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GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
SNELL & WILMER
15 W SO. TEMPLE STE. 1200
SLC UT 84101
BY: TWP, DEPUTY - WI 22 P.

When recorded, return to:
SNELL & WILMER L.L.P.
Attention: Wade Budge
15 West South Temple, Suite 1200
Salt Lake City, UT 84101

Affecting Parcel No. 3004101014

DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT (the "Agreement") is entered into as of this day of ~~FEBRUARY~~^{18th} 2014 (the "Effective Date"), by and between The Estate of JoAnne L. Shrontz by and through Herbert C. Livsey, Personal Representative (the "Estate"), and the Town of Alta, Utah, a Utah municipality (hereinafter the "Town"). The Estate and the Town are hereinafter referred to individually as a "Party" and collectively as the "Parties."

RECITALS

The Parties hereby represent to each other as follows:

A. The Estate is a decedent's estate administered in Salt Lake County, Utah, and acts by and through its duly appointed personal representative, Herbert C. Livsey. The Town is a municipal corporation, duly established under Utah law and located in Salt Lake County, Utah.

B. The Estate is the owner in fee of certain real property known as the Patsey Marley Hill Property comprising 25.16 acres of land located at approximately 8610 South Hawk Hill Road and within the political boundaries of the Town, and more particularly described on the attached Exhibit A (the "Property").

C. The Estate desires to subdivide the Property for development purposes in accordance with plans set forth in the application for the Patsey Marley Hill Subdivision (the "Application") which was filed on behalf of the Estate with the Town on July 20, 2007 (the "Application Date").

D. A dispute arose regarding the completeness of the Application, resulting in litigation and later a settlement.

E. Since the Application Date, the Estate has supplemented its Application with certain additional materials that were considered by the Town's Planning Commission. The Planning Commission made a recommendation to the Town Council to deny the Application. On November 12, 2009, the Town Council denied the Estate's Application, in part, based on a dispute as to the availability of culinary water for the Property.

F. The Estate appealed this denial in the Third Judicial District Court, State of Utah, Case No. 090921163 (the "Lawsuit"). The Lawsuit has progressed towards trial, the Town, co-defendant and counterclaim plaintiff Salt Lake City Corporation (the "City"), and the Estate have engaged in settlement discussions.

G. The City, the Town and the Estate have agreed to settle the claims in the Lawsuit and enter into a Stipulation and Motion to the Court as of the date of this Agreement. In connection with this settlement, the City has agreed to confirm water availability and water service for the Property and the development as described below.

H. The Town Council reconsidered the Application, as supplemented, and approved the Application, subject to this Agreement.

I. The Town has examined the administrative record related to the subdivision, as supplemented by the Estate, and has confirmed that it has received the information it needs to revisit the application and to authorize and approve this development agreement as conditioned herein. The Town further confirms that the Application, as amended since the November 12, 2009 denial, and the subdivision and approvals identified herein comply with the Town's ordinances and regulations.

J. The Town, acting pursuant to its authority in the Land Use, Development, and Management Act, Utah Code Ann. §§ 10-9a-101, -803, in its administrative capacity, and after all necessary public hearings, has authorized the Town's Mayor to negotiate and execute this Agreement, enter into the Stipulation and Motion to the Court between the Town, the City and the Estate, and request that the court dismiss the Lawsuit as set forth in this Development Agreement and the Stipulation and Motion to the Court. The Town further affirms that this Agreement is intended to apply to the Property, and that the approvals granted hereby do not create new law of general applicability but rather are approvals authorizing development on the Property under existing law.

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

AGREEMENT

SECTION 1. DEVELOPMENT APPROVALS AND REQUIREMENTS

1.1 Development Approval. This Agreement confirms that the Estate is vested, as of the Application Date, with the right to develop the Property, subject to the terms of this Agreement and in conformity with uses, densities, configurations, routes of access, road placements and road designs, and infrastructure routes and connections, for the single family residential uses of ten (10) lots and common area features (the "Subdivision") described and depicted on the subdivision plat attached hereto as Exhibit "B" (the "Plat"). The Town hereby confirms, agrees and represents that the supplemented Application, consisting of the Plat and the Subdivision, as amended by this Agreement, fully complies with the Town's ordinances, regulations and policies and the development of the same, including site plan and building permits, shall be subject to laws, ordinances, regulations and policies in effect as of the Application Date.

(a) **Third Party Approvals.** As requested by the Estate or as requested by any third parties who are reviewing the Plat and the Subdivision for approval, the Town agrees to promptly provide accurate information regarding these approvals, the

Subdivision and the Plat to such third parties. Except as expressly described, the Town shall not have any affirmative obligations to assist the Estate or its successors as to any necessary third party approvals. The third parties who may request this information include any regulator or service provider for the Subdivision or its infrastructure, including, but not limited to, United Fire Authority, Utah State Department of Transportation, Salt Lake City Public Utilities Department, Salt Lake Valley Health Department, Cottonwood Improvement District, Salt Lake County Service Area No. 3, United States Forest Service, Utah State Division of Water Rights, and the Utah State Division of Water Quality.

(b) Recording of Plat. Within five (5) days of the Estate providing to the Town the Plat executed by the Estate in conformance with this Agreement and written approvals (in the form or signature on the Plat or will serve letters) from the United Fire Authority, Salt Lake Valley Health Department, Salt Lake County Service Area No. 3, and the sewer service provider, the Town agrees to execute the Plat and coordinate with the Estate the recording of the Plat with the Salt Lake County Recorder pursuant to Utah Code Ann. § 10-9a-603(5). By executing this Agreement the Town agrees that the Plat is deemed approved but shall not be recorded until the third party approvals described in this subsection 1.1 (b) are obtained by the Estate. The Parties agree that the notes on the Plat may be supplemented as may be required by third parties described in subsection 1.1 (a).

(c) Dimensional Restrictions for Buildings on Lots. The Estate hereby agrees that no building shall be erected, altered, placed or permitted to remain on any lot other than one (1) detached single-family dwelling and one (1) accessory building,¹ except that a structure over parking facilities serving the entire Subdivision may be erected, as shown on the Plat, within the Subdivision and shall not be considered as an accessory building for purposes of this paragraph. *See* Paragraph 1.4. No dwelling may be erected to a height greater than three (3) stories nor less than one (1) story and in no case to a height greater than thirty-five (35) feet, measured above the lowest finished grade adjacent to the perimeter of the structure, pursuant to Town Ordinance in effect as of the Application Date. No accessory building may be taller than one story or greater than twenty (20) feet in height, measured above the lowest finished grade adjacent to the perimeter of the structure, pursuant to Town ordinance as of the Application Date. No dwelling on a lot may be smaller than 1,000 square feet or larger than 8,500 square feet, as further described in the CC&Rs [defined below]. If a basement is eighty (80%) percent below grade, the basement does not count towards the 8,500 square footage maximum. Maximum coverage for the aggregate of the detached single-family dwelling, one accessory building, and all paved surfaces and graded² areas within a lot shall be

¹ An "accessory building" is defined as a detached structure that is incidental to the single-family dwelling; used exclusively by the occupants of the single-family dwelling; and which is not permitted to be used as a sleeping quarter or living space.

² The term "graded" shall be applied as defined by the Town's Ordinances. If the Town's Ordinance is amended in a way that benefits development on a lot, then the new ordinance's term for 'graded' or maximum coverage shall apply.

limited to 25% of the net developable acreage pursuant to Town Ordinance in effect as of the Application Date.

(d) Development Activities within Building Envelopes and Other Areas.

The Town agrees that the building envelopes, common areas, driveways, including any associated cut, fill and retention, and road areas depicted on the Plat, including vegetation removal and grading thereon and that the Property may be developed and improved pursuant to the Plat and this Agreement. The Town agrees that the Mayor of the Town authorizes the removal of trees, including mature trees, specifically identified on the Plat and that exist within those portions of the building envelopes and driveways and that are actually used for construction subject to compliance with revegetation, replacement and related requirements regarding mature trees and vegetation in the Town's Ordinance now in effect.

1.2 Homeowners' Association. Simultaneous with recording the Plat, the Estate shall create and thereafter maintain an association ("Association") in accordance with the Community Association Act, Utah Code Ann. §§ 57-8a-101, -601 and record a declaration of covenants, conditions and restrictions ("CC&Rs") to enforce a private restriction prohibiting any external construction within the Subdivision between December 15 and April 15 of a given year, to restrict development outside of the building envelopes depicted on the Plat's lots, to manage common areas, and to provide for the maintenance of the interior private roads and driveways and other access areas. The CC&Rs will provide that these specific prohibitions, restrictions, management and maintenance provisions will continue notwithstanding any amendment or termination of the CC&Rs. To the extent that the water system described below in Section 2 remains private, it shall be owned by the Estate, until final review and approval, evidenced by an approval certificate, issued by the operator of Salt Lake County Service No. 3 or the managing authority at that time. Once the approval certificate has been issued, the Estate may convey to the Association all further interest in and operation and maintenance duties created in accordance with this subsection. The Association shall also be responsible for coordinating with Alta Ski Lifts regarding the use of the ski easement pursuant to of record obligations and terms of the Plat.

1.3 Public Right-of-Way. The Town acknowledges the Estate is accessing its Subdivision from the existing road right-of-way, with public use rights, and that this access is shared with recreational users, skiers, other property owners, and third-parties. The access is depicted on the Plat and is reserved in documents of record. The Estate acknowledges that the existing road right-of-way is not maintained in the winter months in the area of the Subdivision and that the use contemplated by the Subdivision shall not block or interfere with current users, including but not limited to skiers, over-snow machinery, other recreational users and property owners of the road. The Estate shall coordinate its use of the right-of-way with the public entity administering the public's rights, which the Town believes to be the United States Forest Service. The Subdivision is planned to be snowbound during certain times of year. This Agreement shall not require the Town to undertake any new winter road maintenance or snow removal beyond what are the Town's obligations as of the Effective Date. The Town agrees to not interfere with any effort undertaken by the Estate or its successors or assigns to provide winter road maintenance so long as those efforts accommodate the existing shared uses expressed in this provision.

1.4 Winter Parking. The Town acknowledges and consents to the parking concepts depicted on Exhibit C within the Property boundary, and will not object to the Estate applying for parking off the Property, unless that off-the-Property parking materially and adversely impacts the existing shared uses described in Paragraph 1.3. Specifically, the Town acknowledges and consents to the Estate's twenty (20)-space parking area, located on the Property and subject to documents of record. The twenty (20)-space parking area is depicted on Exhibit C, attached hereto, and identified as the common area parking pads designated on the Plat (which common area parking pads may be covered). Unless otherwise authorized by the authority managing public access rights, the Association agrees to enforce winter parking in the designated parking spaces depicted on Exhibit C. The Town consents and agrees that it will not interfere with the Association's snow removal activity and/or maintenance of a parking area so long as the Association does not take any action that is contrary to the shared use provisions defined in Paragraph 1.3. Parking by lot owners shall be governed by the CC&Rs and the road leading to and from the parking area may be paved and maintained year round if desired by the Association for the Subdivision and authorized by the authority managing public access rights, which the Town believes to be the United States Forest Service currently. Any parking structure referred to in this subsection shall not be considered an accessory structure, when built within the Subdivision as provided in Subsection 1.1(c); provided, however that any such parking structure shall be for parking only and shall not be used as living space, sleeping quarters, or for any human or animal occupancy.

1.5 Building Permits. Each lot and parking common area shown on the Plat shall have a vested building right to build in the building envelope depicted, subject to a complete building application and the terms of this Agreement. No building permit shall be issued until the water-line construction, as addressed in Section 2, is completed. Upon submission of a complete building application, the Town agrees to issue all required permits for the construction of improvements contemplated by this Agreement, including those depicted on the Plat and other exhibits hereto, subject to compliance with the Town's building codes and building ordinances. The Town further agrees to issue building permits to lot owners whose plans and applications (i) meet the applicable building codes and building ordinances; (ii) are designed to be built within the building envelopes and setbacks depicted on the Plat; and (iii) comply with the dimensional restrictions of this Agreement.

1.6 Diversion Pipes. Before any construction may commence on lot 109, as required by Salt Lake City, a diversion pipe must be installed in the location depicted on the Plat and in accordance with a submitted plan including details related to the boxes, grates, and other design features, including pipe sizes no less than 12" in diameter, which must be approved by the Town Building Official before installation of the pipe may occur. Once the plan is approved, the pipe may be installed, after which time, the Town Building Official must then perform a site inspection to confirm the installation complies with the approved plan, after which time, construction of structures may commence on this lot.

SECTION 2. WATER CONNECTIONS, INFRASTRUCTURE AND FEES

2.1 Construction of Stand-Alone Water System/Other Infrastructures. The Town acknowledges the Estate's construction of a private water delivery system to service only up to ten (10) homes on the Property, and no other property or connection or uses, and agrees

that the Estate may source its stand-alone water system off the Town's culinary water collection and treatment system inside the treatment building and facility at the Bay City portal, or at such other location as may be required to comply with operational, engineering or regulatory requirements for operating the Estate's stand-alone system private system. The diagram and map attached as Exhibit D depicts the approximate locations of the Town's existing system and the location and features of the Estate's stand-alone private water delivery system. The Town consents to the Estate's construction of a culinary water delivery system with the general alignments, features and components depicted on Exhibit D and covenants not to interfere with the Estate's acquisition of necessary permits, rights of way or permissions to construct and maintain the water system needed to serve the Subdivision. The Town further consents to the Estate's acquisition of necessary permits, rights of ways or permissions to construct and maintain other infrastructure connections needed to serve the Subdivision, including those depicted on Exhibit D. The Estate, if requested by the Town, consents to allow the Town to upgrade, improve and/or install a new line in the Estate's waterline corridor and will provide access to the area without interference.

(a) **Costs of Construction of Water System.** The Estate will pay all costs associated with construction of its stand-alone private water system and will complete the construction in a lien-free, good and workman like manner, using best available engineering and construction practices and procedures. Prior to construction, the Estate will post a completion bond, for improvements inside the Bay City portal and related to the connection system, in a form reasonably acceptable to the Town. The Estate agrees that before it may construct its water system, the operator of Salt Lake County Service Area No. 3, or the managing authority at that time, must review and confirm that the connection will not impair, impede, or otherwise interfere with the Town's existing water system. Upon receipt of a certificate from the operator of Salt Lake County Service No. 3, the Estate may make the connection for the Estate's stand-alone private water system. The Estate shall not be required to upgrade the Town's water collection and treatment systems beyond what is necessary for the sourcing of the Estate's stand-alone water system, *provided, however*, that the Estate may install upgrades to its water delivery system or the Town's water system if the Estate and Town are able to arrive at an agreement regarding the sharing of costs related to any such upgrade. If the Parties cannot agree on any potential cost sharing for an upgrade desired by the Town, the Estate nevertheless agrees to notify the Town of the times it will be constructing its private water delivery system so that the Town may evaluate for itself whether it desires to coordinate the Town's construction of the Town's own improvements during the time the Estate is constructing its system.

(b) **Emergency Interconnect.** The Town consents to and requires connection of its water system to the Estate's private stand-alone water system for emergency purposes only. Such emergency connection shall be in a location designated by the operator of the Town's water system, Salt Lake County Service Area No. 3, and approved by the Estate's engineer and the Utah Division of Drinking Water.

(c) **Water Treatment Fees.** The Estate and the Town agree to have a meter installed at the point where the Estate's water system connects to the Town's system at the Estate's expense. The Estate shall pay a portion of the cost of water treatment,

including, repair, maintenance and replacement of the water treatment facilities serving the Subdivision, on a pro rata basis to be determined by a fraction, the numerator of which shall be the number of gallons used by the Estate on a yearly basis and denominator of which shall be the total gallons treated on a yearly basis which shall then be multiplied by the total cost for water treatment for the applicable period, which applicable period shall never be longer than one year. Failure to timely pay the applicable costs of water treatment shall entitle the Town to turn off water service. The Town may not charge the Estate any other fee for water. Once the Estate's water system is turned over to the Association, the Association will be responsible for the payment of applicable costs of water treatment pursuant to the CC&Rs. The Town makes no representations or warranties regarding the quality of the water being treated and/or provided from its water treatment facility other than to comply with all applicable drinking water rules and regulations.

(d) **Pumping Facilities.** The Estate may locate a pump or series of pumps to transport water through the Estate's water delivery system and may locate the pumps in such place as is convenient and useful for the operation of the Estate's water delivery system, including within the Bay City portal and its associated treatment facility, subject to the Estate obtaining all necessary licenses, permits and approvals. However, the Estate agrees and represents that at no time will their location, installation, and/or use of its pumps impair or otherwise interfere with the Town's pumping facilities. The Town approves the installation of a new electrical meter for the Estate's pumps, at the Estate's sole expense, and the Estate will be responsible for the associated electrical costs going forward.

(e) **Water Line Easement.** The Estate consents to the current location of the Town's water-line and within six (6) months of the execution of this Agreement, the Estate covenants that it will prepare, execute and record with the Salt Lake County Recorder's office an amended easement to amend the location of the Town's water-line as being situated in its current location on the Property. Any replacement water-line that may be installed at a later date will be located within the public utility easement ("PUE") as identified on the Plat. The Town agrees to act reasonably and to take measures, as may be necessary, to divert leaking water from the Town's tank away from the Property.

2.2 Improvement Bonds/Impact Fees. No improvement bonds, letters of credit or other financial assurances will be required in connection with executing and recording the Subdivision Plat. No impact fees will be charged to the Subdivision (this restriction shall not apply to impact fees assessed to lot owners at the time they obtain a building permit so long as the fee is a fee imposed upon other areas of the Town and otherwise complies with the Impact Fee Act, Utah Code Ann. §§ 11-36a-101, *et seq.* Nothing in this Section 2.2 is designed to excuse the Estate from paying any water treatment fee contemplated by Subsection 2.1(c) above.

SECTION 3. BREACH AND CURE

3.1 Breach. Any material failure by either Party to perform any term or provision of this Agreement, which breach continues uncured for a period of thirty (30) days following

written notice of such failure from the other Party, unless such period is extended by written mutual consent, shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged breach and, where appropriate, the manner in which said breach satisfactorily may be cured. If the nature of the alleged breach is such that it cannot reasonably be cured within such 30-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 30-day period. Upon the occurrence of an uncured breach or default under this Agreement, the non-defaulting Party may institute legal proceedings to enforce the terms of this Agreement. The Parties agree that: this is an Agreement that concerns real estate and its development; a breach of this Agreement may result in damages which cannot be remedied with money damages; and the remedy of specific performance is the adequate remedy for an uncured breach of this Agreement.

3.2 Acknowledgement of Cure. Following a breaching Party's proper cure of a breach or claim of default, the Party claiming a cure shall notify the other Party of its statement that the alleged breach or default has been cured (the "Cure Notice"). The Party receiving a Cure Notice shall have ten (10) days to send a notice disputing that the breach or default has been cured. If a party receiving a Cure Notice fails to dispute the Cure Notice within the ten-day period, the Party claiming the breach or default shall be deemed to have waived any claim that the cure described in the Cure Notice has not been effectuated.

SECTION 4. MISCELLANEOUS

4.1 Appeals.

(a) Third Party Appeals/Third Party Challenges. Should any person, entity or group not a Party hereto challenge this Agreement or its approvals, the Estate agrees to defend at its sole cost and expense, the legal interests of both the Town and the Estate in responding to all such challenges, including any filing fees, copying fees, or similar litigation expenses directly arising from any third-party appeal/challenge. In that connection, the Estate shall be entitled to select legal counsel who will direct and prosecute such defense on behalf of both the Estate and the Town subject to a mutually acceptable joint defense agreement. The Town consents to such joint representation, agrees to cooperate fully in the defense, and agrees to waive any actual or potential conflicts of interest arising from the joint legal representation of the Estate and the Town. This defense obligation shall bind and inure to the benefit of each of the Parties, and to their respective successors, heirs, assigns, and transferees.

(b) Invalidity Determination. Should any person, entity or group not a Party hereto challenge this Agreement or its approvals and prevail in invalidating this Agreement or its approvals, the Estate, or its successors or assigns, may elect to reinstate its application filed on July 20, 2007, and as supplemented by the Estate, and proceed with reasonable diligence to seek development approvals for the Property under the laws in effect on the Application Date. The Town agrees to process any such application diligently and consistent with law. In connection with any such application, the Estate may also institute legal proceedings to appeal any land use decision related to the

application made prior to the Effective Date of this Agreement or to enforce the same, and/or to enforce this Agreement.

4.2 Incorporation of Recitals and Introductory Paragraph. The Recitals contained in this Agreement are hereby incorporated into this Agreement as if fully set forth herein.

4.3 Reserved Legislative Powers. Nothing in this Agreement shall limit the future exercise of the police power by the Town in enacting zoning, subdivision, and related land use plans, policies, ordinances and regulations after the date of this Agreement. Notwithstanding the retained power of the Town to enact such legislation under its police power, such legislation shall not modify the Estate's vested rights as set forth herein.

4.4 No Agency, Joint Venture or Partnership. It is specifically understood and agreed to by and between the Parties that: (1) the Estate's project is a private development; (2) the Estate shall have full power over and exclusive control of the Property and project herein described, subject only to the limitations and obligations of the Estate under this Agreement and applicable law; and (3) the Town and the Estate hereby renounce the existence of any form of agency relationship, joint venture, or partnership expressed or implied between them.

4.5 Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the Parties.

4.6 Other Necessary Acts. Each Party shall execute and deliver to the other any further instruments and documents as may be reasonably necessary to carry out the objectives and intent of this Agreement.

4.7 Construction/Interpretation. This Agreement has been reviewed and revised by legal counsel for both the Town and the Estate, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement. In the event of a conflict between a provision in any ordinance, regulations or policy and this Agreement, the terms in this Agreement shall control.

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

4.9 Covenants Running with the Land. The provisions of this Agreement shall constitute real covenants, contract and property rights, and equitable servitudes, which shall run with all of the Property subject to this Agreement. The burdens and benefits of this Agreement shall bind and inure to the benefit of each of the Parties, and to their respective successors, heirs, assigns, and transferees. Notwithstanding anything in this Agreement to the contrary, the owners of individual lots in the Subdivision shall (1) only be subject to the burdens of this Agreement to the extent applicable to their particular unit or lot; and (2) have no right to bring any action under this Agreement as a third-party beneficiary or otherwise, except as to Section 1.5 above. The Estate will remain obligated for the development and installation of the water

system and related infrastructure, and once such construction obligations are completed, the Estate may assign the operation and maintenance as established under this Agreement its rights under this Agreement to the Association for the Subdivision.

4.10 Waiver. No action taken by any Party shall be deemed to constitute a waiver of compliance by such Party with respect to any representation, warranty, or condition contained in this Agreement. Any waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a waiver by such Party of any subsequent breach, except as outlined in Section 3 above.

4.11 Remedies. Either Party may, in addition to any other rights or remedies; institute an equitable action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, enforce by specific performance the obligations and rights of the Parties hereto, or to obtain any remedies consistent with the foregoing and the purpose of this Agreement. The prevailing party in an action under this Agreement shall be entitled to recover its actual attorney fees (calculated at a reasonable rate paid to attorneys representing municipalities that are defending such cases), costs and expert fees from the other party.

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

4.13 No Third-Party Beneficiaries. This Agreement is between the Town and the Estate. No other party shall be deemed a third-party beneficiary except that a lot owner may have those rights as set forth in Sections 1.5 and 4.8 above and the Association for the Subdivision may have those rights assigned to it by the Estate. Nothing in this section shall prevent the Estate from assigning its rights to a third party in writing.

4.14 Force Majeure. No liability or breach of this Agreement shall result from delay in performance or nonperformance caused, directly or indirectly, by circumstances beyond the reasonable control of the Party affected ("Force Majeure"), including, but not limited to, fire, extreme weather, terrorism, explosion, flood, war, power interruptions, the act of other governmental bodies, accident, labor trouble or the shortage or inability to obtain material, service, personnel, equipment or transportation, failure of performance by a common carrier, failure of performance by a public utility, or vandalism.

4.15 Notices. Any notice or communication required hereunder between the Estate and the Town must be in writing, and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (ii) three (3) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Any Party may at any time, by giving ten (10) days written notice to the other Party, designate any other address to which notices or communications shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to the Town: Town of Alta
c/o Town Mayor
P.O. Box 8016
Alta, UT 84092

If to the Estate: The Estate of JoAnne L. Shrontz
c/o Herbert C. Livsey as Personal Representative
Ray Quinney & Nebeker
PO Box 45385
Salt Lake City, UT 84145-0385

4.16 Indemnification/ Insurance.

(a) **Indemnity.** The Estate hereby indemnifies, holds harmless, and agrees to defend the Town from and against all claims, damages, expenses, liabilities, and judgments, including attorney fees and costs, on account of injury to persons, loss of life, or damage to property occurring (i) as a result of the Estate's construction of the Estate's stand-alone water system, including the connection to the Town's culinary water delivery system, or (ii) as a result of the Estate's establishing or maintaining parking areas on or near the public right of way and outside of the Subdivision; *provided however*, that the Estate shall not be required to indemnify the Town against any injury, loss of life, or damage which is caused by the negligence or willful misconduct of the Town, or its agents, servants, licensees, or employees. This provision shall not be construed as a modification of the Town's governmental protections. This indemnity and defense obligation shall bind and inure to the benefit of each of the Parties, and to their respective successors, heirs, assigns, and transferees.

(b) **Liability Insurance Coverage and Limits.** The Estate shall maintain, and/or cause to be maintained, at its sole expense and at no cost to the Town, commercial general liability insurance against claims for personal injury, bodily injury, death, and property damage occurring in connection with the Estates connection to the Town's culinary water delivery system, with a "Combined Single Limit" (covering personal injury liability, bodily injury liability, and property damage liability) of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. In addition, should during the construction of the Estate's stand-alone water system it become necessary for construction activities to occur on real property owned by the Town, the Estate shall have its contractor purchase and maintain property insurance written on a builder's risk policy form in the amounts identified in this subsection. The Town shall be an additional insured on each such policy referenced in this subsection.

4.17 Entire Agreement, Counterparts and Exhibits. Unless otherwise noted herein, this Agreement is the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate authorities of Town and the Estate. The following exhibits are attached to this Agreement and incorporated herein for all purposes:

Exhibit A – Legal Description of the Property

Exhibit B – Final Plat for Patsey Marley Hill Subdivision

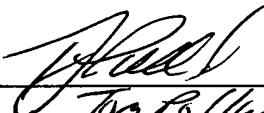
Exhibit C – Depiction of Winter Parking Areas

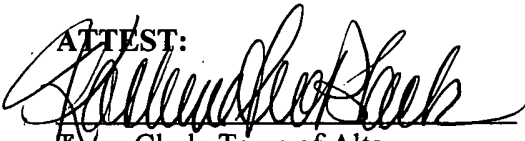
Exhibit D – Depiction of Water System and Other Infrastructure for Subdivision

IN WITNESS WHEREOF, this Agreement has been entered into by and between the Estate and the Town as of the date and year first above written.

TOWN:

TOWN OF ALTA, UTAH

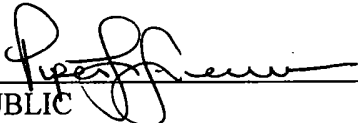
By: 
Its: Mayor

ATTEST:

Town Clerk, Town of Alta



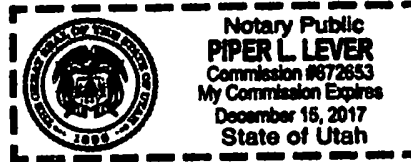
STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledge before me this 18th day of FEBRUARY, 2014 by TOM POLLARD, who executed the foregoing instrument in his/her capacity as the Mayor of the Town of Alta, Utah _____ and KATHERINE S.W. BLACK, who executed the foregoing instrument in his/her capacity as the Town Clerk.



NOTARY PUBLIC
Residing at: SALT LAKE COUNTY

My Commission Expires:
12/15/17



THE ESTATE:


THE ESTATE OF JOANNE L. SHRONTZ, by and
through Herbert C. Livsey, Personal Representative



By: Hebert C. Livsey
Its: Personal Representative of the Estate of
JoAnne L. Shrontz, deceased

STATE OF Utah)
 : ss.
COUNTY OF DAET LAKE)

The foregoing instrument was acknowledge before me this 18th day of February, 2014 by Herbert C. Livsey, who executed the foregoing instrument in his capacity as Personal Representative for The Estate of JoAnne L. Shrontz, deceased.



NOTARY PUBLIC
Residing at: Daet Lake City, UT

My Commission Expires:

3/20/17



**EXHIBIT A
TO
DEVELOPMENT AGREEMENT**

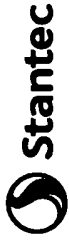
Legal Description of the Property

A parcel of real property located in Salt Lake County, Utah, including portions of the J.P.E., Hot Air and Florida No. 1 Patented Mining Claims (Mineral Survey 6177), more particularly described as follows:

Beginning at a point South 0°02' East 529.0 feet, more or less, from the Northwest corner of Section 4, Township 3 South, Range 3 East, Salt Lake Base and Meridian, and said point of beginning also being South 72°05'43" East 1,708.72 feet from U.S. mineral monument No. 3, and running thence South 0°34'09" West 643.75 feet; thence South 35°31'27" East 320.87 feet; thence North 60°41'24" East 753.65 feet; thence South 2°36' West 251.10 feet; thence East 600.00 feet; thence North 2°36' East 200.00 feet to Utah Highway 210; thence North 50°52' West along said highway 50.00 feet to a point of a 954.93 foot radius curve to the right; thence Northwesterly along the arc of said curve and highway 281.53 feet to a point of tangency; thence North 33°58'30" West along said highway 310.00 feet to a point of a 954.93 foot radius curve to the left; thence Northwesterly along the arc of said curve and highway 270.28 feet to a point of tangency; thence North 51°51'06" West along said highway 425.19 feet; thence South 22°55' West 150.00 feet; thence South 64°40' West 445.56 feet; thence South 24°25'40" East 14.86 feet; thence south 65°34'20" West 70.00 feet to the point of beginning. Contains approximately 25.165 acres.

**EXHIBIT B
TO
DEVELOPMENT AGREEMENT**

[Final Plat for Patsey Marley Hill Subdivision]



1000 West 10th Street, Suite 200
 Salt Lake City, Utah 84119
 Phone: (801) 466-1000
 Fax: (801) 466-1001
 Website: www.stantec.com

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Overall Project:

Legend

Notes

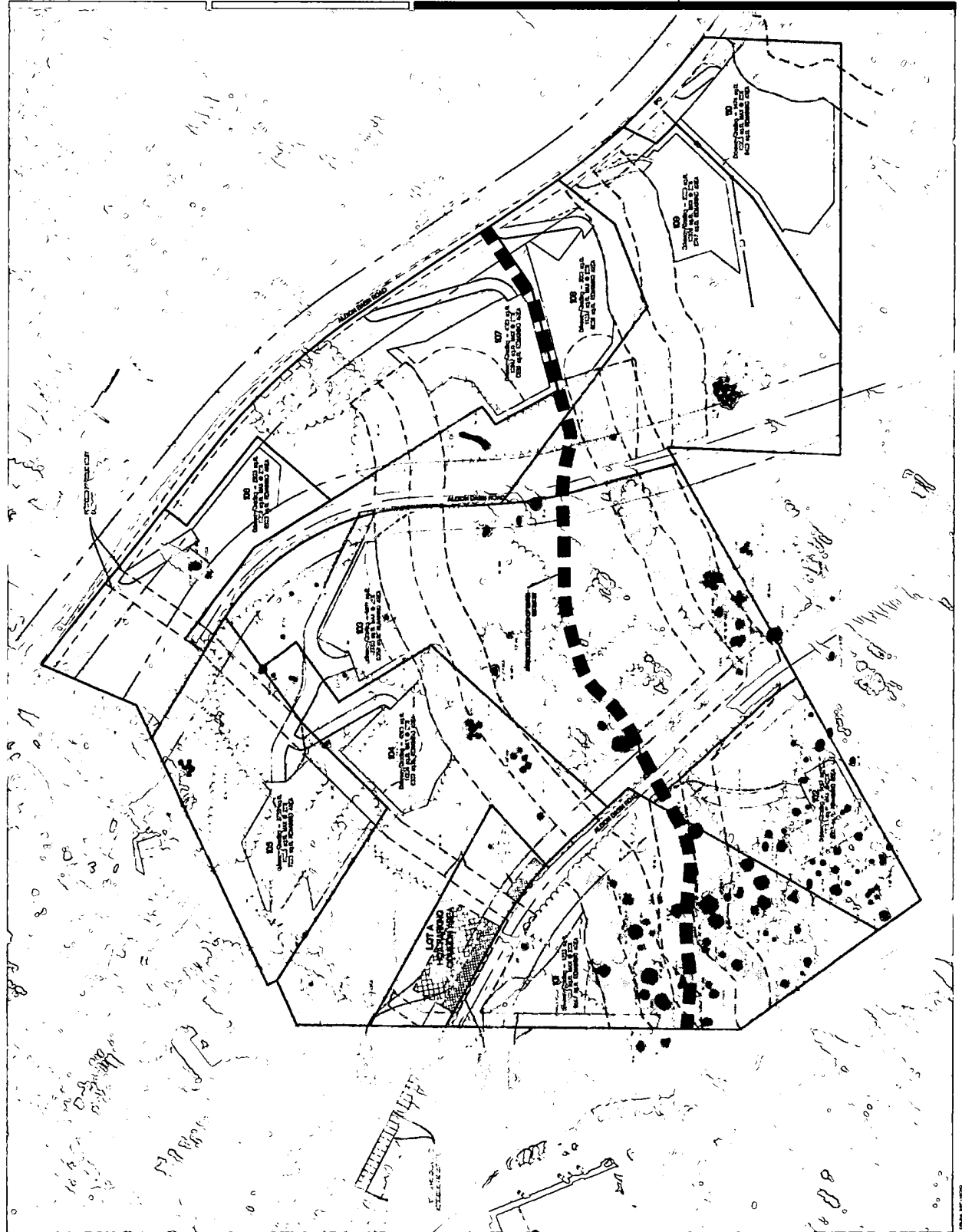
Item	Description	Quantity	Unit
1	Overall Site Plan Exhibit with Aerial	1	Sheet



Client/Project:
 THE ESTATE OF JOANEE L. SHROTZ
 SALT LAKE CITY, UTAH
 PAISLEY MARLEY HILL SUBDIVISION
 TOWN OF ALTA, UTAH

Title:
 OVERALL SITE PLAN EXHIBIT
 WITH AERIAL

Project No.: 100000000
Scale: 1" = 100'
Drawing No.: 100000000
Sheet: 1 of 1
Revision:



**EXHIBIT C
TO
DEVELOPMENT AGREEMENT**

[Depiction of Winter Parking Areas]

APD SURVEYED DATE: MAR 200
 MAP DATE: APR 1981
 Copyright Reserved
 ALL RIGHTS RESERVED
 This drawing is for reference only. It is not intended for construction. The contractor shall be responsible for obtaining all necessary permits and for verifying the accuracy of all information shown on this drawing. Stantec is not responsible for any errors or omissions in this drawing. This drawing is to be used in accordance with the terms and conditions of the contract between the client and Stantec.

Owner/Project:

Notes:

Notes:

NO.	DATE	DESCRIPTION

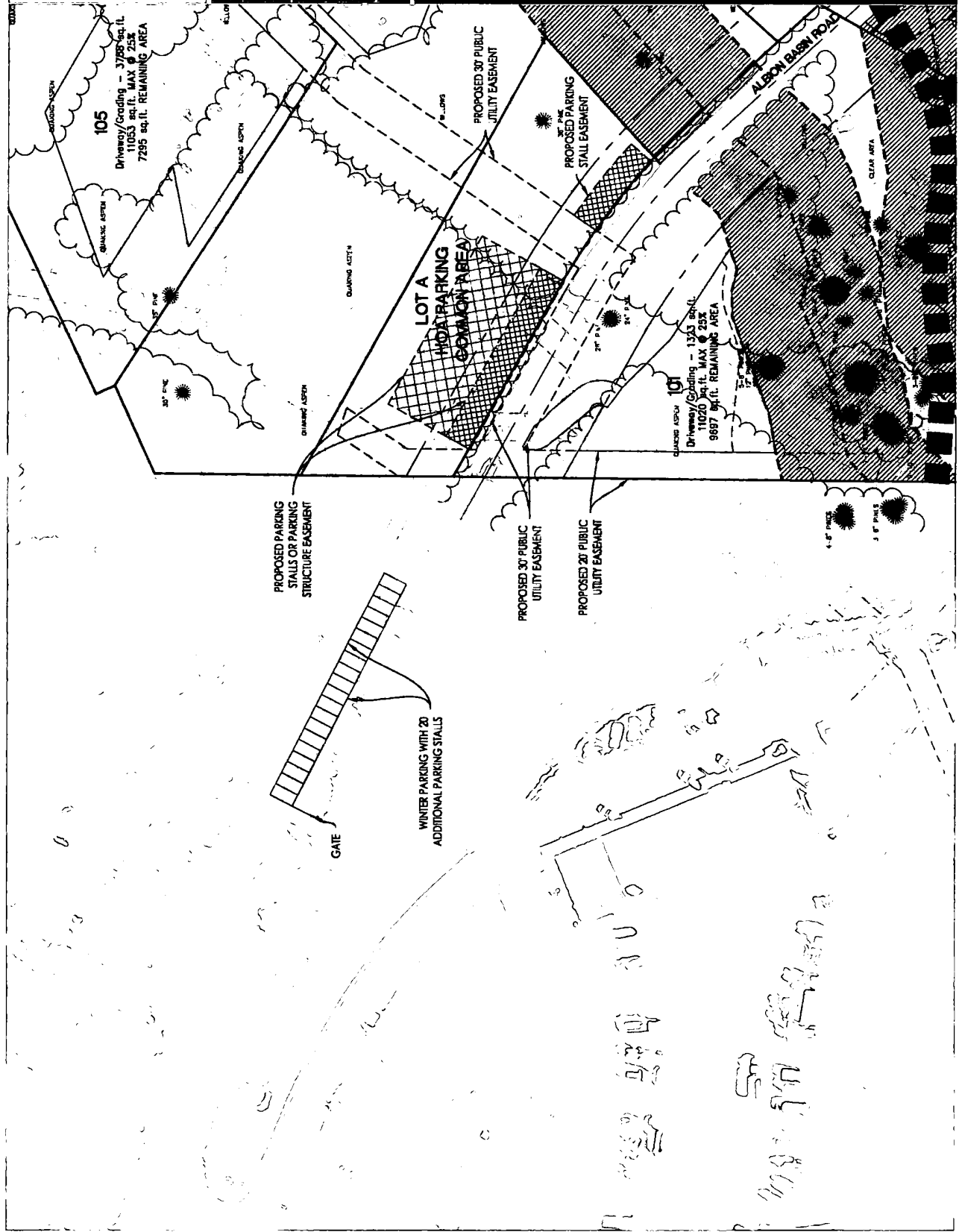


Client/Project:
 THE ESTATE OF JOANNE L. SHROTT
 SALT LAKE CITY, UTAH
 PATNEY MARLEY HILL SUBDIVISION
 TOWN OF ALTA, UTAH

Title: **PARKING LOT EXHIBIT**

Project No: 10400073
 Scale: 1" = 20'
 Drawing No: SHEET
 Revision:

EXHIBIT 03



**EXHIBIT D
TO
DEVELOPMENT AGREEMENT**

[Depiction of Water System and Other Infrastructure for Subdivision]



Stantec Consulting Services Inc.
 370 South 700 East, Suite 300
 Salt Lake City, UT 84143
 801.744.3200

Contract Number:
 The Contractor shall verify and be responsible for all dimensions, D.I.
 utility line locations, and other information. Utility lines are shown
 for reference only. The Contractor shall be responsible for verifying the
 location of all utility lines and for obtaining the appropriate permits
 necessary for their relocation or installation.

Legend

PROPERTY LINE	
EXISTING 2-INCH WATER LINE	
EXISTING 4-INCH WATER LINE	
EXISTING 6-INCH WATER LINE	
EXISTING 8-INCH WATER LINE	
WATER LATERAL	
EXISTING SANITARY SEWER	
EXISTING SNOWMAKING LINE	
PROPOSED 2-INCH WATER LINE	
PROPOSED 4-INCH WATER LINE	
PROPOSED 6-INCH WATER LINE	
PROPOSED 8-INCH WATER LINE	

NOTE

1. THE DRAWING ILLUSTRATES A STANDALONE PATERLY MARLEY WATER SYSTEM CONNECTING TO THE ALTA (TOWN BAY CITY) SOURCE. THE PATERLY MARLEY WATER SYSTEM IS AN EMERGENCY SYSTEM, BUT CURRENT POLICY WILL ALLOW ONLY AN EMERGENCY CONNECTION AT THE PATERLY MARLEY AND POSITIVE VENTILATION SHOWN IN DETAIL 1.

REVISION	BY	DATE	DESCRIPTION

Project/Sheet
 THE STATE OF JOANNE L SHRONTZ
 SALT LAKE CITY, UTAH
 PATERLY MARLEY HILL SUBDIVISION
 WATER SYSTEM MASTER PLAN
 TOWN OF ALTA, UTAH

Title
 PATERLY MARLEY STANDLEONE WATER SYSTEM WITH CONNECTION TO BAY CITY TUNNEL SOURCE



Project No. 160000003
 Sheet 0

