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ABF Real Estate, LLC
847 E Draper Meadow Ln
Draper, UT 84020

**MASTER DEVELOPMENT AGREEMENT
FOR
JARVIE ESTATES PHASE 2**

THIS MASTER DEVELOPMENT AGREEMENT is made and entered into as of the
19th day of April, 2022, by and between Draper City, a Utah municipality and ABF
Real Estate, a limited liability company, incorporated in the state of Utah.

RECITALS

- A. The capitalized terms used in this MDA and in these Recitals are defined in Section 1.2, below.
- B. Master Developer is under contract to purchase and develop the Property.
- C. Master Developer and the City desire that the Property be developed in a unified and consistent fashion pursuant to the Master Plan.
- D. The Parties acknowledge that development of the Property pursuant to this MDA will result in significant planning benefits to the City and its residents by, among other things requiring orderly development of the Property as a two lot subdivision known as Jarvie Estates Phase 2.
- E. The Parties desire to enter into this MDA to specify the rights and responsibilities of the Master Developer to develop the Property as expressed in this MDA and the rights and responsibilities of the City to allow and regulate such development pursuant to the requirements of this MDA.
- F. The Parties understand and intend that this MDA is a “development agreement” within

the meaning of, and entered into pursuant to the terms of Utah Code Ann. §10-9a-101 (2018) *et seq.*

G. On April 19, 2022, the City zoned the Property RA2.

H. This MDA conforms with the intent of the City's General Plan and the Zoning.

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

TERMS

1. Incorporation of Recitals and Exhibits/ Definitions.

1.1. **Incorporation.** The foregoing Recitals and Exhibits "A" - "B" are hereby incorporated into this MDA.

1.2. **Definitions.** As used in this MDA, the words and phrases specified below shall have the following meanings:

1.2.1. **Act** means the Land Use, Development, and Management Act, Utah Code Ann. § 10-9a-101 (2018), *et seq.*

1.2.2. **Administrator** means the person designated by the City as the Administrator of this MDA.

1.2.3. **Applicant** means a person or entity submitting a Development Application.

1.2.4. **Buildout** means the completion of all of the development on the entire Project in accordance with the approved plans.

1.2.5. **City** means Draper City, a Utah municipality.

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

1.2.7. **City's Future Laws** means the ordinances, policies, standards, and procedures which may be in effect as of a particular time in the future when a Development Application is submitted for a part of the Project and which may or may not be applicable to the Development Application depending upon the provisions of this MDA.

1.2.8. **City's Vested Laws** means the ordinances, policies, standards and procedures of the City in effect as of the date of this MDA, a digital copy of which is attached as Exhibit "C".

1.2.9. **Council** means the elected City Council of the City.

1.2.10. **Default** means a material breach of this MDA as specified herein.

1.2.11. **Denied** means a formal denial issued by the final decision-making body of the City for a particular type of Development Application but does not include review comments or "redlines" by City staff.

1.2.12. **Development** means the development of a portion of the Property pursuant to an approved Development Application.

1.2.13. **Development Application** means an application to the City for development of a portion of the Project including a Subdivision or any other permit, certificate or other authorization from the City required for development of the Project.

1.2.14. **Development Report** means a report containing the information specified in Section 2.4.

1.2.15. **Final Plat** means the recordable map or other graphical representation of land prepared in accordance with Utah Code Ann. § 10-9a-603 (2021), or any successor provision, and approved by the City, effectuating a Subdivision of any portion of the Project.

1.2.16. **Master Developer** means party to MDA, and its assignees or transferees as permitted by this MDA.

1.2.17. **Master Plan** means the conceptual layout for Residential Dwelling Units and Public Infrastructure for the Project

1.2.18. **Maximum Residential Units** means the development on the Property of two (2) Residential Dwelling Units

1.2.19. **MDA** means this Master Development Agreement including all of its Exhibits.

1.2.20. **Notice** means any notice to or from any Party to this MDA that is either required or permitted to be given to another party.

1.2.21. **Open Space** shall have the meaning specified in Section 9-3-040 of the City's Vested Laws.

1.2.22. **Outsourc[e][ing]** means the process of the City contracting with City Consultants or paying overtime to City employees to provide technical support in the review and approval of the various aspects of a Development Application as is more fully set out in this MDA.

1.2.23. **Parcel** means a portion of the Property that is created by the Master Developer to be sold to a Subdeveloper as a Subdivision that is not an individually developable lot as specified in Section 5.9.

1.2.24. **Party/Parties** means, in the singular, Master Developer or the City; in the plural Master Developer and the City.

1.2.25. **Planning Commission** means the City's Planning Commission.

1.2.26. **Project** means the total development to be constructed on the Property pursuant to this MDA with the associated public and private facilities, and all of the other aspects approved as part of this MDA.

1.2.27. **Property** means the real property under contract by and to be developed by Master Developer more fully described in Exhibit "A".

1.2.28. **Public Infrastructure** means those elements of infrastructure that are planned to be dedicated to the City as a condition of the approval of a Development Application.

1.2.29. **Residential Dwelling Unit** means a structure or portion thereof designed and intended for use as a single-family residences as illustrated on the Master Plan.

1.2.30. **Subdeveloper** means a person or an entity not "related" (as defined by Section 165 of the Internal Revenue Code) to Master Developer which purchases a Parcel for development.

1.2.31. **Subdivision** means the division of any portion of the Project into developable lots pursuant to State Law and/or the Zoning Ordinance.

1.2.32. **Subdivision Application** means the application to create a Subdivision.

1.2.33. **Zoning** means the zone for the Property adopted by the City on _____, 2022.

1.2.34. **Zoning Ordinance** means the City's Land Use and Development Ordinance adopted pursuant to the Act that was in effect as of the date of this MDA as a part of the City's Vested Laws.

2. **Development of the Project.**

2.1. **Compliance with the Master Plan and this MDA.** Development of the Project shall be in accordance with the City's Vested Laws, the City's Future Laws (to the extent that these are applicable as otherwise specified in this MDA), the Master Plan and this MDA.

2.2. **Maximum Residential Units.** At Buildout of the Project, Master Developer shall be entitled to have developed the Maximum Residential Units as specified in and pursuant to this MDA of the type and in the general location as shown on the Master Plan.

2.3. **Limitation and No Guarantee.** Master Developer acknowledges that the development of the Maximum Residential Units and every other aspect of the Master Plan requires that each Development Application comply with the City's Vested Laws including, without limitation, the City's geologic hazards requirements. The City's entry into this MDA does not guarantee that the Master Developer will be able to construct the Maximum Residential Units or any other aspect of the Project until and unless all the applicable requirements of the City's Vested Laws are complied with.

2.4. **Accounting for Residential Units for Parcels Sold to Subdevelopers.** Any Parcel sold by Master Developer to a Subdeveloper shall include the transfer of a specified portion of the Maximum Residential Units sold with the Parcel.

2.5. **Jarvie Lane width requirement.** Jarvie Lane is a private road that no longer meets the City's width requirements as defined in DCMC Section 9-27-150(B)(2). A separate

access agreement or easement will be required in order for The Property to use Jarvie Lane as its primary access. If an easement or access is obtained, the City agrees to waive the width requirement for Jarvie Lane and allow the Property to use Jarvie Lane as its access. The City will not require Jarvie Lane to be widened to the full private lane width standard of 31-feet as outlined in DCMC Section 9-27-150(B)(2). This would allow 9 lots on a 30-foot wide private lane.

3. **Vested Rights.**

3.1. **Vested Rights Granted by Approval of this MDA.** To the maximum extent permissible under the laws of Utah and the United States and at equity, the Parties intend that this MDA grants Master Developer all rights to develop the Project in fulfillment of this MDA, the City's Vested Laws, the Zoning and the Master Plan except as specifically provided herein. The Parties specifically intend that this MDA grant to Master Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann. § 10-9a-509 (2018).

3.2. **Exceptions.** The restrictions on the applicability of the City's Future Laws to the Project as specified in Section 3.1 are subject to only the following exceptions:

3.2.1. **Master Developer Agreement.** City's Future Laws that Master Developer agrees in writing to the application thereof to the Project;

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

3.2.3. **Codes.** Any City's Future Laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, fire, or

similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare;

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

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

3.2.6. Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, and imposed by the City and which meet all requirements of the U. S. Constitution, Utah Constitution, law and applicable statutes, including but not limited to Utah Code Ann. Section 11-36a-101 (2018) *et seq.*;

3.2.7. Planning and Zoning Modification. Changes by the City to its planning principles and design standards such as architectural or design requirements, setbacks or similar items so long as such changes do not work to reduce the Maximum Residential Units, are generally applicable across the entire City and do not materially and unreasonably increase the costs of any Development; or

3.2.8. Compelling, Countervailing Interest. Laws, rules or regulations that the City's

land use authority finds, on the record, are necessary to avoid jeopardizing a compelling, countervailing public interest pursuant to Utah Code Ann. § 10-9a-509(1)(a)(i) (2018).

4. **Term of Agreement.** The effective date of this MDA shall be April 19, 2022. This MDA shall expire April 19, 2027. If Master Developer has not been declared to be currently in Default as of April 19, 2027 (and if any such Default is not being cured) then this MDA shall be automatically extended until April 19, 2028. This MDA shall also terminate automatically at Buildout or if the Master Developer does not acquire the Property within 365 days of the effective date of this MDA.

5. **Processing of Development Applications.**

5.1. **Outsourcing of Processing of Development Applications.** Within twenty-one (21) calendar days after receipt of a Development Application and upon the request of Applicant the City and Applicant will confer to determine whether the City desires to outsource the review of any aspect of the Development Application to ensure that it is processed on a timely basis. If the City determines that Outsourcing is necessary to ensure the timely processing of the Development Application then the City shall promptly estimate the reasonably anticipated differential cost of Outsourcing in good faith consultation with the Applicant (either overtime to City employees or the hiring of a City Consultant). If Applicant notifies the City that it desires to proceed with the Outsourcing based on the City's estimate of costs then Applicant shall deposit in advance with the City the estimated differential cost and the City shall then promptly proceed with having the work Outsourced. Upon completion of the Outsourcing services and the provision by the City of an invoice (with such reasonable supporting documentation as

may be requested by Applicant) for the actual differential cost (whether by way of paying a City Consultant or paying overtime to City employees) of Outsourcing, Applicant shall, within thirty (30) calendar days pay or receive credit (as the case may be) for any difference between the estimated differential cost deposited for the Outsourcing and the actual cost differential.

5.2. Acceptance of Certifications Required for Development Applications. Any Development Application requiring the signature, endorsement, or certification and/or stamping by a person holding a license or professional certification required by the State of Utah in a particular discipline shall be so signed, endorsed, certified or stamped signifying that the contents of the Development Application comply with the applicable regulatory standards of the City. The City should endeavor to make all of its redlines, comments or suggestions at the time of the first review of the Development Application unless any changes to the Development Application raise new issues that need to be addressed.

5.3. Independent Technical Analyses for Development Applications. If the City needs technical expertise beyond the City's internal resources to determine impacts of a Development Application such as for structures, bridges, water tanks, and other similar matters which are not required by the City's Vested Laws to be certified by such experts as part of a Development Application, the City may engage such experts as City Consultants with the actual and reasonable costs being the responsibility of Applicant. The City Consultant undertaking any review by the City required or permitted by this MDA shall be selected from a list generated by the City for each such City review pursuant to a "request for proposal" process or as otherwise allowed by

City ordinances or regulations. Applicant may, in its sole discretion, strike from the list of qualified proposers any of such proposed consultants so long as at least three (3) qualified proposers remain for selection. The anticipated cost and timeliness of such review may be a factor in choosing the expert. The actual and reasonable costs being the responsibility of Applicant.

5.4. City Denial of a Development Application. If the City denies a Development Application the City shall provide a written determination advising the Applicant of the reasons for denial including specifying the reasons the City believes that the Development Application is not consistent with this MDA, the Zoning and/or the City's Vested Laws (or, if applicable, the City's Future Laws).

5.5. Meet and Confer regarding Development Application Denials. The City and Applicant shall meet within twenty-one (21) calendar days of any Denial to resolve the issues specified in the Denial of a Development Application.

5.6. City Denials of Development Applications Based on Denials from Non-City Agencies. If the City's denial of a Development Application is based on the denial of the Development Application by a Non-City Agency, Applicant shall appeal any such denial through the appropriate procedures for such a decision and not through the processes specified below.

5.7. Mediation of Development Application Denials.

5.7.1. Issues Subject to Mediation. Issues resulting from the City's Denial of a Development Application that the parties are not able to resolve by "Meet and Confer" shall be mediated and include the following:

- (i) the location of On-Site Infrastructure, including utility lines and stub outs to adjacent developments,
- (ii) right-of-way modifications that do not involve the altering or vacating of a previously dedicated public right-of-way,
- (iii) interpretations, minor technical edits or inconsistencies necessary to clarify or modify documents consistent with their intended purpose of the Development Standards, and
- (iv) the issuance of building permits.

5.7.2. Mediation Process. If the City and Applicant are unable to resolve a disagreement subject to mediation, the parties shall attempt within fifteen (15) calendar days to appoint a mutually acceptable mediator with knowledge of the legal issue in dispute. If the City and Applicant are unable to agree on a single acceptable mediator they shall each, within fifteen (15) calendar days, appoint their own representative. These two representatives shall, between them, choose the single mediator. Applicant and the City shall split the fees of the chosen mediator, each Party paying 50% of the fees. The chosen mediator shall within fifteen (15) calendar days, review the positions of the parties regarding the mediation issue and promptly attempt to mediate the issue between the parties. If the parties are unable to reach agreement, the mediator shall notify the parties in writing of the ordinance that the mediator deems appropriate. The mediator's opinion shall not be binding on the parties.

5.8. Arbitration of Development Application Objections.

5.8.1. Arbitration Process. If the City and Applicant are unable to resolve an issue through mediation, the parties may then attempt within fifteen (15) calendar days to appoint a mutually acceptable arbitrator with knowledge of the legal issue in dispute. If the parties are unable to agree on a single acceptable arbitrator they shall each, within fifteen (15) calendar days, each Party shall appoint their own individual appropriate expert. These two experts shall, between them, choose the single arbitrator. Applicant and the City shall split the fees of the chosen arbitrator, each Party paying 50% of the fees. The chosen arbitrator shall within fifteen (15) calendar days, review the positions of the parties regarding the arbitration issue and render a decision. The arbitrator shall ask the prevailing party to draft a proposed order for consideration and objection by the other side. Upon adoption by the arbitrator, and consideration of such objections, the arbitrator's decision shall be final and binding upon both parties. If the arbitrator determines as a part of the decision that the City's or Applicant's position was not only incorrect but was also maintained unreasonably and not in good faith then the arbitrator may order the City or Applicant to pay the arbitrator's fees.

5.9. **Parcel Sales.** The City acknowledges that the precise location and details of the public improvements, lot layout and design and any other similar item regarding the development of a particular Parcel may not be known at the time of the creation of or sale of a Parcel. Master Developer may obtain approval of a Subdivision as is provided in Utah Code Ann., Section 10-9a-103(64)(c)(v) (2019) that does not create any individually developable lots in the Parcel without being subject to any requirement in the City's Vested Laws to complete or provide security for any Public Infrastructure at

the time of such subdivision. The responsibility for completing and providing security for completion of any Public Infrastructure in the Parcel shall be that of the Master Developer or a Subdeveloper upon a subsequent re-Subdivision of the Parcel that creates individually developable lots. However, construction of improvements shall not be allowed until the Master Developer or Subdeveloper complies with the City's Vested Laws.

6. **Application Under City's Future Laws.** Without waiving any rights granted by this MDA, Master Developer may at any time, choose to submit a Development Application for all or part of the Project under the City's Future Laws in effect at the time of the Development Application so long as Master Developer is not in current breach of this Agreement.

7. **Public Infrastructure.**

7.1. **Construction by and Master Developer.** Master Developer shall have the right and the obligation to construct or cause to be constructed and installed all Public Infrastructure reasonably and lawfully required as a condition of approval of the Development Application pursuant to the City's Vested Laws.

7.2. **Bonding.** If and to the extent required by the City's Vested Laws, unless otherwise provided by Chapter 10-9a of the Utah Code as amended, security for any Public or private Infrastructure—is required by the City Applicant shall provide it in a form acceptable to the City as specified in the City's Vested Laws. Partial releases of any such required security shall be made as work progresses based on the City's Vested Laws.

8. **Upsizing/Reimbursements to Master Developer.**

8.1. **"Upsizing".** The City shall not require Master Developer to “upsized” any future Public Infrastructure (i.e., to construct the infrastructure to a size larger than required to

service the Project) unless financial arrangements reasonably acceptable to Master Developer are made to compensate Master Developer for the incremental or additive costs of such upsizing. For example, if an upsizing to a water pipe size increases costs by 10% but adds 50% more capacity, the City shall only be responsible to compensate Master Developer for the 10% cost increase. An acceptable financial arrangement for upsizing of improvements means reimbursement agreements, payback agreements, and impact fee credits and reimbursements.

9. **Default.**

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

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

9.2.1. Specific Claim. Specify the claimed event of Default;

9.2.2. Applicable Provisions. Identify with particularity the provisions of any applicable law, rule, regulation or provision of this MDA that is claimed to be in Default;

9.2.3. Materiality. Identify why the Default is claimed to be material; and

9.2.4. Optional Cure. If the City chooses, in its discretion, it may propose a method and time for curing the Default which shall be of no less than thirty (30) calendar days duration.

9.3. **Meet and Confer, Mediation, Arbitration.** Upon the issuance of a Notice of

Default the parties shall engage in the “Meet and Confer” and “Mediation” processes specified in Sections 5.5 and 5.7. If the claimed Default is subject to Arbitration as provided in Section 5.8 then the parties shall follow such processes.

9.4. Remedies. If the parties are not able to resolve the Default by “Meet and Confer” or by “Mediation”, and if the Default is not subject to arbitration then the parties may have the following remedies, except as specifically limited in 10.9:

9.4.1. Law and Equity. All rights and remedies available at law and in equity, including, but not limited to, injunctive relief and/or specific performance.

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

9.4.3. Future Approvals. The right to withhold all further reviews, approvals, licenses, building permits and/or other permits for development of the Project in the case of a default by Master Developer, or in the case of a default by a Subdeveloper, development of those Parcels owned by the Subdeveloper until the Default has been cured.

9.5. Public Meeting. Before any remedy in Section 9.4 may be imposed by the City the party allegedly in Default shall be afforded the right to attend a public meeting before the City Council and address the City Council regarding the claimed Default.

9.6. Emergency Defaults. Anything in this MDA notwithstanding, if the City Council finds on the record that a default materially impairs a compelling, countervailing interest of the City and that any delays in imposing such a default would also impair a compelling, countervailing interest of the City then the City may impose the remedies of Section 9.4 without the requirements of Sections 9.5. The City shall give Notice to

Master Developer and/or any applicable Subdeveloper of any public meeting at which an emergency default is to be considered and the Master Developer and/or any applicable Subdeveloper shall be allowed to address the City Council at that meeting regarding the claimed emergency Default.

9.7. Extended Cure Period. If any Default cannot be reasonably cured within thirty (30) calendar days then such cure period shall be extended so long as the defaulting party is pursuing a cure with reasonable diligence.

9.8. Default of Assignee. A default of any obligations assumed by an assignee shall not be deemed a default of Master Developer.

9.9. Limitation on Recovery for Default – No Damages. Anything in this MDA notwithstanding no Party shall be entitled to any claim for any monetary damages as a result of any breach of this MDA and each Party waives any claims thereto. The sole remedy available to Master Developer or any Subdeveloper shall be that of specific performance.

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

To the Master Developer:

Andrew Flamm
ABF Real Estate, LLC
847 E Draper Meadow Ln
Draper, UT 84020
andy@allegiantutah.com
801-641-2097

To the City:

Draper City
Attn: City Manager
David Dobbins
1020 East Pioneer Road
Draper, UT 84020
David.dobbins@draper.ut.us
(801) 576-6500

With a Copy to:

Draper City
Attn: City Attorney
Mike Barker
1020 East Pioneer Road
Draper, UT 84020
Mike.barker@draper.ut.us
(801) 576-6500

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

10.1.1. Hand Delivery. Its actual receipt, if delivered personally, by courier service, or by facsimile provided that a copy of the facsimile Notice is mailed or personally delivered as set forth herein on the same day and the sending party has confirmation of transmission receipt of the Notice. If the copy is not sent on the same day, then notice shall be deemed effective the date that the mailing or personal delivery occurs.

10.1.2. Electronic Delivery. Its actual receipt if delivered electronically by email provided that a copy of the email is printed out in physical form and mailed or personally delivered as set forth herein on the same day and the sending party has an electronic receipt of the delivery of the Notice. If the copy is not sent on the same day, then notice shall be deemed effective the date that the mailing or personal delivery occurs.

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

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

12. **No Third-Party Rights/No Joint Venture.** This MDA does not create a joint venture relationship, partnership or agency relationship between the City, or Master Developer. Further, the parties do not intend this MDA to create any third-party beneficiary rights. The Parties acknowledge that this MDA refers to a private development and that the City has no interest in, responsibility for or duty to any third parties concerning any improvements to the Property or unless the City has accepted the dedication of such improvements at which time all rights and responsibilities—except for warranty bond requirements under City’s Vested Laws and as allowed by state law—for the dedicated public improvement shall be the City’s.

13. **Assignability.** The rights and responsibilities of Master Developer under this MDA may be assigned in whole or in part, respectively, by Master Developer with the consent of the City as provided herein.

13.1. **Sale of Lots.** Master Developer’s selling or conveying lots in any approved Subdivision or Parcels to builders, users, or Subdevelopers, shall not be deemed to be an “assignment” subject to the above-referenced approval by the City unless specifically designated as such an assignment by Master Developer.

13.2. **Related Entity.** Master Developer’s transfer of all or any part of the Property to

any entity “related” to Master Developer (as defined by regulations of the Internal Revenue Service in Section 165), Master Developer’s entry into a joint venture for the development of the Project or Master Developer’s pledging of part or all of the Project as security for financing shall also not be deemed to be an “assignment” subject to the above-referenced approval by the City unless specifically designated as such an assignment by the Master Developer. Master Developer shall give the City Notice of any event specified in this sub-section within fifteen (15) calendar days after the event has occurred. Such Notice shall include providing the City with all necessary contact information for the newly responsible party.

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

13.4. Time for Objection. Unless the City objects in writing within thirty (30) calendar days of notice, the City shall be deemed to have approved of and consented to the assignment.

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

13.6. **Denial.** The City may only withhold its consent if the City is not reasonably satisfied of the assignee's financial ability to perform the obligations of or Master Developer proposed to be assigned or there is an existing breach of a development obligation owed to the City by the assignee or related entity that has not either been cured or in the process of being cured in a manner acceptable to the City. Any refusal of the City to accept an assignment shall be subject to the "Meet and Confer" and "Mediation" processes specified in Sections 5.5 and 5.7. If the refusal is subject to Arbitration as provided in Section 5.8 then the Parties shall follow such processes.

13.7. **Assignees Bound by MDA.** Any assignee shall consent in writing to be bound by the assigned terms and conditions of this MDA as a condition precedent to the effectiveness of the assignment. That consent shall specifically acknowledge the provisions of Section 2.

14. **Binding Effect.** If Master Developer sells or conveys Parcels of lands to Subdevelopers or related parties, the lands so sold and conveyed shall bear the same rights, privileges, configurations, and number of Residential Dwelling Units as applicable to such Parcel and be subject to the same limitations and rights of the City when owned by or Master Developer and as set forth in this MDA without any required approval, review, or consent by the City except as otherwise provided herein.

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

16. **Severability.** If any provision of this MDA is held by a court of competent jurisdiction to be invalid for any reason, the Parties consider and intend that this MDA shall be deemed

amended to the extent necessary to make it consistent with such decision and the balance of this MDA shall remain in full force and affect.

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

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

19. **Appointment of Representatives.** To further the commitment of the Parties to cooperate in the implementation of this MDA, the City and Master Developer each shall designate and appoint a representative to act as a liaison between the City and its various departments and the Master Developer. The initial representative for the City shall be the City Manager. The initial representative for Master Developer shall be Andrew Flamm. The Parties may change their designated representatives by Notice. The representatives shall be available at all reasonable times to discuss and review the performance of the Parties to this MDA and the development of the Project.

20. **Applicable Law.** This MDA is entered into in Salt Lake County in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah's choice of law rules.

21. **Venue.** Any action to enforce this MDA shall be brought only in the Third District Court

for the State of Utah, Salt Lake City Division.

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

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

24. **Recordation and Running with the Land.** This MDA shall be recorded in the chain of title for the Project. This MDA shall be deemed to run with the land. The data disk of the City's Vested Laws, Exhibit "C", shall not be recorded in the chain of title. A secure copy of Exhibit "C" shall be filed with the City Recorder and each party shall also have an identical copy.

25. **Authority.** The Parties to this MDA each warrant that they have all of the necessary authority to execute this MDA. Specifically, on behalf of the City, the signature of the City Manager of the City is affixed to this MDA lawfully binding the City pursuant to Ordinance No. 1537 adopted by the City on April 19, 2022.

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

MASTER DEVELOPER
party to MDA

[Signature]
By: Andrew Flamm
Its: manager
Date: 4/19/22

Approved as to form and legality:
[Signature]

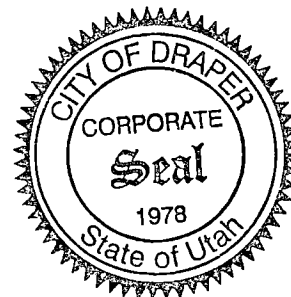
Last Update Date: 3/31/22

CITY
Draper City

[Signature]
By: David Debbini
Its: City Manager
Date: 4-25-22

Attest:
[Signature]

Draper City Contract #



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City Attorney

City Recorder

CITY ACKNOWLEDGMENT

STATE OF UTAH)

:SS.

COUNTY OF SALT LAKE)

On the 19 day of April, 2022 personally appeared before me David Dobbins ~~Andrew Flamm~~ who being by me duly sworn, did say that he is the City Manager of Draper City, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the City by authority of its City Council and said City Manager acknowledged to me that the City executed the same.

Kellie Chalhug
NOTARY PUBLIC

My Commission Expires: 1/10/2023

Residing at: Salt Lake County

MASTER DEVELOPER ACKNOWLEDGMENT

STATE OF UTAH)

:SS.

COUNTY OF SALT LAKE)

On the 19 day of April, 2022, personally appeared before me Andrew Flamm, who being by me duly sworn, did say that he/she is the Manager of ABF Real Estate a Utah LLC and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

Kellie Chalhug
NOTARY PUBLIC

My Commission Expires: 1/10/2023

Residing at: Salt Lake County

TABLE OF EXHIBITS

Exhibit "A"
Exhibit "B"

Legal Description of Property
Master Plan

Exhibit "A"
Legal Description of Property

PARCEL 1: 34-06-426-004-0000

Beginning at a point 25.0 feet East and 596.47 feet South of the Northwest Corner of the Northeast Quarter of the Southeast Quarter of Section 6, Township 4 South, Range 1 East, Salt Lake Base and Meridian; and running thence South 264.4 feet; thence East 164.75 feet; thence North 264.4 feet; thence West 164.75 feet to the point of beginning.

TOGETHER WITH a 25.00 foot right of way over the following described property:

Beginning at the Northwest Corner of the Northeast Quarter of the Southeast Quarter of Section 6, Township 4 South, Range 1 East, Salt Lake Base and Meridian; and running thence South 860.87 feet; thence East 25.0 feet; thence North 860.87 feet; thence West 25.0 feet to the point of beginning.

LESS AND EXCEPTING from the above described right of way, any portion lying within the legal bounds of 13800 South Street.

PARCEL 2: 34-06-426-049-0000

Beginning at a point 596.47 feet South from the Northwest Corner of the Northeast Quarter of the Southeast Quarter of Section 6, Township 4 South, Range 1 East, Salt Lake Base and Meridian; and running thence East 25.00 feet; thence South 264.40 feet; thence West 25.00 feet; thence North 264.40 feet to the point of beginning.

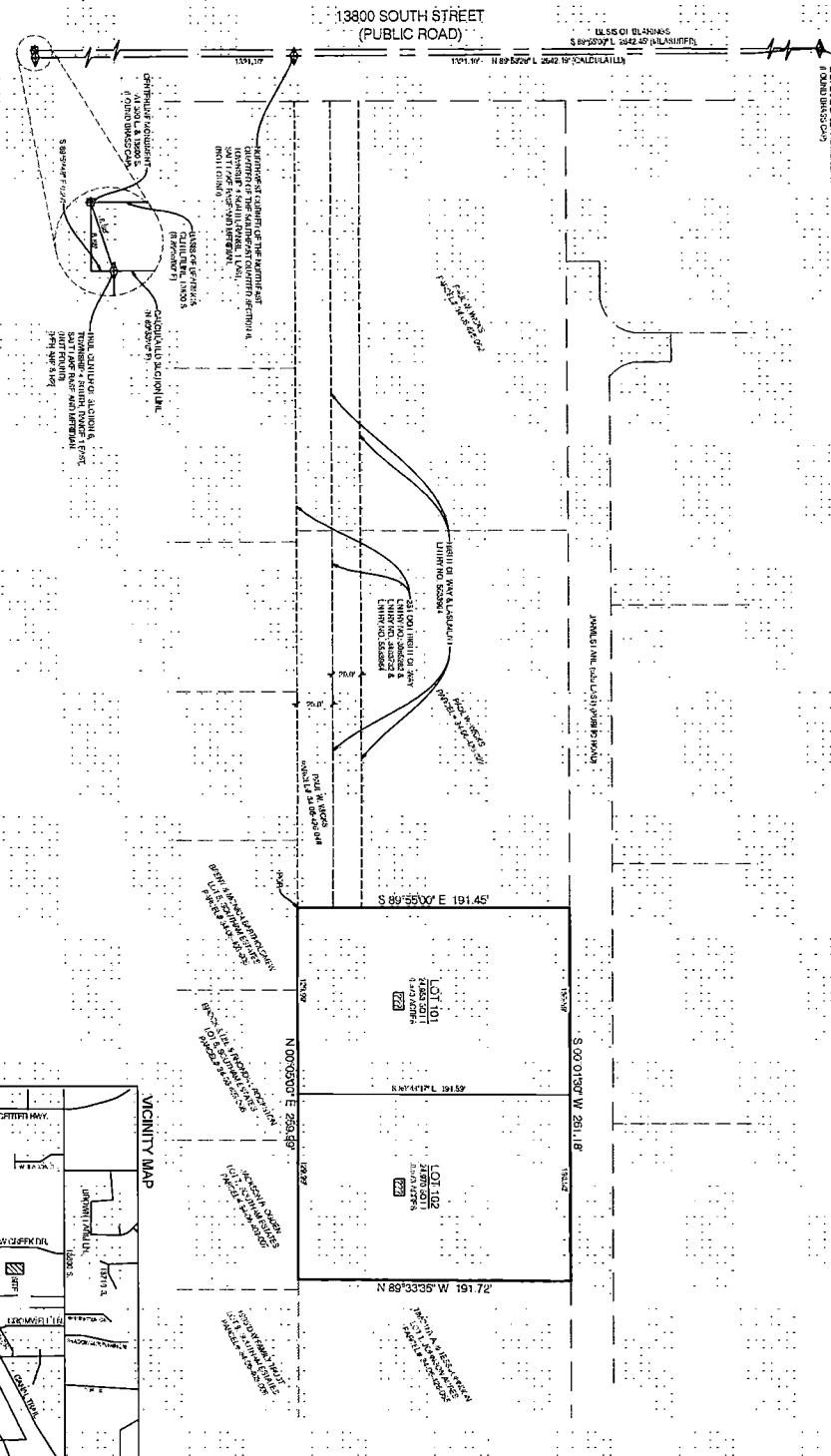
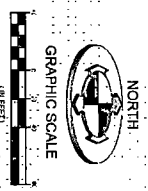
Situated in Salt Lake County, State of Utah

APN: 34-06-426-004-0000 and 34-06-426-049-0000

Exhibit "B"
Master Plan

JARVIE ESTATES PHASE 2 SUBDIVISION

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 6,
TOWNSHIP 4 SOUTH, RANGE 1 EAST,
SALT LAKE BASE AND MERIDIAN,
DRAAPER CITY, SALT LAKE COUNTY, UTAH



BENCHMARK ENGINEERING & SURVEYING
 488 EAST 13800 SOUTH
 DRAAPER CITY, UT

DESIGNER:
 ANDY ALAMIAN
 801-461-5097
 ANDY@BENCHMARKUTAH.COM

SUBDIVISION ADDRESS:
 488 EAST 13800 SOUTH
 DRAAPER CITY, UT

SOUTH VALLEY DESIGN DISTRICT
 APPROVAL NO. _____ DATE _____

PLANNING COMMISSION
 APPROVAL NO. _____ DATE _____

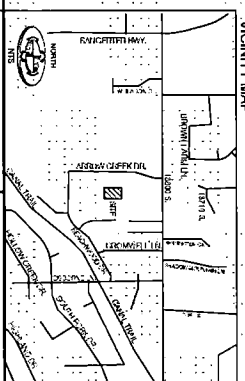
SALT LAKE COUNTY HEALTH DEPT.
 APPROVAL NO. _____ DATE _____

CITY ENGINEERS CERTIFICATE
 APPROVAL NO. _____ DATE _____

APPROVAL AS TO FORM
 APPROVAL NO. _____ DATE _____

DRAAPER CITY MAYORS APPROVAL
 APPROVAL NO. _____ DATE _____

RECORDS OFFICE
 APPROVAL NO. _____ DATE _____



SURVEYORS CERTIFICATE

I, the undersigned, being a duly licensed and sworn surveyor of the State of Utah, do hereby certify that the foregoing plat and map were prepared by me or under my direct supervision and that I am a duly licensed and sworn surveyor of the State of Utah.

JARVIE ESTATES PHASE 2 SUBDIVISION

BOUNDARY DESCRIPTION

PRELIMINARY

OWNERS DEDICATION

I, the undersigned, being a duly licensed and sworn surveyor of the State of Utah, do hereby certify that the foregoing plat and map were prepared by me or under my direct supervision and that I am a duly licensed and sworn surveyor of the State of Utah.

JARVIE ESTATES PHASE 2 SUBDIVISION

ACKNOWLEDGMENT

Noted and approved by me, the undersigned, as the duly authorized representative of the owner of the above described property, and I hereby acknowledge the contents of the foregoing plat and map and the dedication of the same.

DATE: _____

NAME: _____

ADDRESS: _____