein as the "Project Site". The Project Site is as more specifically described in **Attachment A**: Project Area Legal Description and Graphic Depiction. A concept plan showing the general location and layout of the Project is contained in **Attachment B** Concept Plan.-

NOW, THEREFORE, in consideration of the recitals (which are incorporated into the Agreement by this reference) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Effective Date, Expiration, Termination.

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

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

1.1.2. The recordation of this Agreement; or

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

1.2. Expiration. This Agreement shall be in full force and effect until (10) years from the Effective Date of this Agreement, at which point this Agreement shall expire. After the expiration of this agreement, the development and use restrictions of Section 7 herein shall prevail as legislatively adopted land use restrictions. Typical legislative action shall be required to make changes thereto.

- 1.3. 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:
- 1.3.1.** The term of this Agreement expires;
 - 1.3.2.** The Project is abandoned or the use is discontinued, as provided for by Weber County Code Chapter 108-12; or
 - 1.3.3.** The Developer defaults on any provision of this Agreement and the default is not resolved as specified in Section 13 of this Agreement.

2. Definitions and Interpretation.

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 their ordinary and common meaning. When not inconsistent 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 be applicable to all genders whenever the sense 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

- 2.1. Adjacent Property.** "Adjacent Property" means that existing subdivisions located to the South of the Project.
- 2.2. Agreement.** "Agreement" means this Development Agreement between County and Developer, approved by the Board of County Commissioners, and executed by the undersigned.
- 2.3. Association.** "Association" shall have the meaning given to such term in Utah Code Ann. §57-8a-102(2).
- 2.4. County.** "County" means Weber County, Utah.
- 2.5. Developer.** "Developer" means STEWARD LAND HOLDINGS, LLC, or its Assignees as provided in Section 11 of this Agreement.
- 2.6. Effective Date.** "Effective Date" has the meaning set forth in Section 1 of this Agreement.
- 2.7. Force Majeure Event.** "Force Majeure Event" means any event beyond the reasonable control of the affected Party that directly prevents or delays the performance by such Party of any obligation arising under this Agreement, including an event that is within one or more of the following categories: condemnation; expropriation; invasion; plague; drought; landslide; tornado; hurricane; tsunami; flood; lightning; earthquake; fire; explosion; epidemic; pandemic; quarantine; war (declared or undeclared), terrorism or other armed conflict; material physical damage to the Project caused by third Parties; riot or similar civil disturbance or commotion; material or supply delay; other acts of God; acts of the public enemy; blockade; insurrection, riot or revolution; sabotage or vandalism; embargoes; and, actions of a governmental or judicial authority.
- 2.8. Parties.** "Parties" means the Developer and the County.
- 2.9. Project.** "Project" means The Basin subdivision as set forth in the Attachment B hereto.
- 2.10. Project Site.** "Project Site" means the land area on which the Project will actually be sited, as more specifically described in Attachment A: Project Area Legal Description and Graphic

Depiction.

- 2.11. **Routine and Uncontested.** "Routine and Uncontested" means simple and germane to the Project or Project Site, having very little chance of effect on the character of the area, and not anticipated to generate concern from the public.
- 2.12. **Substantial Completion.** "Substantial Completion" means the Project is constructed according to the plans and permits approved and issued by the County and in conformance with this Agreement.
- 2.13. **Transferee.** A party to which the Project is transferred or assigned in part or in whole. "Assignee" shall also mean the same.

3. Additional Requirements of Developer.

- 3.1. Developer shall agree to sign a document waiving the right to protest future annexation into any adjacent city. Said document shall be recorded on the deed and recorded at the same time of this Development Agreement.
- 3.2. Developer shall make a donation of \$2,000 per lot in the Subdivision to the Taylor West Weber Parks District. Alternatively, the Developer may provide park development services to the District that, at fair market value, is equal to the donation. This donation will help the District provide parks and recreational services to the Subdivision and surrounding communities.
- 3.3. Project shall include a 10' wide concrete or asphalt trail parallel to the street identified as 1600 South Street, running east and west through the Project, as shown in Attachment B.
- 3.4. Developer shall install street trees along all streets in the subdivision, at an interval so that the specific tree species' canopies touch at their maturity.

4. Project Description.

A subdivision consistent with the RE-15 zoning, consisting of approximately thirty-seven (37) detached single-family residential lots, the actual amount to be determined after survey level accurate plats are produced.

5. Project Location and Illustration.

The Project is as described herein, and illustrated in Attachment B.

6. Vesting.

- 6.1. To the maximum extent permitted under the laws of the County, the State of Utah, and the United States, the Parties hereto intend that this Agreement grants to Developer the right to develop and use the Project, as outlined in and subject to the requirements set forth in this Agreement, without modification or interference by the County (collectively, the "Vested Rights"). The Parties intend that the rights granted to Developer under this Agreement are contractual and also those rights that exist under statute, common law, and at equity. The Parties specifically intend that this Agreement grants to Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann.
- 6.2. The County shall not impose upon the Project (whether by initiative, or other means) any new ordinance (each a "New Law") that reduces or impacts the development rights provided by this Agreement or the Vested Rights. Without limiting the generality of the foregoing, any New Law

shall be deemed to conflict with this Agreement and / or the Vested Rights if it would accomplish any of the following results in a manner inconsistent with or more restrictive than applicable law, either by specific reference to the Project or as part of a general enactment that applies to or affects the Project: (i) change any land uses or permitted uses of the Project; (ii) limit or control the rate, timing, phasing or sequencing of the approval, development or construction of all or any part of the Project in any manner so long as all applicable requirements of this Agreement, and the applicable zoning ordinance are satisfied; or (iii) apply to the Project any New Law otherwise allowed by this Agreement that is not uniformly applied on a County-wide basis to all substantially similar types of development projects and project sites with similar zoning designations. Notwithstanding the foregoing, if Developer considers any New Law to be beneficial to the Project, this section does not require Developer to comply with the superseded ordinance, but rather in such cases, Developer may with County approval, which approval may not be unreasonably withheld, conditioned, or delayed, elect to request that the New Law apply to the Project.

- 6.3. The Developer acknowledges that the County is restricted in its authority to limit its police power 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 of the police powers, such legislation shall not modify the Developer's vested right as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in Section 17-27a-509.5 of the County Land Use, Development, and Management Act, as adopted on the Effective Date, *Western Land Equities, Inc. v. County of Logan*, 617 P.2d 388 (Utah 1980), its progeny, or any other exception to the doctrine of vested rights recognized under State or Federal laws.
- 6.4. The parties mutually acknowledge that any use lawfully established under vested laws and this Agreement replaces and supersedes any previously approved development agreements pertaining to or recorded against the Property and Project.
- 6.5. No part of this Agreement shall be interpreted to modify, waive, or supersede any part of Weber County Code except where more specifically provided herein.

7. Development and Use Restrictions.

- 7.1. **Use of Property.** The use of the Project shall be limited to any lawful use allowed within the RE-15 zone, except that uses that require one-half acre of land or more shall not be permitted. The RE-15 zoning will govern the lot development standards, except as otherwise permitted by this agreement. The concept plan shall govern the lot sizes and widths.
- 7.2. **Setbacks.** The minimum yard setbacks of the RE-15 zone will apply, except the side yard setback for a dwelling shall be eight feet.
- 7.3. **Building Height.** The main building height and accessory building height of the RE-15 zone shall apply.

8. Amendments and Revisions.

This Agreement may be amended by mutual agreement of the Parties only if the amendment is in writing and approved and signed by Developer and County (an "Amendment"). The following sections specify what Project changes can be undertaken without the need for amendment of the Development Agreement, and what changes require Amendment to this Agreement.

- 8.1. **Project Facility Repair, Maintenance and Replacement.** Developer shall be permitted to

repair, maintain and replace the Project and its components consistent with the terms of this Agreement, and County Laws without amending the Agreement.

8.2. Authorized Changes, Enlargements, or Alterations. As set forth below, County staff may review and approve certain minor changes, enlargements or adjustments ("Changes") to the Project in their respective administrative capacities. The following types of Changes are considered minor, provided that no such Changes shall directly or indirectly result in significantly greater impacts than those contemplated in the approval of this Agreement.

8.2.1. Changes Necessary to Comply with Other Laws. Any resulting changes as a consequence of obtaining or complying with a federal, state, or local permit or approval; provided that the changes are routine and uncontested and the application thereof does not materially affect the County's original intent, findings, or conditions on the Project in a manner that would have likely resulted in a different decision on this Agreement, as determined by the Planning Director.

8.2.2. De Minimis Changes. Other de minimis changes requested by the Developer, which are reasonably consistent with the intent of this agreement and the RE-15 zone, and are routine and uncontested.

9. OMITTED

10. OMITTED

11. General Provisions.

11.1. Assignability. The rights and responsibilities of Developer under this Agreement may be assigned as provided herein.

11.1.1. Total Assignment of Project and Project Site. The Developer, as the landowner of the entire Project Site at the time of the execution of this Agreement, may sell, convey, reassign, or transfer the entire Project Site or Project to another entity at any time.

11.2. Binding Effect. This Agreement shall be binding upon the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns, devisees, administrators, representatives, lessees and all other persons or entities acquiring all or any portion of the Project, any lot, parcel or any portion thereof within the Project Site, or any interest therein, whether by sale, operation of law, devise, or in any manner whatsoever.

11.3. Utah Law. This Agreement is entered into under the laws of the State of Utah, and the Parties hereto intend that Utah law shall apply to the interpretation hereof.

11.4. Authority. Each Party represents and warrants that it has the respective power and authority, and is duly authorized, to enter into this Agreement on the terms and conditions herein stated, and to execute, deliver and perform its obligations under this Agreement.

11.5. Duty to Act Reasonably and in Good Faith. Unless otherwise expressly provided, each Party shall act reasonably in giving consent, approval, or taking any other action under this Agreement. The Parties agree that each of them shall at all times act in good faith in order to carry out the terms of this Agreement and each of them covenants that it will not at any time voluntarily engage in any actions which frustrate the purpose and intent of the Parties to develop the Project in conformity with the terms and conditions specified in this Agreement.

11.6. Communication and Coordination. The Parties understand and agree that the process

described in this Agreement depends upon timely and open communication and cooperation between the Parties. The Parties agree to use best efforts to communicate regarding issues, changes, or problems that arise in the performance of the rights, duties and obligations hereunder as early as possible in the process, and not wait for explicit due dates or deadlines. Each Party agrees to work cooperatively and in good faith toward resolution of any such issues.

- 11.7. Force Majeure Event.** A Force Majeure Event shall be promptly addressed by Developer. County agrees to offer a reasonable period for Developer to cure the effect of the event given the extent of the effect on the Project and the Developer's ability to redress the effect.

12. Notices.

- 12.1. Written Notice.** Any notice, demand, or other communication ("Notice") given under this Agreement shall be in writing and given personally or by registered or certified mail (return receipt requested). A courtesy copy of the Notice may be sent by facsimile transmission or email.
- 12.2. Addresses.** Notices shall be given to the Parties at their addresses set forth as follows:

If to the County:

Weber County Commission
2380 Washington Blvd, Ste #360
Ogden, UT 84401

With copies to:

Weber County Attorney
2380 Washington Blvd, Ste. #230
Ogden, UT 84401

Weber County Planning Director
2380 Washington Blvd, Ste. #240
Ogden, UT 84401

If to Developer:

Steward Land Holdings, LLC
1708 E 5550 S, STE 18
South Ogden, UT 84403

- 12.3. Notice Effect.** Notice by hand delivery shall be effective upon receipt. If deposited in the mail, notice shall be deemed delivered forty-eight (48) hours after deposited. Any Party at any time by Notice to the other Party may designate a different address or person to which such notice or communication shall be given.

13. Default and Remedies.

- 13.1. Failure to Perform Period.** No Party shall be in default under this Agreement unless it has failed to perform as required under this Agreement for a period of thirty (30) days after written

notice of default from the other Party. Each notice of default shall specify the nature of the alleged default and the manner in which the default may be cured satisfactorily. If the nature of the alleged default is such that it cannot be reasonably cured within the thirty (30) day period, then commencement of the cure within such time period and the diligent prosecution to completion of the cure shall be deemed a cure of the alleged default.

13.2. Remedies. The Developer's failure to comply with this agreement constitutes a violation of the Land Use Code of Weber County, and is subject to the enforcement provisions and remedies thereof. In addition, the County may withhold any permits from the Project.

13.3. Dispute Resolution Process.

13.3.1. Conference. In the event of any dispute relating to this Agreement, the Parties, upon the request of either Party, shall meet within seven (7) calendar days to confer and seek to resolve the dispute ("Conference"). The Conference shall be attended by the following parties: (a) the County shall send department director(s) and County employees and contractors with information relating to the dispute, and (b) Developer shall send Developer's representative and any consultant(s) with technical information or expertise related to the dispute. The Parties shall, in good faith, endeavor to resolve their disputes through the Conference.

13.3.2. Mediation. If this Conference process does not resolve the dispute within the 7-day Conference period, the Parties shall in good faith submit the matter to mediation. The Parties shall send the same types of representatives to mediation as specified for the "Conference" process. Additionally, the Parties shall have representatives present at the mediation with full authority to make a settlement within the range of terms being discussed, should settlement be deemed prudent. The mediation shall take place within forty-five (45) days of the Parties submitting the dispute to mediation. If the dispute is not able to be resolved through the mediation process in the 45-day period, the Parties may pursue their legal remedies in accordance with Utah and local law.

14. Entire Agreement.

This Agreement, together with all Attachments hereto, constitutes the entire Agreement between the Parties with respect to the subject matter of this Agreement. This agreement is specifically intended by the Parties to supersede all prior agreements between them or recorded to the property, whether written or oral.

15. Counterparts.

This Agreement may be executed in several counterparts and all so executed shall constitute one agreement binding on all the Parties, notwithstanding that each of the Parties are not signatory to the original or the same counterpart. Further, executed copies of this Agreement delivered by facsimile or by e-mail shall be deemed originally signed copies of this Agreement.

IN WITNESS HEREOF, the Parties hereto, having been duly authorized, have executed this Agreement.

(Signatures on following pages)

SIGNATORIES

“County”

Weber County, a body corporate and politic of the State of Utah

By: _____

Weber County Commission

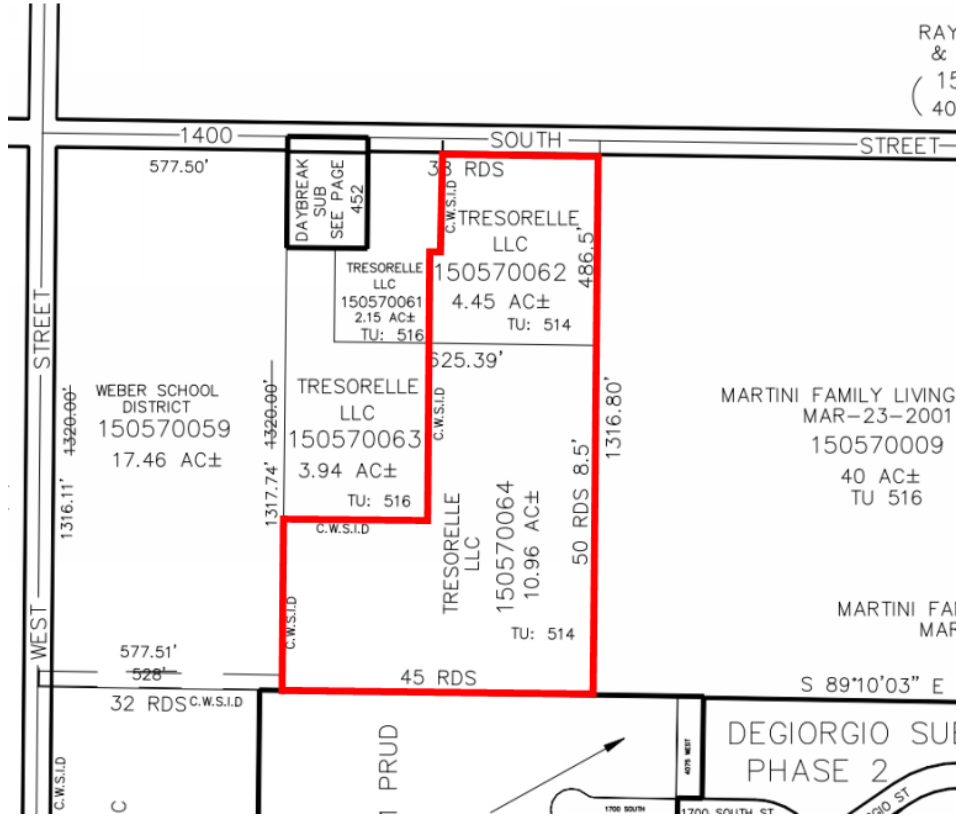
DATE: _____

ATTEST: _____

Ricky D. Hatch, CPA
Weber County Clerk/Auditor

Attachment A

Project Area Legal Description and Graphic Depiction



Attachment A

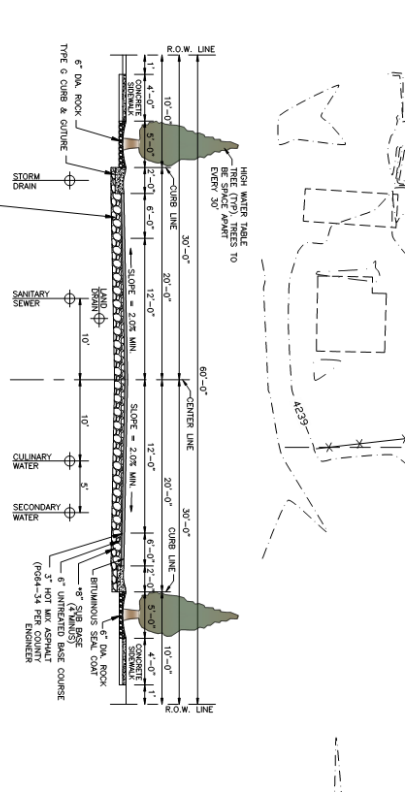
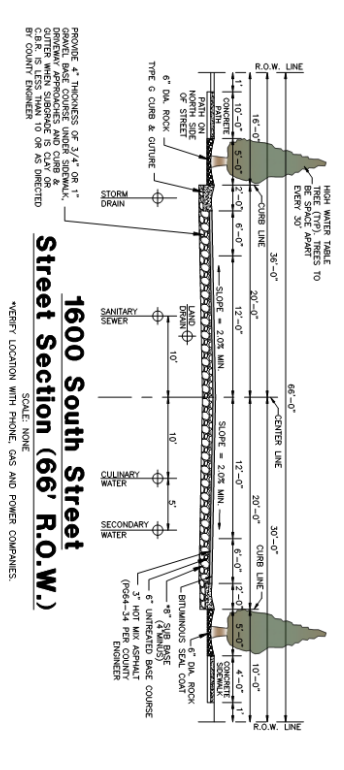
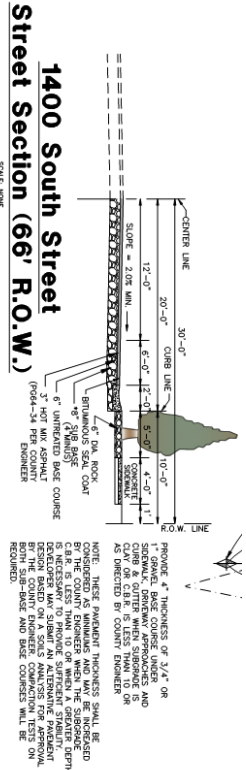
Project Area Legal Description and Graphic Depiction

THAT PORTION LYING WITHIN THE CENTRAL WEBER SEWER IMPROVEMENTDISTRICT DESCRIBED AS FOLLOWS: PART OF THE NORTHWEST QUARTEROF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 6 NORTH,RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY:BEGINNING AT A POINT 38 RODS WEST FROM THE NORTHEAST CORNER OFSAID NORTHWEST QUARTER OF SAID SOUTHWEST QUARTER; RUNNINGTHENCE WEST 7 RODS; THENCE SOUTH 80 RODS; THENCE EAST 45 RODS;THENCE NORTH 50 RODS, 8.5 FEET; THENCE WEST 38 RODS, THENCENORTH 29 RODS 8 FEET TO THE POINT OF BEGINNING. EXCEPTING THEREFROM DAYBREAK SUBDIVISION [NOTE: BECAUSE THE DESCRIPTION OF RECORD DID NOT CONTAINAN AREA FOR THIS PARCEL THE AREA FOR THIS PARCEL WASCALCULATED BY THIS OFFICE FOR TAX PURPOSES]

Together with

THAT PORTION LYING WITHIN THE CENTRAL WEBER SEWER IMPROVEMENTDISTRICT DESCRIBED AS FOLLOWS: PART OF THE NORTHWEST QUARTEROF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 6 NORTH,RANGE 2 WEST, SALT LAKE MERIDIAN, U.S. SURVEY: BEGINNING ATTHE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAIDSOUTHWEST QUARTER; THENCE WEST 38 RODS; THENCE SOUTH 486.5FEET; THENCE EAST 38 RODS THENCE NORTH 486.5 FEET TO THE PLACEOF BEGINNING. EXCEPTING THEREFROM DAY BREAK SUBDIVISION [NOTE: BECAUSE THE DESCRIPTION OF RECORD DID NOT CONTAINAN AREA FOR THIS PARCEL THE AREA FOR THIS PARCEL WASCALCULATED BY THIS OFFICE FOR TAX PURPOSES]

Attachment B
Concept Plan



Anselmi Acres Subdivisic

Weber County, Utah