



ENT 122781:2019 PG 1 of 26
 JEFFERY SMITH
 UTAH COUNTY RECORDER
 2019 Nov 21 3:10 pm FEE 40.00 BY MA
 RECORDED FOR SARATOGA SPRINGS CITY

WHEN RECORDED RETURN TO:

Saratoga Springs City Recorder
 1307 N. Commerce Drive, Suite 200
 Saratoga Springs, UT 84045

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into on _____, 20__, by and between the City of Saratoga Springs, Utah, a Utah municipal corporation (the "City"); Saratoga HC, LLC, a Utah limited liability company ("SHC"); Saratoga HC II, LLC, a Utah limited liability company (SHC II); Scott McLachlan, an individual ("McLachlan"); and Central Bank, a Utah bank ("CB"). SHC, SHC II, McLachlan and CB are collectively referred to herein as the "Owners."

RECITALS:

WHEREAS, Owners hold title to a total of approximately 28.27 acres of land located in the City of Saratoga Springs, Utah, which land is more fully described in the property ownership schedule, proposed plat, and/or legal descriptions attached collectively as Exhibit A (the "Property"). The Owners intend to develop each of their respective parcels of the Property into a project known as Riverside Crossing (the "Project").

WHEREAS, the parcel owned by SHC comprising approximately 3.24 acres (identified as Lot 1 in Exhibit "A" hereto) will be developed into an office building (the "SHC Property"). The SHC Property is currently zoned Mixed Use (MU), but the proposed office building does not meet the MU zone requirements and therefore would not be allowed in the MU zone. Thus, in order to develop the Project, SHC wishes to place Lot 1 of the SHC Property in the Business Park (BP) zone.

WHEREAS, the parcel owned by SHC II comprising approximately 1.81 acres (identified as Lot 2 in Exhibit "A" hereto) will be developed into an office building (the "SHC II Property"). The SHC II Property is currently zoned Mixed Use (MU), but the proposed office building does not meet the MU zone requirements and therefore would not be allowed in the MU zone. Thus, in order to develop the Project, SHC II wishes to place Lot 2 of the Property into the Community Commercial (CC) zone.

WHEREAS, McLachlan owns the parcel(s) identified in Exhibit "A" hereto as Lots 3 through 7, and 10 through 14 (collectively, the "McLachlan Property"), which land is currently zoned Mixed Use (MU). McLachlan desires to place Lots 3 through 6 in the Community

Commercial (CC) zone.

WHEREAS, McLachlan also owns the parcel identified as Tax Serial No. 58:035:0097 (the “Remnant Parcel”), comprised of 7.29 acres, which is currently zoned Mixed Use (MU) and is not the subject of any rezoning requests or development applications, but will contain trail improvements as required by the City.

WHEREAS, CB owns the parcel identified in Exhibit “A” hereto as Lot 9 (the “CB Property”), which is currently zoned Mixed Use (MU).

WHEREAS, the rezoning requests of the Owners, as identified in the preceding paragraphs, are collectively referred to herein as the “Zoning Requests.” Owners wish to be voluntarily bound by this Agreement in order to be able to develop the Project as proposed.

WHEREAS, City desires to enter into this Agreement to promote the health, welfare, safety, convenience, and economic prosperity of the inhabitants of the City through the establishment and administration of conditions and regulations concerning the use and development of the Property.

WHEREAS, City desires to enter into this Agreement because the Agreement establishes planning principles, standards, and procedures to eliminate uncertainty in planning and guide the orderly development of the Property consistent with the City General Plan, the City Code, and the conditions imposed by the Planning Commission and City Council.

WHEREAS, to assist City in its review of the Rezoning Requests and to ensure development of the Project in accordance with Owners’ representations to City, Owners and City desire to enter voluntarily into this Agreement, which sets forth the process and standards whereby Owners may develop the Project.

WHEREAS, on July 18, 2017, the City adopted a comprehensive update to its general plan (“General Plan”) pursuant to Utah Code Annotated §§ 10-9a-401, et seq. A portion of the General Plan establishes development policies for the Property. Such development policies are consistent with the proposed Project.

WHEREAS, on April 11, 2019, after a duly noticed public hearing, City’s Planning Commission recommended approval of the Owners’ Zoning Requests and reviewed the conceptual project plans, attached hereto as Exhibit D (“Concept Plan”), and forwarded the application to the City Council for its consideration, subject to the findings and conditions contained in the Staff Report, and written minutes attached hereto as Exhibit B; and

WHEREAS, on July 2, 2019, the Saratoga Springs City Council (“City Council”), after holding a duly noticed public meeting and consideration of all comments from the public, neighborhood representatives, Owners, and City officials, approved the Owners’ Zoning

Requests, this Agreement, and reviewed the conceptual project plans, attached hereto as Exhibit D, subject to the findings and conditions contained in the Staff Report and written minutes attached hereto as Exhibit C; and

WHEREAS, the Concept Plan, attached as Exhibit D, among other things, identifies land uses and some of the required road, landscaping, trail, storm drain, sewer, and water improvements of the Project; and

WHEREAS, to allow development of the Property for the benefit of Owners, to ensure City that the development of the Property will conform to applicable policies set forth in the General Plan, and to address concerns of property owners in proximity to the Property, Owners and City are each willing to abide by the terms and conditions set forth herein; and

WHEREAS, pursuant to its legislative authority under Utah Code Annotated § 10-9a-101, et seq., and after all required public notice and hearings and execution of this Agreement by Owners, the City Council, in exercising its legislative discretion, has determined that entering into this Agreement furthers the purposes of the Utah Municipal Land Use, Development, and Management Act, City's General Plan, and Title 19 of the City code (collectively, the "Public Purposes"). As a result of such determination, City has elected to process the Rezoning Request and authorize the subsequent development thereunder in accordance with the provisions of this Agreement, and City has concluded that the terms and conditions set forth in this Agreement accomplish the Public Purposes referenced above and promote the health, safety, prosperity, security, and general welfare of the residents and taxpayers of City.

AGREEMENT:

Now, therefore, in consideration of the recitals above and the terms and conditions set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Owners hereby agree as follows:

1. Effective Date. This Agreement shall become effective on the date it is executed by Owners and City (the "Effective Date"). The Effective Date shall be inserted in the introductory paragraph preceding the Recitals.
2. Affected Property. The property ownership map and/or legal descriptions for the Property are attached as Exhibit A. In the event of a conflict between the legal description and the property ownership map, the legal description shall take precedence. No other property may be added to or removed from this Agreement except by written amendment to this Agreement executed and approved by Owners and City.
3. Zone Change, Permitted Uses, and City Regulations. Subject to the terms of this Agreement, the future development of the Property shall be subject to the provisions of the BP and CC zones as itemized (by Owner and Lot number) in the materials attached

hereto as Exhibit "A." Except to the extent this Agreement is more restrictive, the Property shall comply with all "City Regulations," which is defined as "all City ordinances, regulations, specifications, and standards in effect at the time a complete preliminary plat, site plan, or development plan application is filed and all application fees are paid. City Regulations may include but are not limited to regulations regarding permitted uses, conditional uses, setbacks, frontage, height, access, required improvements, landscaping, and architectural and design requirements."

4. Reserved Legislative Powers. Nothing in this Agreement shall limit the future exercise of the police powers of City in enacting additional City Regulations, zoning, subdivision, development, growth management, platting, environmental, open space, transportation, and other land use plans, policies, ordinances, and regulations after the date of this Agreement. Notwithstanding the retained power of City to enact such legislation under its police power, such legislation shall not modify Owners' rights as set forth herein unless facts and circumstances are present that meet the compelling, countervailing public interest exception to the vested rights doctrine as set forth in *Western Land Equities, Inc. v. City of Logan*, 617 P.2d 388 (Utah 1988), or successor case law or statute. Any such proposed change affecting Owners' rights shall be of general applicability to all development activity in City. Unless City declares an emergency, Owners 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.

5. Required Improvements. This Agreement does not in any way convey to Owners any capacity in any City system or infrastructure or the ability to develop the Property without the need for Owners to install and dedicate to the City all required improvements necessary to service the Property, including without limitation the dedication of water rights and sources. Owners shall be responsible for paying all property taxes, including rollback taxes, prior to dedication or conveyance and prior to acceptance by City. Future development of the Property shall comply in all respects to all City Regulations with respect to the required infrastructure to service the Property, including but not limited to the installation of the City's minimum-sized infrastructure, whether or not the minimum size may have additional capacity. In addition, in consideration of granting the Zoning Request, Owners may be required to upsize certain infrastructure, as specified below. Not by way of limitation, the Owners shall be required to install and dedicate the following:
 - a. **Water Rights and Sources.** Owners shall convey to the City water rights and sources sufficient for the development of the Property according to City Regulations. The City may, but is not required to, sell to Owners water rights if the City has sufficient water rights and sources.

 - b. **Water Facilities for Development.** At the time of plat recordation or site plan approval, Owners shall be responsible for the installation and dedication to City of all onsite and offsite culinary and secondary water improvements, including but

not limited to storage, distribution, treatment, and fire flow facilities sufficient for the development of the Property in accordance with City Regulations. The required improvements for each plat shall be determined by the City and may be adjusted in accordance with City Regulations and any applicable law.

- c. **Sewer, Storm Drainage, and Roads.** At the time of plat recordation or site plan approval, Owners shall be responsible for the installation and dedication to City of all onsite and offsite sewer, storm drainage, and road improvements sufficient for the development of the Property in accordance with City Regulations. The required improvements for each plat or site plan shall be determined by the City Engineer at the time of plat or site plan submittal and may be adjusted in accordance with City Regulations and any applicable law.
- d. **Landscaping/Open Space and Trail Improvements.** As an express condition of this Agreement and the City's approval of the Zoning Requests, Owners shall be required to install and improve the landscaping, open space, and trail surface improvements along the Jordan River (collectively, the "Trail Improvements") as more fully specified in Exhibit E. This shall be in addition to and not in lieu of all required landscaping/open space improvements according to City Regulations. Owners shall be required to pay all impact fees and shall not be entitled to any credits or reimbursements for the installation, improvement, and dedication of the Trail Improvements. Owners and their successors in interest shall maintain the Trail Improvements in perpetuity including repairing and replacing the vegetation and trail surface, repairing and replacing all necessary infrastructure and improvements, and providing snow removal to ensure that the public is able to safely use and access the trails at all times. Owners shall also be responsible for installing landscaping of any unimproved areas between Owners' property and the pavement surface of Redwood Road and the Owners and their successors in interest shall be responsible for maintaining and replacing such areas in perpetuity.

The Jordan River trail improvements shall be developed proportionately when any Owner develops. The Owner of the underlying property shall cooperate in granting construction easements to the developing Owner and shall grant, at no cost, perpetual easements to the City for public access and maintenance (in the event of default by the underlying property owner).

- e. **Culinary Water Pipeline.** As an express condition of this Agreement and the City's approval of the Zoning Requests, Owners shall be required, at Owners' sole cost, to create a 20-foot-wide City utility easement on the south boundary of the property, relocate the existing culinary water pipeline to it, as shown on Exhibit F, and bring it up to grade in accordance with City Standards.

- f. **Separate Obligations.** Each of the Owners shall be responsible only for the development obligations and improvements located on its respective parcels/portion of the Property under this Agreement, not for the obligations or improvements on the other Owners' parcels or lots. Owners disclose that they have entered into, or will enter into, their own separate improvement and cost-sharing agreement regarding their respective obligations with each other for the development and improvement of the Project, except that the Jordan River trail improvements shall be developed proportionately when any Owner develops per the requirements of subparagraph 5.d. Pursuant to said improvement and cost-sharing agreement, as described in subsection 5(h) below, McLachlan is responsible for all costs and expenses relating to the design, construction, and improvement of the CB Property.
- g. **Central Bank; Lot 9.** Notwithstanding any other provision to the contrary in this Agreement, Central Bank has no responsibility or obligation, implied or otherwise, for the development or improvement of any part of the Project (i.e., the 28.27 acres known as the Riverside Crossing Subdivision). Instead, Central Bank's only responsibility is for the design, vertical construction, site improvement, and landscaping on the CB Property (i.e., lot 9). McLachlan shall be responsible to pay all costs and expenses relating to the design and construction of the horizontal improvements for the CB Property. SHC is not responsible for any costs or expenses relating to the design, construction or improvements of the CB Property. Accordingly, in the event of any default by the Owners of their obligations under this Agreement, the City shall not enforce any duties or obligations on Central Bank except for Central Bank's obligations regarding the vertical construction of its building on the CB Property (and the related site improvements and landscaping on the CB Property only).
6. Final Project/Plat or Development Plan Approval. Each Owner, for its respective parcel(s)/lot(s), shall cause final plat and final project plans and specifications (including but not limited to site and building design plans) (the "Plans") to be prepared for the Project meeting City Regulations, this Agreement, including all exhibits, and any conditions of approval as specified in Exhibits B and C. In determining whether the Plans meet all requirements, Owners shall provide all information required by City Regulations, as well as any information which City staff reasonably requests.
7. Standards for Approval. The City shall approve the Plans if such Plans meet the requirements of this Agreement and City Regulations. Each Owner, for its respective parcel(s)/lot(s), shall be required to proceed through the Preliminary Plat, Final Plat, and Site Plan approval process as specified by City Regulations to record a Final Plat with the Utah County Recorder and pay all recording fees.
8. System Improvements. Owners reserve the right to seek reimbursement for the

reasonable costs of “system improvements” (as defined under Utah law) installed and paid for by Owner(s) under the direction of the City that are not otherwise addressed in this Agreement.

9. Term. The term of this Agreement shall commence on the effective date of this Agreement and shall continue for a period of ten (10) years. However, this Agreement may terminate earlier: (i) when certificates of occupancy have been issued for all buildings and/or dwelling units in the Project; provided, however, that any covenant included in this Agreement which is intended to run with the land shall survive this Agreement; or (ii) if Owners fails to proceed with the Project within a period of two years. If this Agreement is terminated due to Owners’ failure to proceed with the Project, then this Agreement and the zoning on the Property shall revert to the MU Zone. Unless otherwise agreed to by City and Owners, Owners’ vested interests and rights contained in this Agreement expire at the end of the Term, or upon termination of this Agreement approved by City and Owners in writing. However, this Agreement shall continue for perpetuity for any portions of the property contained in a final plat approved by City Council and recorded on the property in the county recorder’s office by Owners, unless City and Owners mutually agree otherwise in writing.

10. Successors and Assigns.
 - a. Change in Owners. This Agreement shall be binding on the successors and assigns of Owners. If the Property is transferred (“Transfer”) to a third party (“Transferee”), Owners and the Transferee shall be jointly and severally liable for the performance of each of the obligations contained in this Agreement unless, prior to such Transfer, Owners provides to City a letter from Transferee acknowledging the existence of this Agreement and agreeing to be bound thereby. Said letter shall be signed by the Transferee, notarized, and delivered to City prior to the Transfer. Upon execution of the letter described above, the Transferee shall be substituted as Owners under this Agreement and the persons and/or entities executing this Agreement as Owners shall be released from any further obligations under this Agreement as to the transferred Property.

 - b. Individual Lot or Unit Sales. Notwithstanding the provisions of Subparagraph 10.a., a transfer by Owners of a lot or unit located on the Property within a City approved and recorded plat shall not be deemed a Transfer as set forth above so long as Owners’ obligations with respect to such lot or dwelling unit have been completed. In such event, Owners shall be released from any further obligations under this Agreement pertaining to such lot or dwelling unit.

11. Default.
 - a. Events of Default. Upon the happening of one or more of the following events or

conditions the defaulting Owner or City, as applicable, shall be in default (“Default”) under this Agreement:

- i. a warranty, representation, or statement made or furnished by Owners under this Agreement is intentionally false or misleading in any material respect when it was made;
- ii. a determination by City made upon the basis of substantial evidence that Owners has not complied in good faith with one or more of the material terms or conditions of this Agreement;
- iii. any other event, condition, act, or omission, either by City or Owners that violates the terms of, or materially interferes with the intent and objectives of this Agreement.

For clarification, no Owner will be held responsible for the default or breach by a different Owner under this Agreement. Each Owner is responsible only for the performance of the obligations under this Agreement relating to that Owner’s parcel(s)/lot(s), except for the Jordan River trail improvements per subparagraph 5.d. above.

b. Procedure Upon Default.

- i. Upon the occurrence of Default, the non-defaulting party shall give the other party thirty days written notice specifying the nature of the alleged Default and, when appropriate, the manner in which said Default must be satisfactorily cured. In the event the Default cannot reasonably be cured within thirty days, the defaulting party shall have such additional time as may be necessary to cure such Default so long as the defaulting party takes significant action to begin curing such Default with such thirty day period and thereafter proceeds diligently to cure the Default. After proper notice and expiration of said thirty day or other appropriate cure period without cure, the non-defaulting party may declare the other party to be in breach of this Agreement and may take the action specified in Paragraph 11.c. herein. Failure or delay in giving notice of Default shall not constitute a waiver of any Default.
- ii. Any Default or inability to cure a Default caused by strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other similar causes beyond the reasonable control of the party obligated to perform, shall excuse the performance by such party for a period equal to the period during which any such event prevented, delayed, or stopped any required performance

or effort to cure a Default.

- c. Breach of Agreement. Upon Default as set forth in Subparagraphs 11.a. and 11.b. above, City may declare Owners to be in breach of this Agreement and City: (i) may withhold approval of any or all building permits or certificates of occupancy applied for in the Project, but not yet issued; and (ii) shall be under no obligation to approve or to issue any additional building permits or certificates of occupancy for any building within the Project until the breach has been corrected by Owners. In addition to such remedies, City or Owners may pursue whatever additional remedies it may have at law or in equity, including injunctive and other equitable relief.
12. Entire Agreement. This Agreement shall supersede all prior agreements with respect to the subject matter hereof, not incorporated herein, and all prior agreements and understandings are merged, integrated, and superseded by this Agreement. The following exhibits are attached to this Agreement and incorporated herein for all purposes:
- Exhibit A:** Property Ownership map, proposed subdivision plat (showing lot numbers), and/or Legal Descriptions
 - Exhibit B:** Staff Report with Adopted Planning Commission Findings and Conditions of Approval, Report of Action (if applicable) and Planning Commission Written Minutes
 - Exhibit C:** Staff Report with Adopted City Council Findings and Conditions of Approval, Report of Action (if applicable), and City Council Written Minutes
 - Exhibit D:** Concept Plan, General Plan and Zone Change
 - Exhibit E:** Required Trail Improvements
 - Exhibit F:** Culinary Waterline Relocation
13. General Terms and Conditions.
- a. Incorporation of Recitals. 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.
 - b. Recording of Agreement. This Agreement shall be recorded at Owners' expense to put prospective purchasers or other interested parties on notice as to the terms and provisions hereof.

- c. Severability. Each and every provision of this Agreement shall be separate, several, and distinct from each other provision hereof, and the invalidity, unenforceability, or illegality of any such provision shall not affect the enforceability of any other provision hereof.
- d. Time of Performance. Time shall be of the essence with respect to the duties imposed on the parties under this Agreement. Unless a time limit is specified for the performance of such duties, each party shall commence and perform its duties in a diligent manner in order to complete the same as soon as reasonably practicable.
- e. Construction of Agreement. This Agreement shall be construed so as to effectuate its public purpose of ensuring the Property is developed as set forth herein to protect health, safety, and welfare of the citizens of City.
- f. State and Federal Law: Invalidity. The parties agree, intend, and understand that the obligations imposed by this Agreement are only such as are consistent with state and federal law. The parties further agree that if any provision of this Agreement becomes, in its performance, inconsistent with state or federal law or is declared invalid, this Agreement shall be deemed amended to the extent necessary to make it consistent with state or federal law, as the case may be, and the balance of the Agreement shall remain in full force and effect. If City's approval of the Project is held invalid by a court of competent jurisdiction this Agreement shall be null and void.
- g. Enforcement. The parties to this Agreement recognize that City has the right to enforce its rules, policies, regulations, ordinances, and the terms of this Agreement by seeking an injunction to compel compliance. In the event any of the Owners violate the rules, policies, regulations, or ordinances of City or violates the terms of this Agreement, City may, without declaring a Default hereunder or electing to seek an injunction, and after thirty (30) days written notice to correct the violation (or such longer period as may be established in the discretion of City or a court of competent jurisdiction if the subject Owner(s) has used its reasonable best efforts to cure such violation within such thirty days and is continuing to use its reasonable best efforts to cure such violation), take such actions as shall be deemed appropriate under law until such conditions have been rectified by the subject Owner. City shall be free from any liability arising out of the exercise of its rights under this paragraph.
- h. No Waiver. Failure of a 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 time said right or any other right it may have hereunder. Unless this Agreement is amended by vote of the City Council taken with the

same formality as the vote approving this Agreement, no officer, official, or agent of City has the power to amend, modify, or alter this Agreement or waive any of its conditions as to bind City by making any promise or representation not contained herein.

- i. Amendment of Agreement. This Agreement shall not be modified or amended except in written form mutually agreed to and signed by each of the parties. No change shall be made to any provision of this Agreement unless this Agreement is amended pursuant to a vote of the City Council taken with the same formality as the vote approving this Agreement.
- j. Attorney Fees. Should any party hereto employ an attorney for the purpose of enforcing this Agreement or any judgment based on this Agreement, for any reason or in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief or other litigation, including appeals or rehearings, and whether or not an action has actually commenced, the prevailing party shall be entitled to receive from the other party thereto reimbursement for all attorneys' fees and all costs and expenses. Should any judgment or final order be issued in any proceeding, said reimbursement shall be specified therein.
- k. Notices. Any notices required or permitted to be given pursuant to this Agreement shall be deemed to have been sufficiently given or served for all purposes when presented personally, or four days after being sent by registered or certified mail, properly addressed to the parties as follows (or to such other address as the receiving party shall have notified the sending party in accordance with the provisions hereof):

To the Owners:

Saratoga HC, LLC
Attn: Chas Johnson
9544 S Willow Trail Way
South Jordan, UT 84095

Saratoga HC II, LLC
Attn: Chas Johnson
9544 S Willow Trail Way
South Jordan, UT 84095
Scott McLachlan

Central Bank

To the City:

City Manager
City of Saratoga Springs
1307 N. Commerce Drive, Suite 200
Saratoga Springs, UT 84045

- l. Applicable Law. This Agreement and the construction thereof, and the rights, remedies, duties, and obligations of the parties which arise hereunder are to be construed and enforced in accordance with the laws of the State of Utah.
- m. Execution of Agreement. This Agreement may be executed in multiple parts as originals or by facsimile copies of executed originals; provided, however, if executed and evidence of execution is made by facsimile copy, then an original shall be provided to the other party within seven days of receipt of said facsimile copy.
- n. Hold Harmless and Indemnification. Owners agrees to defend, indemnify, and hold harmless City and its elected officials, officers, agents, employees, consultants, special counsel, and representatives from liability for claims, damages, just compensation restitution, inverse condemnation, or any judicial or equitable relief which may arise from or are related to any activity connected with the Project, including approval of the Project, the direct or indirect operations of Owners or its contractors, subcontractors, agents, employees, or other persons acting on its behalf which relates to the Project, or which arises out of claims for personal injury, including health, and claims for property damage. This includes any claims or suits related to the existence of hazardous, toxic, and/or contaminating materials on the Project and geological hazards.
 - i. Nothing in this Agreement shall be construed to mean that Owners shall defend, indemnify, or hold the City or its elected and appointed representatives, 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 City, or its boards, officers, agents, or employees; and/or (ii) the negligent maintenance or repair by the City of improvements that have been offered for dedication and accepted by the City for maintenance
 - ii. City shall give written notice of any claim, demand, action or proceeding

which is the subject of Owners' hold harmless agreement as soon as practicable but not later than thirty (30) days after the assertion or commencement of the claim, demand, action or proceeding. If any such notice is given, Owners shall be entitled to participate in the defense of such claim. Each party agrees to cooperate with the other in the defense of any claim and to minimize duplicative costs and expenses.

- o. Relationship of Parties. The contractual relationship between City and Owners arising out of this Agreement is one of independent contractor and not agency. This Agreement does not create any third-party beneficiary rights. It is specifically understood by the parties that: (i) all rights of action and enforcement of the terms and conditions of this Agreement shall be reserved to City and Owners, (ii) the Project is a private development; (iii) City has no interest in or responsibilities for or duty to third parties concerning any improvements to the Property; and (iv) Owners shall have the full power and exclusive control of the Property subject to the obligations of Owners set forth in this Agreement.
- p. Annual Review. City may review progress pursuant to this Agreement at least once every twelve (12) months to determine if Owners have complied with the terms of this Agreement. If City finds, on the basis of substantial evidence, that any of the Owners have failed to comply with the terms hereof, City may declare such Owner(s) to be in Default as provided in Paragraph 11 herein. City's failure to review at least annually Owners' compliance with the terms and conditions of this Agreement shall not constitute or be asserted by any party as a Default under this Agreement by Owners or City.
- q. Institution of Legal Action. In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any Default or breach, to specifically enforce any covenants or agreements set forth in this Agreement or to enjoin any threatened or attempted violation of this Agreement; or to obtain any remedies consistent with the purpose of this Agreement. Legal actions shall be instituted in the Fourth District Court, State of Utah, or in the Federal District Court for the District of Utah.
- r. Title and Authority. Owners expressly warrants and represents to City that Owners (i) owns all right, title and interest in and to the Property, or (ii) has the exclusive right to acquire such interest, and (iii) that prior to the execution of this Agreement no right, title or interest in the Property has been sold, assigned or otherwise transferred to any entity or individual other than to Owners. Owners further warrants and represents that no portion of the Property is subject to any lawsuit or pending legal claim of any kind. Owners warrants that the undersigned individuals have full power and authority to enter into this Agreement on behalf of Owners. Owners understands that City is relying on these representations and

warranties in executing this Agreement.

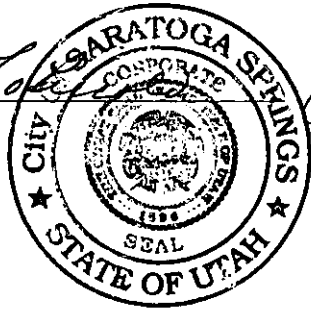
- s. Headings for Convenience. All headings and captions used herein are for convenience only and are of no meaning in the interpretation or effect of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by City and by a duly authorized representative of Owners as of the date first written above.

Attest:

City of Saratoga Springs, a political subdivision of the State of Utah

Cindy Tolson
City Recorder



By: *[Signature]*
Mayor

OWNERS:

Saratoga HC, LLC, a Utah limited liability company

By: *[Signature]*
Its: *[Signature]* MANAGER

Saratoga HC II, LLC, a Utah limited liability company

By: *[Signature]*
Its: *[Signature]* MANAGER
[Signature]
Scott McLachlan

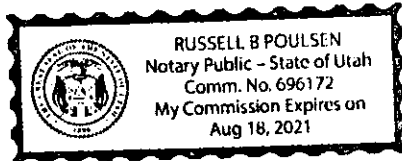
Central Bank

By: [Signature]

Its: SR Vice President

State of Utah

County of Utah

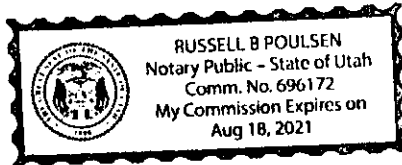


The foregoing instrument was acknowledged before me this 4th day of NOVEMBER 2019 by G. CHAS JOHNSON in his capacity as MANAGER of Saratoga HC, LLC, a Utah limited liability company.

[Signature]
Notary Public

State of Utah

County of Utah



The foregoing instrument was acknowledged before me this 4th day of NOVEMBER 2019 by G. CHAS JOHNSON in his capacity as MANAGER of Saratoga HC II, LLC, a Utah limited liability company.

[Signature]
Notary Public

State of Utah

County of Utah

The foregoing instrument was acknowledged before me this 15th day of November 2019 by Scott McLachlan.

[Signature]
Notary Public



State of Utah

County of Utah

The foregoing instrument was acknowledged before me this 12 day of NOVEMBER 2019 by JEFF SIMONSEN, in his/her capacity as OFFICER of Central Bank.

[Signature]
Notary Public

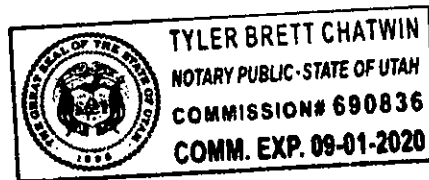
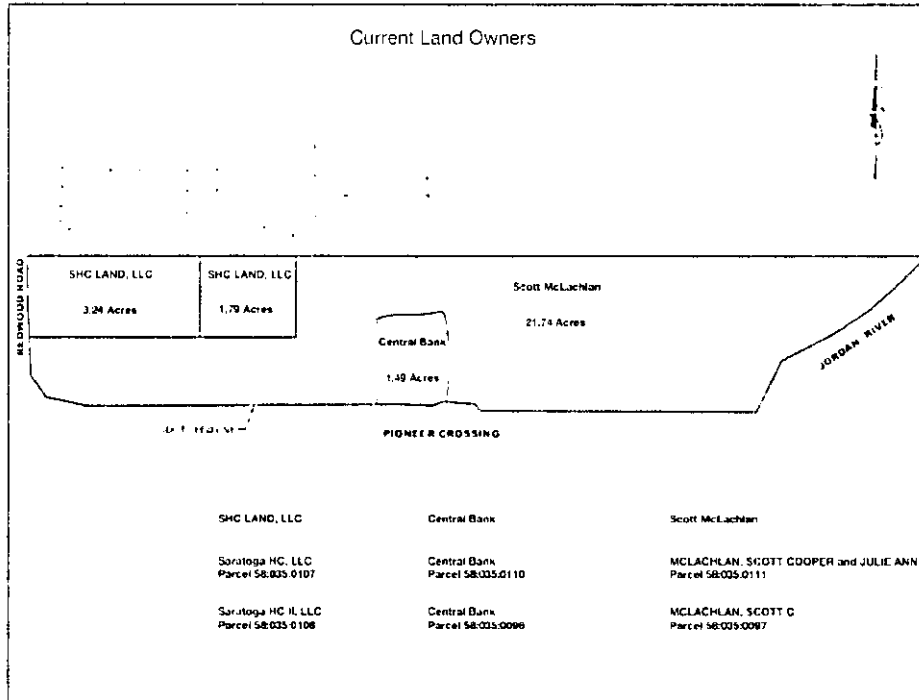


Exhibit "A"

Property Ownership map, Vicinity Map, and/or Legal Descriptions



Proposed Subdivision

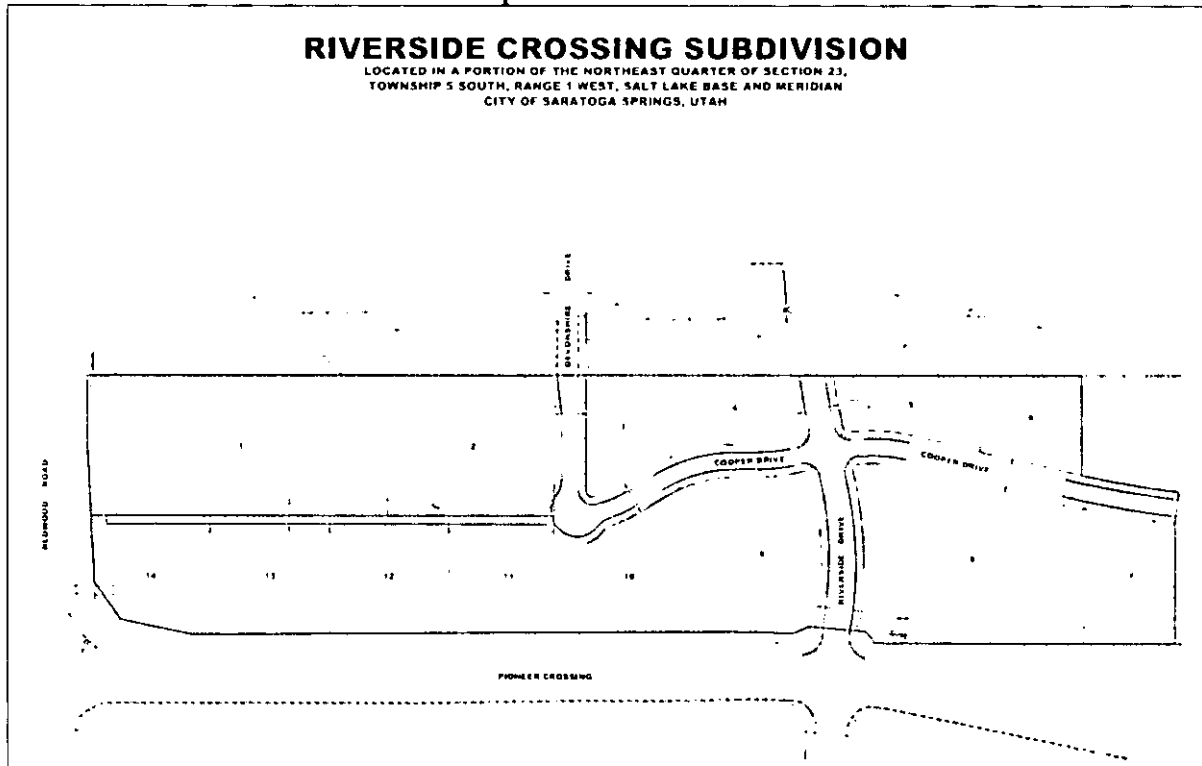


Exhibit "A" Continued**Legal descriptions****Saratoga HC, LLC parcel****RIVERSIDE CROSSING, LOT 1**

A portion of the Northeast Quarter of Section 23, Township 5 South, Range 1 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at a point on the easterly right-of-way line of Redwood Road (SR-68) located $S0^{\circ}13'38''E$ 866.50 feet and East 99.61 feet from the North 1/4 Corner of Section 23, Township 5 South, Range 1 West, Salt Lake Base and Meridian (said point being monumented with a UDOT right-of-way pipe and cap monument); thence $N89^{\circ}57'12''E$ along the south line of Dalmore Meadows Phase 2 Subdivision 552.49 feet; thence South 256.73 feet; thence West 545.59 feet to the easterly line of Redwood Road; thence along said line the following two (2) courses: $N2^{\circ}47'46''W$ 111.59 feet; thence $N0^{\circ}34'32''W$ 144.84 feet to the point of beginning.

Contains: ± 3.24 acres

Saratoga HC II, LLC parcel**RIVERSIDE CROSSING, LOT 2**

A portion of the Northeast Quarter of Section 23, Township 5 South, Range 1 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at a point on the south line of Dalmore Meadows Phase 2 Subdivision located $S0^{\circ}13'38''E$ 866.05 feet and East 652.10 feet from the North 1/4 Corner of Section 23, Township 5 South, Range 1 West, Salt Lake Base and Meridian; thence $N89^{\circ}57'12''E$ along said south line 298.67 feet; thence $S7^{\circ}07'33''E$ 72.55 feet; thence South 184.98 feet; thence West 307.67 feet; thence North 256.73 feet to the point of beginning.

Contains: ± 1.81 acres

Central Bank Parcel**RIVERSIDE CROSSING, LOT 9**

A portion of the Northeast Quarter of Section 23, Township 5 South, Range 1 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at a point located $S0^{\circ}13'38''E$ along the quarter section line 1334.26 feet and East 1216.40 feet from the North 1/4 Corner of Section 23, Township 5 South, Range 1 West, Salt Lake Base and Meridian; thence North 270.27 feet; thence along the arc of a 250.00 foot radius non-tangent curve to the right (radius bears: $S18^{\circ}13'57''E$) 79.55 feet through a central angle of $18^{\circ}13'57''$ (chord: $N80^{\circ}53'01''E$ 79.22 feet); thence East 41.53 feet; thence along the arc of a 309.00 foot radius curve to the left 68.27 feet through a central angle of $12^{\circ}39'32''$ (chord: $N83^{\circ}40'14''E$ 68.13 feet); thence $N77^{\circ}20'28''E$ 16.74 feet; thence along the arc of a 11.00 foot radius curve to the right 17.28 feet through a central angle of $90^{\circ}00'00''$ (chord: $S57^{\circ}39'32''E$ 15.56 feet); thence $S12^{\circ}39'32''E$ 13.49 feet; thence along the arc of a 611.50 foot radius curve to the right 201.84 feet through a central angle of $18^{\circ}54'41''$ (chord: $S3^{\circ}12'11''E$ 200.92 feet); thence $S6^{\circ}15'09''W$ 63.50 feet; thence $N85^{\circ}10'56''W$ 10.84 feet; thence $S68^{\circ}19'57''W$ 34.33

feet; thence along the arc of a 2556.00 foot radius non-tangent curve to the left (radius bears: S2°57'47"W) 179.11 feet through a central angle of 4°00'54" (chord: N89°02'40"W 179.08 feet); thence S89°39'27"W 2.45 feet to the point of beginning.

Contains: ±1.49 acres

The Remainder McLachlan Parcel
RIVERSIDE CROSSING OVERALL LESS LOTS 1, 2 & 9

A portion of the Northeast Quarter of Section 23, Township 5 South, Range 1 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at a point on the south line of Dalmore Meadows Phase 2 Subdivision located S0°13'38"E 865.81 feet and East 950.77 feet from the North 1/4 Corner of Section 23, Township 5 South, Range 1 West, Salt Lake Base and Meridian; thence N89°57'12"E along said south line and the extension thereof 2031.96 feet to the westerly bank of the Jordan River; thence along said westerly bank the following six (6) courses: S45°42'54"W 55.66 feet; thence S45°05'01"W 79.94 feet; thence S49°21'50"W 121.81 feet; thence S56°49'36"W 134.02 feet; thence S63°10'26"W 181.86 feet; thence S26°34'43"W 181.83 feet to the easterly extension of the northerly right-of-way line of Pioneer Crossing; thence N89°50'35"W along the extension of and the north right-of-way line of Pioneer Crossing 884.03 feet; thence N41°29'38"W 28.16 feet; thence N85°10'56"W 93.20 feet; thence N6°15'09"E 63.50 feet; thence along the arc of a 611.50 foot radius curve to the left 201.84 feet through a central angle of 18°54'41" (chord: N3°12'11"W 200.92 feet); thence N12°39'32"W 13.49 feet; thence along the arc of a 11.00 foot radius curve to the left 17.28 feet through a central angle of 90°00'00" (chord: N57°39'32"W 15.56 feet); thence S77°20'28"W 16.74 feet; thence along the arc of a 309.00 foot radius curve to the right 68.27 feet through a central angle of 12°39'32" (chord: S83°40'14"W 68.13 feet); thence West 41.53 feet; thence along the arc of a 250.00 foot radius curve to the left 79.55 feet through a central angle of 18°13'57" (chord: S80°53'01"W 79.22 feet); thence South 270.27 feet; thence S89°39'27"W 926.28 feet; thence N78°08'30"W 134.27 feet; thence N35°08'00"W 83.70 feet; thence N2°47'46"W 121.11 feet; thence East 853.26 feet; thence North 184.98 feet; thence N7°07'33"W 72.55 feet to the point of beginning.

Contains: ±21.73 acres

Exhibit "B"

**Staff Report with Adopted Planning Commission Findings and Conditions of Approval,
Report of Action (if applicable), and Written Minutes**

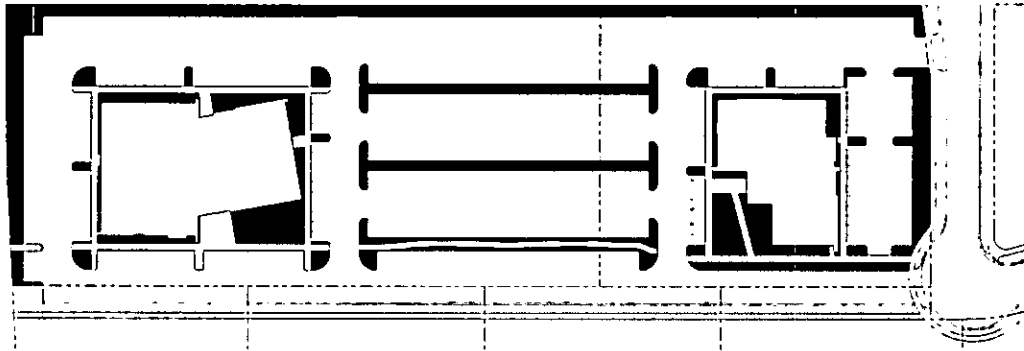
[ON FILE WITH THE CITY RECORDER]

Exhibit "C"

Staff Report with Adopted City Council Findings and Conditions of Approval, Report of Action (if applicable), City Council Written Minutes.

[ON FILE WITH THE CITY RECORDER]

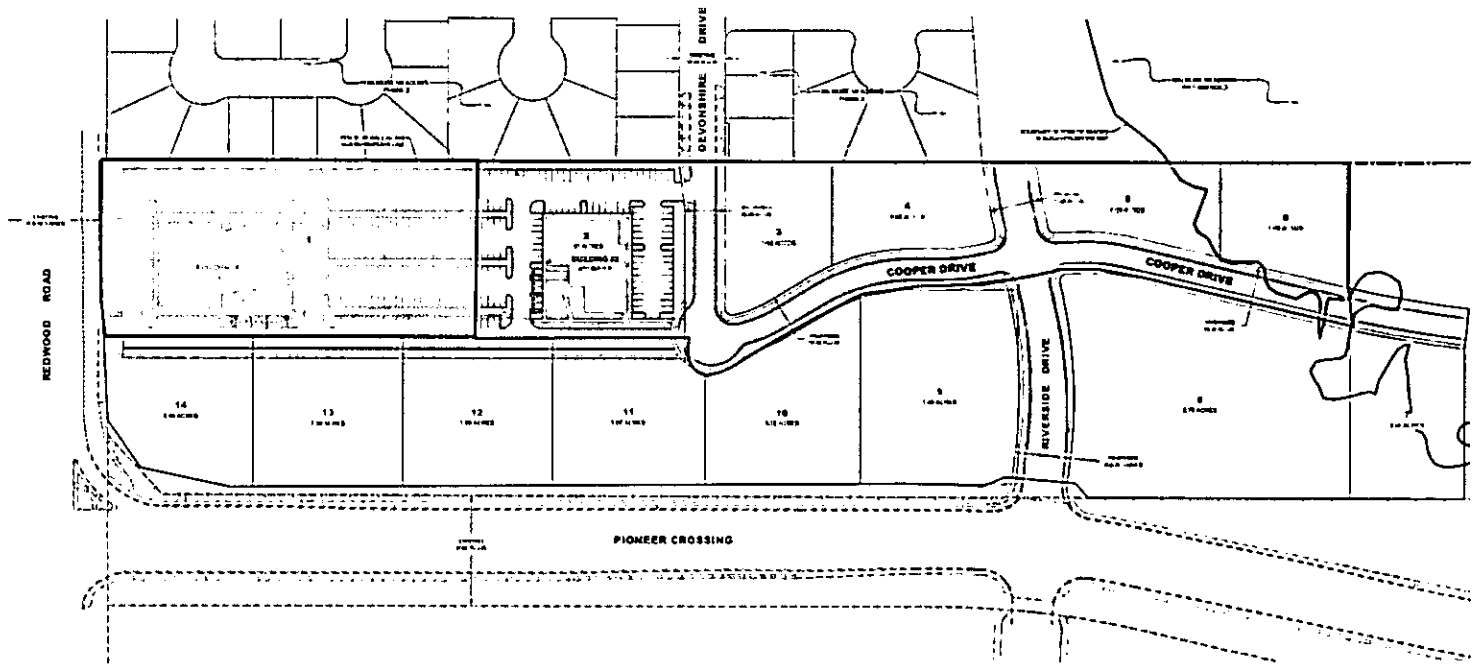
Exhibit "D" Concept Plan and GP/Rezone Amendment



RIVERSIDE CROSSING SUBDIVISION

LOCATED IN A PORTION OF THE NORTHEAST QUARTER OF SECTION 23,
TOWNSHIP 5 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN
CITY OF SARATOGA SPRINGS, UTAH

Zoning





- Commercial
-  = CC Community Commercial
 -  = BP Business Park

Exhibit "D" Continued

RIVERSIDE CROSSING, LOT 1 – BUSINESS PARK ZONE AND OFFICE LAND USE

A portion of the Northeast Quarter of Section 23, Township 5 South, Range 1 West, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at a point on the easterly right-of-way line of Redwood Road (SR-68) located $S0^{\circ}13'38''E$ 866.50 feet and East 99.61 feet from the North 1/4 Corner of Section 23, Township 5 South, Range 1 West, Salt Lake Base and Meridian (said point being monumented with a UDOT right-of-way pipe and cap monument); thence $N89^{\circ}57'12''E$ along the south line of Dalmore Meadows Phase 2 Subdivision 552.49 feet; thence South 256.73 feet; thence West 545.59 feet to the easterly line of Redwood Road; thence along said line the following two (2) courses: $N2^{\circ}47'46''W$ 111.59 feet; thence $N0^{\circ}34'32''W$ 144.84 feet to the point of beginning.

Contains: ± 3.24 acres

RIVERSIDE CROSSING, LOT 2-6 – COMMUNITY COMMERCIAL ZONE

A portion of the Northeast Quarter of Section 23, Township 5 South, Range 1 West, Salt Lake Base and Meridian, more particularly described as follows:






Beginning at a point on the south line of Dalmore Meadows Phase 2 Subdivision located $S0^{\circ}13'38''E$ 866.05 feet and East 652.10 feet from the North 1/4 Corner of Section 23, Township 5 South, Range 1 West, Salt Lake Base and Meridian; thence $N89^{\circ}57'12''E$ along said south line and the extension thereof 1282.69 feet; thence South 183.10 feet; thence southeasterly along the arc of a 1970.50 foot radius non-tangent curve to the left (radius bears: $N12^{\circ}17'34''E$) 182.70 feet through a central angle of $5^{\circ}18'45''$ (chord: $S80^{\circ}21'49''E$ 182.64 feet); thence $S6^{\circ}58'49''W$ 59.00 feet; thence northwesterly along the arc of a 2029.50 foot radius non-tangent curve to the right (radius bears: $N6^{\circ}58'49''E$) 214.43 feet through a central angle of $6^{\circ}03'13''$ (chord: $N79^{\circ}59'35''W$ 214.33 feet); thence $N76^{\circ}57'58''W$ 297.62 feet; thence along the arc of a 250.50 foot radius curve to the left 68.61 feet through a central angle of $15^{\circ}41'34''$ (chord: $N84^{\circ}48'45''W$ 68.39 feet); thence $S87^{\circ}20'28''W$ 70.78 feet; thence $S77^{\circ}20'28''W$ 63.66 feet; thence along the arc of a 309.00 foot radius curve to the right 68.27 feet through a central angle of $12^{\circ}39'32''$ (chord: $S83^{\circ}40'14''W$ 68.13 feet); thence West 41.53 feet; thence along the arc of a 250.00 foot radius curve to the left 133.72 feet through a central angle of $30^{\circ}38'45''$ (chord: $S74^{\circ}40'37''W$ 132.13 feet); thence $S59^{\circ}21'15''W$ 60.84 feet; thence along the arc of a 250.00 foot radius curve to the right 55.40 feet through a central angle of $12^{\circ}41'46''$ (chord: $S65^{\circ}42'07''W$ 55.28 feet); thence along the arc of a 31.50 foot radius curve to the left 18.94 feet through a central angle of $34^{\circ}26'40''$ (chord: $S54^{\circ}49'40''W$ 18.65 feet); thence along the arc of a 61.50 foot radius curve to the right 103.27 feet through a central angle of $96^{\circ}12'28''$ (chord: $S85^{\circ}42'34''W$ 91.56 feet); thence North 34.93 feet; thence West 307.67 feet; thence North 256.73 feet to the point of beginning.

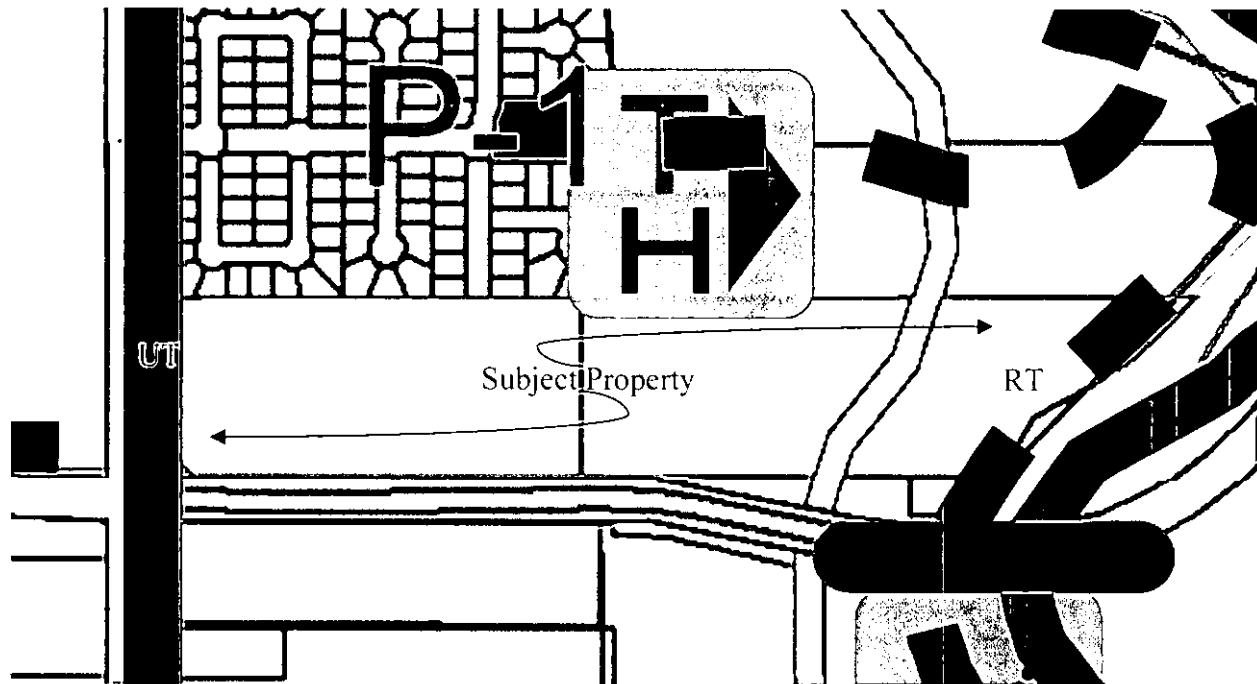
Contains: ± 6.73 acres

Exhibit "E" Trail Improvements

Legend

Trails

-  Existing Trailhead
-  Proposed Trailhead
-  Proposed Canoe Put In/Take Out
-  Existing
-  Proposed



- Urban Trails 12' meandering concrete trails, along arterial roadways and canal parkways. ADA accessible and provide maintenance access.
- Rural Trails 12' concrete for lakeside and riverside access. 8' concrete in riparian areas and 12' asphalt in upland areas. ADA accessible and provide maintenance access.

Exhibit "F"
Drinking Water Pipeline Relocation

