

P-34  
L-1



**DEVELOPMENT AGREEMENT  
FOR  
SAND HOLLOW RESORT**

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into this 25<sup>th</sup> day of September, 2006 by and between Sand Hollow Development Group, LLC a Utah limited liability company and its successors and assigns ("SHDG") and SHR Development, LLC, a Utah limited liability company and its successors and assigns ("SHRDev") (SHDG & SHRDev collectively as "Developer") and City of Hurricane, a Utah municipal corporation ("City") (all together, the "Parties").

**RECITALS**

A. WHEREAS, Developer and the United States Government (Dept. of Interior, Bureau of Land Management) are the owners of approximately 997.33 +/- acres of land recently approved for annexation into City in a location West of the Sand Hollow Reservoir and described more fully in Exhibit A, attached hereto and incorporated herein by this reference ("Annexed Property").

B. WHEREAS, Developer has planned and designed the Annexed Property into a phased master-planned community which includes residential, commercial and community related development currently known as the Sand Hollow Resort Project ("SHR Project"). The general layout and design of the SHR Project is depicted in the "PDO Preliminary Site Plan" dated November 2005 and prepared by Alpha Engineering attached hereto as Exhibit B, and incorporated herein by this reference.

C. WHEREAS, on December 18, 2005, the Hurricane City Planning Commission recommended approval of Developer's application to rezone the Property (Application #2005-102) subject to certain findings and conditions as set forth in Exhibit C, attached hereto and incorporated herein, and forwarded such application to City Council for its consideration.

D. WHEREAS, on or about December 15, 2005, the Hurricane City Council unanimously approved Developer's application for a Planned Development Overlay Zone for the SHR Project subject to certain findings and conditions set forth in Exhibit D, attached hereto and incorporated herein, which included the creation and approval of this Development Agreement and the recordation of the annexation plat for the Annexed Property ("PDO Zone Approval").

E. WHEREAS, City finds the PDO Zone Approval and the PDO Preliminary Site Plan and the PDO Preliminary Site Plan (i) do not conflict with any applicable policy of the Hurricane City General Plan; (ii) meet the spirit and intent of Section 10-23-1 *et al* of City's Land Use Ordinance; (iii) will allow integrated planning and design of the Annexed Property and, on the whole, better development than would be possible under conventional zoning regulations; (iv) meet applicable use limitations and other requirements of the R-1-10 zone with which the Planned Development Overlay zone will be combined; and (v) meet the density limitations of the R-1-10 zone.

F. WHEREAS, City believes, based upon Developer's representations, that Developer has (i) sufficient control over the Annexed Property to ensure development will occur as approved; (ii) the financial capability to carry out the SHR Project; and (iii) the capability to start construction within one (1) year of final plan approval.

G. WHEREAS, Developer has expended considerable time and money in developing the SHR Project to its current status and will continue to expend considerable time and money to complete its development based upon the PDO Zone Approval given by City.

H. WHEREAS, City likewise has expended considerable time and money in reviewing the SHR Project and assuming Developer elects to proceed with the Project, will continue to do so to ensure compliance with City's Land Use Ordinance for the benefit of persons who ultimately will live, work and/or recreate within the SHR Project as well as citizens of Hurricane generally.

I. WHEREAS, each of the Parties are willing to enter into this Agreement in order to implement the purposes and conditions of both the PDO Zone Approval and the PDO Preliminary Site Plan for the SHR Project and to more fully set forth the covenants and commitments of each Party, while giving effect to applicable state law and City's Land Use Ordinances.

J. WHEREAS, acting pursuant to its authority under Utah Code Annotated, §§ 10-9a-101, *et seq.*, and after all required public notice and hearings, City, in its exercise of its legislative discretion has determined that entering into this Agreement furthers the purposes of the (i) Utah Municipal Land Use, Development, and Management Act, (ii) City's General Plan, and (iii) City's Land Use Ordinance. As a result of such determination City (i) has elected to process the SHR Project in a manner resulting in negotiation, consideration, and approval of this Agreement and (ii) has concluded that the terms and conditions set forth herein serve a public purpose and promote the health, safety, prosperity, security, and general welfare of the inhabitants and taxpayers of City.

#### **AGREEMENT**

NOW THEREFORE, in consideration of the foregoing promises, conditions, covenants and agreements set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Incorporation of Recitals. The recitals set forth above are incorporated fully into this Agreement as if fully set forth herein.

2. Definitions. Any term or phrase used in this Agreement that has its first letter capitalized shall have that meaning given to it by Title 10, Hurricane Municipal Code, ("City's Land Use Ordinance") in effect on the date this Agreement is executed, or, if different, by this Agreement. Certain such terms and phrases are referenced below; others are defined where they appear in the text of this Agreement.

- a. "After-Acquired Property" means any property acquired by Developer after the execution of this Agreement that are adjacent to the SHR Project.
- b. "Annexed Property" means the approximate 997.33 +/- acres of the property included within the SHR Project being annexed into City (previously annexed into the Ash Creek SSD) and more particularly described in Exhibit A and depicted in Exhibit B attached hereto.
- c. "Ash Creek SSD" means the Ash Creek Special Service District, a body politic created for the purpose of providing sewer and waste water removal and treatment to the Hurricane Valley Basin Area, which includes the SHR Project.
- d. "Base Density" means the maximum number of ERU's set forth in Paragraph 7(b), below, which is allowed within the SHR Project as calculated pursuant to Section 10-23-8(B) of City's Land Use Ordinance and as approved by City when granting the PDO Zone Approval and approval of the PDO Preliminary Site Plan.
- e. "BLM" means the U.S. Department of Interior, Bureau of Land Management, a division of the United States Federal Government charged with the administration of land owned by the United States of America within the SHR Project.
- f. "City Standards and Specification for Public Improvements" means those design and construction guidelines, standards and specifications contained in City's Land Use Ordinances.
- g. "City's Land Use Ordinance" means Title 10 of the Hurricane City Municipal Ordinances entitled the "Land Use Ordinance of Hurricane City."
- h. "Commercial Uses" means any commercial uses that comply with the limitations and types of use set forth in Sections 10-15-1 (Table) and 10-23-5 of City's Land Use Ordinance and this Agreement.
- j. "CC&Rs" means Covenants, Conditions and Restrictions and specifically the Master Declaration of Covenants, Conditions and Restrictions recorded against the SHR Project as a whole ("Master Declaration") and the Declaration of Covenants, Conditions and Restrictions that may be recorded against an individual Development Parcel.
- k. "Density Transfer" means the ability of Developer to transfer densities from one Development Parcel to other Development Parcels within the SHR Project subject to the conditions set forth in Paragraphs 7(f) and 7(g) of this Agreement.
- l. "Design Standards" means the design standards or guidelines (including landscaping standards) adopted by Developer and as approved by City.
- m. "Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in

the use of land that creates additional demand and need for public facilities.

n. "Development Parcel" means an area within the SHR Project that shall hold the potential of being developed, in part or in whole by Developer, or its successors and assigns, into one or more separate residential or commercial subdivision phases. Development Parcel includes "super pads", subdivision phases, or multiple lots within a subdivision phase as generally shown on the PDO Preliminary Site Plan attached hereto as Exhibit B.

o. "Development Guidelines" means the Master Declaration and the Design Standards and separate plans that will be adopted by Developer, including the Culinary and Raw Water Plans, the Sewer and Storm Water Management Plans, for the purpose of providing continuity throughout the SHR Project.

p. "Dixie REA" means Dixie Rural Electrical Association, the currently exclusive electrical power provider to the area of the Hurricane Valley where the SHR Project is located.

q. "EA" means the Environmental Assessment (UT-100-05-EA-03) issued by the BLM at the request of City in December 2005.

r. "ERU" means equivalent residential unit. An equivalent residential unit means a dwelling unit as defined by City's Land Use Ordinance.

s. "FONSI" means the Finding of No Significant Impact and Decision Record issued by the BLM regarding the proposed R&PP Lease in February 2006.

t. "Final Plat" means a final plat of a residential or commercial subdivision to be constructed as a phase within a Development Parcel which, after approval by City's governing body, is to be recorded in the Official Records in Office of the Recorder of Washington County, State of Utah.

u. "Final Site Plan" means a site plan approved pursuant to Sections 10-7-10, 10-23-7(D), as amended, and other applicable provisions of City's Land Use Ordinance. For purposes of this Agreement, the twelve (12) month requirement of Section 10-23-7(D) of City's Land Use Ordinance shall mean Developer must obtain the approval of a Final Site Plan for at least one Development Parcel within twelve (12) months of the date this Agreement, which memorializes the PDO Zone Approval and City's approval of the PDO Preliminary Site Plan.

v. "Golf Course" shall mean the 18-hole golf course and the 9-hole golf course to be constructed by Developer and dedicated to City as depicted in the PDO Preliminary Site Plan.

w. "Land Use Application" means any application for development within the SHR Project submitted to City by Developer or any Sub-Developer subsequent to the

execution of this Agreement.

x. "MOA" means the Memorandum of Agreement between City, BLM and Developer whereby City and Developer have agreed to implement and abide by the terms of Development and Management Plan and Archaeological Treatment Plan prepared by the BLM for the SHR Project.

y. "Multi-Family Uses" means all residential uses other than single family detached housing, including without limitation vacation homes, condominiums, "condotel", timeshare, hotel, and town homes and other forms of multi-family land uses.

z. "Ordinance" means the Hurricane City Municipal Ordinances, including City's Land Use Ordinance

aa. "Planning Commission" means the Hurricane City Planning Commission.

bb. "PDO Zone Approval" means City's approval of Developer's PDO Preliminary Site Plan and zone change request (Application # 2005-102) for the SHR Project on December 15, 2005, which was subject to certain findings and conditions set forth in Exhibit D.

cc. "PDO Preliminary Site Plan" means the conceptual site plan map attached hereto as Exhibit B, and approved by the Hurricane City Council on December 15, 2005 as part of Developer's PDO zoning change request (Application #2005-102).

dd. "Project improvements" means site improvements and facilities that are planned and designed to provide service for the SHR Project development resulting from a development activity; and necessary for the use and convenience of the occupants or users of development resulting from a development activity. "Project improvements" does not mean system improvements.

ee. "Proportionate share" means the cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any development activity.

ff. "R&PP Lease" means the Recreation and Public Purpose Lease to be entered into between City and the BLM for the long term lease of the Golf Course, hiking trails and other recreational areas within the SHR Project.

gg. "SHR Project" and "Project" mean the Sand Hollow Resort Project in Paragraph 3, below and further described or depicted on the attached Exhibits A and B.

hh. "Sub-Developer" means any person, entity, group, association or political subdivision responsible to construct and/or prepare a Development Parcel, or any part thereof, for the construction or pre-construction of structures.

ii. "System improvements" means existing public facilities that are designed

to provide services to service areas within the community at large; and future public facilities identified in a capital facilities plan that are intended to provide services to service areas within the community at large. "System improvements" does not mean project improvements.

jj. "Water Storage Site" means that area outside of the SHR Project that will be acquired by City and constructed by either Developer or City pursuant to Paragraph 10, below for the purpose of receiving, holding, storing and transmitting culinary and raw water to the SHR Project.

kk. "Water Distribution System" means the system of water transmission lines to be installed by either City or Developer across dedicated rights-of-way for the distribution of both culinary and raw water to the perimeter of the SHR Project.

3. Summary of SHR Project. The SHR Project is a phased master-planned community which includes residential, commercial, community related development, and a 27-hole golf course consisting of approximately 997.33 +/- acres located west of the Sand Hollow Reservoir. The SHR Project consists of a number of Development Parcels as depicted in the PDO Preliminary Site Plan. Developer will act as a master developer of the SHR Project. As such, Developer will oversee and/or coordinate the construction of all major "off-site" infrastructure and some of the "on-site" infrastructure and amenities for the SHR Project, including the construction of the Golf Course. Developer anticipates either constructing individual portions of Development Parcels itself or conveying the same to Sub-Developers in a phased manner. Sub-Developers shall be bound by and shall cause its employees and agents to act in accordance with the terms of this Agreement. Developer intends to adopt a detailed set of Development Guidelines which will govern the SHR Project, a copy of which shall be provided to City. Such Development Guidelines shall be consistent with the provisions of this Agreement, City's Land Use Ordinance and the MOA. City shall have no duty to enforce the Development Guidelines except to the extent that any provision thereof is required by this Agreement, a provision of City's Land Use Ordinance or the MOA and its corresponding Development and Management Plan and Archaeological Treatment Plan prepared by the BLM for the SHR Project.

4. Findings and Authority

a. Compliance and Benefits to City. City finds that (i) the PDO Preliminary Site Plan and this Agreement are consistent with the Hurricane City General Plan, the PDO Ordinance and all other applicable ordinances, rules, regulations and policies of City; and (ii) the development of the SHR Project pursuant to this Agreement, the PDO Zone Approval and the PDO Preliminary Site Plan will result in significant planning and economic benefits to and will further the health, safety and general welfare of City and its residents by, among other things: (A) requiring development of the SHR Project in a manner consistent with the applicable rules, regulations and policies of City; (B) providing for the dedication of infrastructure improvements to be completed in several phases as set forth herein; (C) increasing sales and/or property tax and other revenues to City derived from businesses and residences to be constructed in the SHR Project; (D) creating jobs from new businesses to be located within the SHR Project, and (E) the

construction and operation of public amenities, such as the Golf Course, at no expense to City.

b. Compliance with BLM and Environmental Requirements. The Parties acknowledge the existence of the EA and FONSI issued by the BLM which finds that no significant impact on the quality of the human environment, individually or cumulatively with other actions in the general area including no environmental effects will occur as a result of the development of the SHR Project. The Parties further acknowledge the existence of the MOA which binds them to comply with the Development and Management Plan and Archaeological Treatment Plan prepared by the BLM for the SHR Project. The Parties expressly agree to comply with the requirements of such plans.

c. Reliance by the Parties. City acknowledges that Developer is relying on the execution and continuing validity of this Agreement, the conditions set forth in this Agreement, the PDO Zone Approval and the PDO Preliminary Site Plan. Developer has expended substantial funds in the development of the SHR Project and the Golf Course and, with reliance upon this Agreement, will continue to expend additional funds. Developer acknowledges that City is relying on the execution and continuing validity of this Agreement and Developer's faithful performance of its obligations under this Agreement, the conditions set forth in the PDO Zone Approval and the PDO Preliminary Site Plan in continuing to perform the obligations of City hereunder.

d. Purpose: Authorization to Develop. The Parties desire that City have reasonable certainty concerning the manner in which the SHR Project will be developed and that Developer and its successors and assigns will have reasonable certainty in proceeding with development of the SHR Project. Through this Agreement, Developer and its successors and assigns agree to comply with the terms of the PDO Zone Approval, the PDO Preliminary Site Plan and this Agreement, and in exchange, City authorizes Developer and its successors and assigns to develop the SHR Project as set forth in the PDO Zone Approval, the PDO Preliminary Site Plan and this Agreement, subject only to future modification as set forth in Paragraph 6, below.

5. Applicable Laws and Regulations. The Parties acknowledge that, upon completion of the process to annex the Annexed Property pursuant to applicable Utah State law, the SHR Project will be located within the municipal boundaries of City. Except as provided in Subparagraph 5(a), the Parties agree that all development and improvements of any sort, on- or off-site, relating to the SHR Project shall therefore comply with City's Land Use Ordinances, Ordinances, Design Guidelines, regulations, requirements, and procedures established by and for City and this Agreement. City acknowledges that in certain instances, such as the 4300 West access road, coordination of design and other building standards may be necessary with other public and quasi- public entities.

a. PDO Approval. The PDO Zone Approval and the PDO Preliminary Site Plan shall not be affected by any inconsistent or contrary moratorium, ordinance, resolution, rule or regulation enacted by City that prohibits or regulates the ERU density, land uses, and site improvements shown on the PDO Preliminary Site Plan, nor shall any further exactions be imposed by City as provided in Paragraph 11 of this Agreement.

b. Land Use Applications. Except as provided in Subparagraph 5(a), any Land Use Application made subsequent to the execution of this Agreement shall conform to applicable provisions of the of City's Land Use Ordinance in effect when a complete application is submitted.

c. Building Permits. Any person or entity applying for a building permit within the SHR Project shall be subject to the building, electrical, mechanical, plumbing, fire codes and other City ordinances relating to the construction of any structure in effect when a person or entity files with City a complete application for such building permit.

d. Later Enacted State or Federal Law. The rights and obligations of the Parties under this Agreement shall be subject to later enacted State and Federal laws and regulations, to the extent applicable to the SHR Project as provided in Paragraph 27 of this Agreement.

e. Moratorium. The rights of Developer under this Agreement and the PDO Zone Approval shall only be subject to a subsequent moratorium or ordinance enacted by City to respond to a bona fide threat to the public health and safety or which involves facts and circumstances beyond the control of City and which threat represents a "compelling and countervailing public interest" as such term is used in the Utah Municipal Land Use Development and Management Act and the case law construing such term. City acknowledges that, as of the date of this Agreement, to its best knowledge, information and belief, it is not aware of any existing facts under which such a moratorium or ordinance might be enacted.

6. Process for Modifying the PDO Zone Approval and PDO Preliminary Site Plan.

a. Intent. City acknowledges that the PDO Zone Approval and PDO Preliminary Site Plan is a generalized depiction of the proposed development of the SHR Project with specific land uses permitted as shown on the PDO Preliminary Site Plan. This Agreement contemplates that Developer may modify the PDO Preliminary Site Plan so long as the total base density allowed, land uses permitted and exactions depicted and described in the PDO Preliminary Site Plan, are not changed or increased. Subject to this limitation, and as provided in this Paragraph and other related provisions throughout this Agreement, Developer is specifically entitled to, and City hereby grants to Developer, the right to change and/or adjust the exact location of various development uses and densities under the provisions of this Agreement between or among Development Parcels and their phasing within the PDO Preliminary Site Plan, or its amendments approved pursuant to this Paragraph. The purpose of this provision is to allow Developer the opportunity to change the configuration of uses shown on the PDO Preliminary Site Plan to reflect future changes in economic factors, development, ownership or other relevant matters so long as such changes do not require the uncompensated relocation of public improvements which have been constructed or which materially and adversely impact other public improvements depicted and planned on the PDO Preliminary Site Plan, as reasonably determined by City. Any proposed modification of the PDO Preliminary Site



Plan which increases the total base density allowed or adds other land uses or property not depicted or described in the PDO Preliminary Site Plan shall be accomplished only as provided in Section 10-23-7 and other related sections of City's Land Use Ordinance, as amended.

b. Submittal of Form. If Developer or its successors and assigns, desire to modify the PDO Preliminary Site Plan as described in Paragraph 6(a), above, Developer shall submit a PDO Preliminary Site Plan Modification Application together with any required fee to City. Any modifications which, after consultation with City's staff, are deemed to be within the scope of modifications permitted by Subparagraph 6(a), as reasonably determined by City, may be modified by Developer by providing City with a modified PDO Preliminary Site Plan containing the revision date and supplemental summary referencing the revision date. Said supplemental summary shall briefly detail the changes made to the modified PDO Preliminary Site Plan. Said modifications shall be deemed effective upon receipt by City of a modified PDO Preliminary Site Plan and the supplemental summary.

c. City Acceptance of PDO Preliminary Site Plan Modification Application. City shall have fifteen (15) calendar days after submittal of a PDO Preliminary Site Plan Modification Application to inform Developer whether City considers the PDO Preliminary Site Plan Modification Application to be complete. If City does not notify Developer in writing of any additional information required to complete the application, the PDO Preliminary Site Plan Modification Application shall thereafter be deemed complete. If City determines the PDO Preliminary Site Plan Modification Application is not complete as submitted, City shall notify Developer in writing within the fifteen (15) days specifying in detail any incomplete or missing information. If City does not notify Developer in writing within fifteen (15) days after submittal of the additional information requested, the PDO Preliminary Site Plan Modification Application shall be deemed complete. If City determines that the required additional information for the PDO Preliminary Site Plan Modification Application is not complete, as submitted it shall notify Developer in writing within fifteen (15) days after submittal of the additional information requested the PDO Preliminary Site Plan Modification Application the information required.

d. City Review. City shall have forty five (45) calendar days to review the changes proposed in the PDO Preliminary Site Plan Modification Application after said application is accepted as complete or deemed complete. If City does not object within forty five (45) days, the final completed PDO Preliminary Site Plan Modification Application shall be deemed accepted by City and shall constitute a modification of the PDO Zone Approval and PDO Preliminary Site Plan, provided that any such modification conforms to applicable law set forth in Paragraph 5 of this Agreement.

e. City's Objections. If City objects to the PDO Preliminary Site Plan Modification Application, City shall specify in writing with reasonable detail the reasons City believes that the proposal is not consistent with City's General Plan or other policies, plans and ordinances of general applicability allowed by this Agreement and the vested rights conveyed by this Agreement.

f. Mediation. City and Developer shall meet within fifteen (15) calendar days ("Mediation Deadline") of after receiving an objection asserted by City pursuant to the preceding Subparagraphs, to mediate and resolve all outstanding issues.

g. Arbitration. If City and Developer are unable to resolve the issues via mediation pursuant to the preceding Subparagraphs, by the Mediation Deadline, the Parties shall attempt within seven (7) days to appoint a mutually acceptable land use planning expert to arbitrate the terms of the PDO Preliminary Site Plan Modification Application. The party requesting the arbitration shall pay the fees to initiate the arbitration. If the Parties are unable to agree on a single acceptable arbitrator they shall each, within seven (7) additional days, appoint their own individual land use planning expert. These two land use planning experts shall, between them, choose the single arbitrator within the next seven (7) calendar days. The chosen arbitrator shall within fifteen (15) days, review the positions of the Parties regarding the PDO Preliminary Site Plan Modification Application and issue 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, after consideration of such objections, the arbitrator's decision shall be final and binding upon both Parties and shall constitute an approved modification of the PDO Zone Approval and the PDO Preliminary Site Plan. As part of the arbitrator's decision, the arbitrator shall determine the payment of the arbitrator's costs based on to the success or failure of each party's position in the arbitration.

7. General Conditions of the PDO Zone Approval. As part of the PDO Zone Approval, the following general development conditions and guidelines for the SHR Project shall apply:

a. Maximum Development Area. The entire SHR Project and the corresponding PDO zone shall be limited to the Annexed Property described in Exhibit A, unless changed by a future amendment to the PDO Zone Approval and PDO Preliminary Site Plan as provided in Section 10-23-7 and other related sections of City's Land Use Ordinance, as amended.

b. Permitted Residential Density. The maximum number of residential units with the SHR Project shall be not more than 1,837 ERUs. The ERU limitation may only be increased by amending the PDO Zone Approval and PDO Preliminary Site Plan wherein City approves the inclusion of After-Acquired Property into the SHR Project or is otherwise increased as provided in Section 10-23-7 and other related sections of City's Land Use Ordinance, as amended.

c. Commercial Density. The SHR Project may include up to 300,000 square feet of Commercial Uses in areas designated for such in the PDO Preliminary Site Plan. Said maximum square foot limitation may be increased only by amending PDO Preliminary Site Plan as provided in Section 10-23-7 and other related sections of City's Land Use Ordinance, as amended. The maximum square foot limitation for commercial uses within the SHR Project shall not apply to any amenities located within the Golf

Course including, but not limited to, the club house for the Golf Course and all clubhouses and separate amenities such as pools, weight rooms, laundry facilities, tennis courts, etc, located within an individual Development Parcels.

d. Phasing. City acknowledges that Developer intends either to develop individual Development Parcels itself or convey Development Parcels to various Sub-Developers for development. Accordingly, City may receive multiple land use applications for the SHR Project at any given time. The timing and phasing of the development and construction of improvements on individual Development Parcels shall be determined by Developer and/or Sub-Developers in their sole discretion. Developer, and its successor and assigns, agree to coordinate with City for the provision of services and facilities that will be needed because of any development and/or construction or commercial uses generated within the SHR Project. The Parties acknowledge that said coordination shall include the development phase sequencing that provides for the logical extension of all required infrastructure and the provision of all reasonably related municipal services, including but not limited to, adequate fire protection and necessary rights of way for ingress and egress.

e. Restrictive Covenants. Several Sub-Developers and contractors, in addition to Developer may be designing and constructing improvements upon different Development Parcels at the same time. Developer recognizes the importance of ensuring continuity in the SHR Project as it develops. Therefore prior to issuance of any building permit within the SHR Project, Developer shall adopt and record CC&R's and Development Guidelines that will guide development and construction over the entire area of the SHR Project.

f. Phase Densities. The Parties acknowledge that each Development Parcel, or portion thereof, submitted to City for subdivision approval may have densities greater than its pro rata portion of the Base Density specified in the PDO Zone Approval and the PDO Preliminary Site Plan so long as the cumulative number of approved ERUs do not exceed the maximum number of ERUs allowed for the entire SHR Project. So long as the overall density of the SHR Project is at or below the Base Density permitted by this Agreement, the density of any particular phase, except for the final phase resulting in complete build out, shall not be grounds for City to deny approval for the subdivision of a Development Parcel, or any portion thereof.

g. Density Transfers. Developer's transfer of density units from one Development Parcel to others within the SHR Project shall be approved by City provided that (i) the proposed transfer does not exceed that Development Parcel's pro rata portion of the Base Density permitted by this Agreement; (ii) the Ordinances and General Plan regarding compatibility between parcels and minimum requirements are satisfied; (iii) in the event the Development Parcel from which density units are transferred is not owned by the owner of the Development Parcel(s) to which the density units are transferred, the owner of the Development Parcel from which units are transferred consents in writing to such transfer and (iv) infrastructure is sufficient and available to meet the demands created by such transfer as reasonably determined by City. Density transfers shall be initiated by notice to City from Developer or Sub-Developer which describes the

Development Parcel, or portion thereof, from which density units are to be transferred, describes the Development Parcel, or portion thereof, to which density units are to be received and summarizes the impact of such transfer on infrastructure improvements. A density transfer shall be considered approved and complete when a subdivision application submitted by Developer and/or its successor and assigns, including the extension or expansion of required infrastructure improvements, is approved by City.

h. Requirements for Land Use Approval Applications for the Residential Development of Development Parcels. Each residential development application submitted by a Developer or Sub-Developer relating to a Development Parcel within the SHR Project, shall, in addition to those items required by City's Ordinances, include a statement of (i) the Base Density within the entire SHR Project as of the date of the application; (ii) the number of ERUs and densities sought under the particular land use application for that particular Development Parcel and (iii) the balance of the unallocated Base Density.

i. Requirements for Land Use Approval Applications for Commercial Development of Development Parcels. Each commercial development application submitted by Developer or a Sub-Developer shall include, in addition to those items required by City's Ordinance, a statement of (i) the total number of square feet of Commercial Uses allowed under the PDO Zone Approval and this Agreement; (ii) the cumulative total number of square feet of Commercial Uses previously approved for all of the Development Parcels within the SHR Project as of the date the application was submitted to City; (iii) the number of square feet of Commercial Use that is sought under that land use application and (iv) the balance of Commercial Use square footage remaining allowable to overall SHR Project.

j. Approval of Land Use Applications Other Than PDO Preliminary Site Plan Modifications. Any decision by City which is adverse to the Developer, its successors or assigns, regarding a development application, subdivision plat or amendment, certificate of compliance, conditional use, variance, building permit or any other approval required from City, other than a PDO Preliminary Site Plan Modification Application, may be appealed as provided in City's Land Use Ordinance.

k. Specific Commercial Uses. The Parties agree that Developer may, upon obtaining a business license from City, construct, market and operate the following types of business operations in the commercial areas designated within the PDO Preliminary Site Plan: (a) over-night lodging, short-term lodging, time-share and condo rentals, gift shops and convenience stores incidental to said lodging and rental uses ("Specific Commercial Uses"). City expressly determines, that pursuant to Section 10-15-3 of City's Land Use Ordinance, that the above Specific Commercial Uses are "substantially the same" to other permitted uses allowed pursuant to Section 10-15-1 (Table) and other sections of City's Land Use Ordinance.

l. Specific Development Standards for Multi-Family Residential Parcels. The Parties agree that Developer may construct multi-family housing structures within

those development parcels designated within the PDO Preliminary Site Plan as "Multi-Family Housing". By virtue of the density per acre granted for the Multi-Family Residential parcel(s) within the SHR Project pursuant to the PDO Preliminary Site Plan, City expressly determines that a maximum structure height that does not exceed the greater of three (3) stories or forty-five (45) feet is an approved conditional use pursuant to Section 10-13-7(C) of City's Land Use Ordinance. The Parties agree that Developer may only construct structures taller than the greater of three (3) stories or forty-five (45) feet after first obtaining a conditional use permit from City so long as such height is allowed by City's Land Use Ordinance.

8. General Rights and Responsibilities of Developer

a. Conditions of Approval and Impact Fees. With respect to the SHR Project, Developer and its successors and assigns, accepts and agrees to pay all plan review, impact, connection, building and other fees currently assessed by City, or as later amended unless deferred or otherwise waived by City in consideration of the infrastructure and amenity funding provided by Developer to the benefit of City and the SHR Project. City agrees that its current fee schedule and all future revisions thereto will be applied uniformly within City or service area of City, as applicable.

b. Vested Rights Granted by the PDO Zone Approval. To the fullest extent permissible under the law, it is the intent of City and Developer that the execution of this Agreement grants and vests in Developer all rights, consistent with the PDO Zone Approval, the PDO Preliminary Site Plan, City's Land Use Ordinance, to develop the SHR Project according to the PDO Preliminary Site Plan under applicable law as provided in Paragraph 5 of this Agreement. The Parties intend that the rights granted to Developer under this Agreement are both contractual and provided under the common law concept of vested rights. It is expressly understood by City that Developer and Owners may assign all or portions of its rights under this Agreement and the PDO Zone Approval provided such assignees agree to be bound by the terms of this Agreement as provided in Paragraph 13, below.

c. Dedication of Infrastructure Improvements. Unless otherwise specifically provided herein, Developer and Developer's successors and assigns shall dedicate all project and system improvements in the SHR Project to City at such time as those improvements are accepted as complete by City. Said dedication shall reserve for the benefit of Developer and Developer's successors and assigns, all capacity in said infrastructure improvements that exceeds the amount necessary for that portion of the SHR Project being developed; provided, however, that City may manage such improvements to achieve operating efficiencies as City may determine. This Subparagraph 8(c) shall not apply to any upsizing of infrastructure improvements required, and paid for, by City.

9. General Rights and Responsibilities of City

a. Reserved Legislative Powers. This Agreement shall not limit the future exercise of the police powers of City to enact ordinances, standards or rules regulating

development. City acknowledges, however, that any exercise of its legislative or police powers which alters or modifies this Agreement to Developer's detriment may render City liable to such remedies as may be available to Developer under such circumstances. Any ordinance, plan, or regulations which operates to reduce the development density, increase exactions or dedications or modify the uses approved in the PDO Zone Approval, PDO Preliminary Site Plan or this Agreement shall be deemed to be waived by City insofar as it relates to the SHR Project.

b. Project and System Improvements – Cost Sharing. Developer shall bear the entire cost of constructing project improvements needed to service the SHR Project. Developer shall also bear the initial cost of constructing system improvements required as a result of the SHR Project but shall be entitled to be reimbursed for the cost of such system improvements except for Developer's proportionate share of system improvement costs. System improvements may include, but are not limited to, the following regardless of whether such improvements are located within the SHR Project or off-site: easements and rights-of-way, street construction, curb and gutter and curb cuts, sidewalks, street signs, water distribution facilities, fire hydrants, sewage disposal facilities, storm drainage facilities, street signalization and telecommunications equipment and conduit, street lighting, electrical utilities, flood control facilities, bridges, parks, survey monuments, water rights, landscaping and revegetation.

c. Reimbursement Agreement. Prior to constructing any system improvement required for the SHR Project authorized by approval of a final subdivision plat, final site plan, or other permit, Developer and City shall execute an agreement whereby Developer shall be reimbursed for the cost of constructing such system improvements less Developer's proportionate share thereof. Developer shall furnish an estimate of the cost of constructing such improvements prepared by an engineer registered to practice in the State of Utah and approved by City. The reimbursement agreement shall assure that neither Developer nor City bears more than their respective proportionate share of the cost of system improvements and shall take into consideration the provisions of Subparagraph 9(d) below.

d. Impact Fee Credits. In the event Developer constructs, prior to the date such impact fee would be due, any improvements for which an impact fee is normally collected, Developer's cost of constructing such improvement shall be credited against the impact fee otherwise charged. Developer shall also be given a credit for impact fees for land and water source supplies dedicated to and accepted by City. In each instance, Developer shall submit to City invoices demonstrating the reasonable and verified costs incurred for such improvements/supply sources or appraisals indicating the fair market value of dedicated land. The amount of the credit shall be equal to the lesser of (i) the impact fee otherwise required, or (ii) the reasonable and verified costs of the improvements paid by Developer or, in the case of dedicated land, the fair market value of such when acquired by Developer. If the impact fee credit for dedicated land is calculated using the fair market value at the time of dedication, a credit shall also be given which discounts the impact fee to an amount that was commensurate with impact fees at the time of dedication.

e. Compliance with City Requirements and Standards. Except as provided in Subparagraph 5(a) of this Agreement, Developer acknowledges it shall comply with all applicable ordinances, resolutions, policies and procedures and constructions guidelines of City necessary for approval of subdivision plats, site plans, conditional use permits, building permits, construction permits, grading permits, etc. for the SHR Project in effect at the time the land use approval is sought. Said compliance includes the payment of uniform application and approval fees.

f. Power of Eminent Domain. City agrees that in the event Developer needs to obtain easements or rights of way for the purpose of constructing infrastructure improvements for the SHR Project and is otherwise unable to negotiate a reasonably acceptable contract for such easements or rights of way, City, upon the request of Developer, may exercise its power of eminent domain to obtain such easements or rights of way, the cost of which shall be borne by Developer. Developer shall reimburse City for all reasonable expenses incurred in taking the requested action, including reasonable attorney's fees and costs.

g. Cooperation of City. City may cooperate with Developer in connection with financing of the SHR Project including, without limitation, consideration of the issuance of bonds or creation of a special improvement district.

10. Specific Rights And Responsibilities

a. Water

i. Developer's Obligations

1. Water Storage Site. Developer shall design, fund, and assist City with the construction of the Water Storage Site which is anticipated, but subject to change, to include two (2) underground water storage tanks (one tank to store culinary water and one tank to store raw water). The general location of the Water Storage Site and anticipated storage takes depicted in the PDO Preliminary Site Plan, the EA, the FONSI and the R&PP Lease. The Water Storage Site shall have sufficient capacity to serve the SHR Project, at a minimum, as reasonably determined by City.

2. Water Distribution System. Developer shall design, fund, and assist City with the construction of an adequate Water Distribution System of water transmission lines for the collection and distribution of both culinary and raw water to the Water Storage Site and then to the perimeter of the SHR Project. The Water Distribution System shall also provide transmission lines for raw water sufficient to irrigate the Golf Course as set forth in the PDO Preliminary Site Plan.

3. Easements and Rights of Way. As part of the preparation, installation, operation and maintenance of the Water Storage Site and the

Water Distribution System, Developer shall grant to City such easements, rights of way, rights of entry, or other servitudes as may be necessary for City to introduce raw or culinary water into the SHR Project, including the Golf Course corridor.

4. Water Distribution Lines Inside of the SHR Project. Developer shall design and install water distribution lines to the perimeter of individual Development Parcels within the SHR Project, as needed and as reviewed and approved by City. Developer, Sub-Developer and/or their successors and assigns, shall bear the costs incurred for such design and construction of the internal water distribution lines.

ii. City Obligations.

1. Operation and Management of Water Storage Site and Water Distribution System. City shall operate and maintain the Water Storage Site and Water Distribution System and shall provide all Development Parcels and amenities within the SHR Project with culinary water service and raw water service.

2. Reimbursement and Impact Fee Credits. Developer shall be reimbursed for system improvement costs as provided in Subparagraphs 9(b), 9(c) and 9(d), above.

3. Obtainment of Easements and Rights of Way for Water Distribution System. If needed and pursuant to Subparagraph 9(g) City shall obtain the appropriate easements, rights of way, rights of entry, or other servitudes as may be necessary for the construction, placement and maintenance of the Water Distribution System's collection and transmission lines.

4. Maintenance of R&PP Lease. City shall also maintain the R&PP Lease in full force and effect, at least as to the part of said Lease relating to the Water Storage Site and the Water Distribution System.

b. Sanitary Sewer Service and Facilities

i. The SHR Project is located in the within the service boundaries of the Ash Creek SSD. Developer will work with Ash Creek SSD to design, fund and assist with construction, if necessary, of a sewer and waste water collection system to service the SHR Project in compliance with all regulations and specifications of Ash Creek SSD.

c. Transportation And Traffic Mitigation

i. Developer Obligations. Developer shall provide the following



transportation infrastructure and take the following traffic mitigation measures:

1. Road Improvements. Developer shall construct access roads to the SHR Project in the general location shown on the PDO Preliminary Site Plan. All road system improvements within the SHR Project shall be constructed according to City specifications and standards in phases according to a schedule determined by Developer and approved by City, unless otherwise modified or amended. Prior to the construction of any road system improvements or road intersection improvements within the SHR Project, City shall review and approve or reject with suggested changes, all plans, drawings and specification with respect to the alignment and construction of such road and intersection improvements.

2. Dedication of Roads. Following Developer's completion of the construction of any road improvements, Developer shall dedicate such improvements to City. Notwithstanding the foregoing, in the event Developer, or its successors and assigns desire to utilize private roads in any portion of the SHR Project, Developer may seek approval from City, which approval shall not be unreasonably withheld so long as private roads are permitted by City's Land Use Ordinance. The width and construction standards for such street shall be determined by applicable provisions of City's Land Use Ordinance.

ii. City Obligations.

1. Street Rights-of-Way. City shall cooperate with Developer, as necessary, to obtain all necessary rights-of-way for ingress and egress and connectivity upon property located inside or outside of the SHR Project including, if required and mutually agreed to by City and Developer, the exercise of eminent domain by City. Said power to eminent domain shall only be requested of City to insure the desired location of arterial, parkway and collector streets necessary for the SHR Project or that are required by the EA. Developer or Sub-Developer shall pay all costs incurred by City including attorney and expert fees in acquiring right-of-way for its property, whether or not by eminent domain.

2. Street Design. City accepts the street design cross sections, as contained in current City standards (except those regarding private streets as set forth in Subparagraph10(c)(i)(2), above), as the governing specifications and standards for the street design of all parkway, arterial and collector streets within the SHR Project.

3. Dedication. City shall accept via dedication and maintain all arterial, parkway and collector streets in the SHR Project, so long as such streets are constructed to City specifications and standards and are dedicated without liens or encumbrances.

d. Police and Fire Protection

i. City Obligations. City shall provide to all residential uses and Commercial Uses in the SHR Project, police and fire protection services. This obligation shall not be enforceable by or against any third-party claiming to be a beneficiary as provided in Paragraph 22 of this Agreement.

e. Parks, Trails and Open Space Areas

i. Developer's Obligations. In order to reserve open space areas and improve park and recreational amenities in the SHR Project, Developer, and its successors and assigns, agrees as follows:

1. Golf Course. Developer and or its successors or assigns shall design, fund and assist City with the construction the Golf Course in the location generally identified in the PDO Preliminary Site Plan. After construction, City agrees to lease the Golf Course exclusively back to Developer and or a golf course management company of Developer's choosing for a period of at least Twenty (20) years with at least Five (5) additional automatic Ten (10) year renewal periods . The Parties agree that the Golf Course shall be available for play by the general public. Developer reserves the right to seek discounted rates and play-time blackouts for residents of the SHR Project in the sub-lease agreement to be entered into between City and Developer or the Golf Course Management Company of Developer's choosing.

2. Trails System. Developer shall design, fund and assist City in constructing the system of trails and trail heads in the general location described and depicted in the PDO Preliminary Site Plan, the EA and the R&PP Lease. Developer shall dedicate any areas of the trail system that run through, or are adjacent to, a Development Parcel at the time of approval and recording of any subdivision plat or site plan for said Parcel.

3. Open Space & Parks. The Parties agree that Developer's designing, funding and assistance with the construction of Golf Course and Developer's planning and coordination and designation of public safety facilities and recreational facilities and school facilities in areas designated in the PDO Preliminary Site Plan and governed by the R&PP Lease constitutes full and complete satisfaction of all open space and park requirements for the SHR Project. Notwithstanding the above, Developer and Sub-Developers may set aside, dedicate and construct other park and open space areas at the time a portion, or all, of a Development Parcel is developed.

ii. City Obligations

1. Level of Service. After construction, and dedication if necessary, of the Golf Course and or any trails contemplated in the PDO Preliminary Site Plan, the EA or the R&PP Lease, City shall provide to the public, recreational services and maintenance to said amenities at a level generally provided to other areas of City. City may, under the Utah Special Service District Act, create one or more recreation districts in the SHR Project and in other areas of City to provide funding for recreational amenities.

2. Use of Park and Recreation Impact Fees. As permitted by applicable state law and City ordinance, and as practical, City shall use park and recreation impact fees, imposed on all subdivision plats and site plan approvals for Development Parcels within the SHR Project, to improve park areas located within the SHR Project. Said impact fees shall be collected as provided in City's ordinances. City acknowledges that Developer shall not be required to pay impact fees otherwise imposed on a Developer in the event that Developer constructs the improvement within the SHR Project for which the impact fee would customarily be imposed pursuant to Subparagraphs 9(b), 9(c) and 9(d), above.

3. School Sites. The sites depicted on the PDO Preliminary Site Plan for elementary, intermediate and high school sites shall be constructed in coordination with the development of adjacent Development Parcels and the Washington County School District.

f. Electrical Power

i. Developer Obligations. The SHR Project is located in the within the service boundaries of Dixie REA. Developer will work with Dixie REA to design, fund and assist with construction, if necessary, of an electrical power transmission system to service the SHR Project in compliance with all regulations and specifications of the Public Utilities Service Commission and Dixie REA. It is anticipated that said electrical power transmission system will included the construction of a power substation in the general location designated in the PDO Preliminary Site Plan, the EA and the R&PP Lease.

ii. City Obligations.

1. Obtainment of Easements and Rights of Way for Electrical Power Transmission System. If needed and pursuant to Subparagraph 9(g) City shall obtain the appropriate easements, rights of way, rights of entry, or other servitudes as may be necessary for the construction, placement and maintenance of an any transmission lines or other components of a electrical power transmission system constructed by Developer and Dixie REA to service the SHR Project.

2. Maintenance of R&PP Lease. City shall also

maintain the R&PP Lease in full force and effect, at least as to the part of said Lease relating to the area to be utilized as an electrical substation for the SHR Project.

g. Miscellaneous Utilities

i. Developer's Obligations. Developer shall be responsible for the provision of miscellaneous utility infrastructure to the perimeter of the SHR Project, including (but not necessarily limited to) the following:

1. Runoff and storm drainage consistent with City's storm water master plan to be prepared by City and commented upon by Developer;

2. Design and engineering for natural gas to be provided to the SHR Project by a natural gas provider;

3. Installation of telephone and cable television transmission systems to the SHR Project to be provided by the various service providers; and

4. Conduit and pull boxes to accommodate a future fiber optic telecommunications network to be installed to the SHR Project.

5. Developer shall provide, and or dedicate to City or reserve to itself, as applicable, all easements, rights of way, right of entry, or other servitudes as may be necessary for the installation and maintenance of the miscellaneous utilities infrastructure within the SIIR Project .

ii. City's Obligations. Subject to the location of existing or planned miscellaneous utility infrastructure, City agrees to dedicate easements and infrastructure on property owned by City as may be necessary to connect, link, construct or accommodate such utility improvements in the SHR Project, provided that City shall have the authority to determine the route for such improvements.

11. No Further Exactions. Subject to the obligations of Developer set forth herein, no further exactions shall be required of Developer by City, provided that this paragraph shall not be construed to relieve Developer from any dedications or other requirements required by applicable law or ordinance in effect when this Agreement is executed.

12. Term. The purpose of this Agreement is to ensure development of the SHR Project as provided in Paragraph 4(d) of this Agreement. Accordingly, the term of this Agreement shall (i) commence on the date this Agreement has been executed by each of the Parties and (ii) shall expire when all public and private infrastructure improvements in the SHR Project have been constructed and accepted as complete by City and certificates of occupancy

have been issued for all buildings and/or dwelling units in the SHR Project. This Agreement and the term thereof is not intended to have, and shall not have, any effect on the term of the R&PP Lease to be entered into between City and the BLM for the long term lease of the Golf Course, hiking trails and other recreational areas within the SHR Project. Any obligations of the Parties arising separately under the R&PP Lease, the MOA, the EA, the FONSI or any other ancillary agreement between the parties shall not be terminated on account of the expiration of the term of this Agreement.

13. Successors and Assigns. This Agreement shall be binding on the successors and assigns of Developer. Notwithstanding the foregoing, a purchaser of the Project or any portion thereof shall be responsible for performance of Developer's obligations hereunder as to any portion of the Project so transferred. In the event of a sale or transfer of the Project, or any portion thereof, the seller or transferor and the buyer or transferee shall be jointly and severally liable for the performance of each of the obligations contained in this Agreement unless prior to such transfer an agreement satisfactory to City, delineating and allocating between Developer and transferee the various rights and obligations of Developer under this Agreement, has been approved by City. Alternatively, prior to such sale or transfer, Developer shall obtain from the buyer or transferee a letter (i) acknowledging the existence of this Agreement and (ii) agreeing to be bound thereby. Said letter shall be signed by the buyer or transferee, notarized, and delivered to City prior to the transfer or sale. In such event, the buyer or transferee of the parcel so transferred shall be fully substituted as Developer under this Agreement and Developer executing this Agreement shall be released from any further obligations under this Agreement as to the parcel so transferred.

14. Default. Failure by a party to perform any of the Party's obligations under this Agreement within a thirty (30) day period (the "Cure Period") after written notice thereof from the other party shall constitute a default ("Default") by such failing party under this Agreement; *provided, however*, that if the failure cannot reasonably be cured within thirty (30) days, the Cure Period shall be extended for the time period reasonably required to cure such failure so long as the failing party commences its efforts to cure within the initial thirty (30) day period and thereafter diligently proceeds to complete the cure. Said notice shall specify the nature of the alleged Default and the manner in which said Default may be satisfactorily cured, if possible. Upon the occurrence of an uncured Default under this Agreement, the non-defaulting Party may institute legal proceedings to enforce the terms of this Agreement or may terminate this Agreement. If the Default is cured, then no Default shall exist and the noticing Party shall take no further action.

a. Termination. If City elects to consider terminating this Agreement due to a Default by Developer, then City shall give to Developer written notice of City's intent to terminate this Agreement and the matter shall be scheduled for consideration and review by City's legislative body at a duly noticed public meeting. Developer shall have the right to offer written and oral evidence prior to or at the time of said public meeting. If City's legislative body determines that a Default has occurred and is continuing, and elects to terminate this Agreement, City shall send written notice of termination of this Agreement to Developer by certified mail and this Agreement shall thereby be terminated. City may thereafter pursue any and all remedies at law or equity.

b. No Monetary Damages Relief Against City. The Parties acknowledge that City would not have entered into this Agreement had it been exposed to monetary damage claims from Developer for any breach thereof. As such, the Parties agree that in no event shall Developer be entitled to recover monetary damages against City for breach of this Agreement but shall only be entitled to specific performance as may be determined by the court.

15. Notice and Filings. All notices, filings, consents, approvals and other communications provided for herein or given in connection herewith shall be validly given, filed, made, delivered or served in writing and delivered personally, sent by certified United States Mail, postage prepaid, or by a national express overnight delivery service, freight prepaid, if to:

City: HURRICANE CITY  
c/o City Manager  
147 North 870 West  
Hurricane, Utah 84737

With a copy to: Fay Reber, Esq.  
260 West St. George Blvd, #205  
St. George, Utah 84770

Developer: SHR Development, LLC  
c/o Thomas Seneca  
230 North 1680 East, Suite D-1  
St. George, Utah 84790

SAND HOLLOW DEVELOPMENT GROUP, LLC  
c/o Nancy Stark  
124 South 400 East, Suite 360  
Salt Lake City, Utah 84111

With a copy to: Heath Snow, Esq.  
THE LAW OFFICE OF HEATH H. SNOW, P.C.  
230 North 1680 East, Suite D-1  
St. George, Utah 84790

or to such other addresses as either party hereto may from time to time designate in writing and deliver in a like manner. Notices, filings, consents, approvals and communication given by personal delivery or overnight delivery shall be effective upon receipt and if given by mail shall be deemed delivered 72 hours following deposit in the U.S. mail, postage prepaid and addressed as set forth above.

16. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by City or Developer for the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

17. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all parties may be physically attached to a single document.

18. Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only and shall not control the meaning or construction of any of the provisions hereof.

19. Further Acts. Each of the Parties shall execute and deliver all such documents and perform all such acts as reasonably necessary to carry out the matters contemplated by this Agreement.

20. Time is of the Essence; Force Majeure. Except as otherwise provided in this Paragraph, time is of the essence for this Agreement. If either party is delayed or hindered in or prevented from the performance of any act required hereunder by reason or inability to procure materials, acts of God, failure of power, riots, insurrection, war or other reason of a like nature (other than labor disputes) not the fault of the party delayed in performing work or doing acts required under this Agreement, then performance of such act will be excused for the period of delay and the time for the performance of any such act will be extended for a period equivalent to the period of such delay.

21. Binding Effect. All of the provisions of this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto, except as provided in Paragraph 22 of this Agreement.

22. No Partnership or Third Party Benefits. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between Developer and City. No term or provision of this Agreement is intended to, or shall be for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

23. Entire Agreement. This Agreement, together with the PDO Zone Approval and the PDO Preliminary Site Plan, constitute the entire agreement between the Parties pertaining to the subject matter hereof. All other prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

24. Names and Plans. Developer shall be the sole owner of all names, titles, plans, drawings, specifications, ideas, programs, designs and work products of every nature developed, formulated or prepared by or at the request of Developer in connection with the Property.

25. Good-Standing: Authority. The Parties warrant and represent as follows:

- a. Developer hereby represents and warrants to City: (i) Developers collectively are registered business entities in good standing with the State of Utah; (ii)

the individual(s) executing this Agreement on behalf of Developer are duly authorized and empowered to bind Developer; and (iii) this Agreement is valid, binding, and enforceable against Developer in accordance with its terms.

b. City hereby represents and warrants to Developer that: (i) City is a Utah municipal corporation; (ii) City has power and authority pursuant to enabling legislation, the Utah Land Use and Development Management Act (U.C.A. § 10-9a-101 *et seq.*), and City's Land Use Ordinances to enter into and be bound by this Agreement; (iii) the individual(s) executing this Agreement on behalf of City are duly authorized and empowered to bind City; and (iv) this Agreement is valid, binding, and enforceable against City in accordance with its terms.

26. Severability. If any provisions of this Agreement are declared void or unenforceable, such provision shall be severed from this Agreement, and the Agreement shall otherwise remain in full force and effect.

27. 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. Notwithstanding any other provision of this Agreement, this Agreement shall not preclude the application of changes mandated by state or federal laws or regulations applicable to the Annexed Property. 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.

28. Governing Law. This Agreement is entered into in Utah and shall be construed and interpreted under the laws of Utah.

29. Continued Cooperation. By executing this Agreement, the Parties hereto expressly agree to continue to operate in good faith to effectuate its purpose, by giving all consents, executing all documents and providing input and assurances within a reasonable time period after said actions are requested of any Party.

30. Recordation. No later than 10 days after this Agreement has been executed by City and Developer, it shall be recorded in its entirety, at Developer's expense, in the Official Records of Washington County, Utah.

31. No Waiver of Governmental Immunity. Nothing in this Agreement is intended to, or shall be deemed, a waiver of City's governmental immunity.

32. Hold Harmless. Developer agrees to and shall hold City, its officers, agents, employees, consultants, special counsel, and representatives harmless from liability for damages, just compensation restitution, or 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 Developer 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.

a. The obligations of Developer under this paragraph shall not be applicable to any claim arising by reason of the negligence or intentional tort actions of City.

b. City shall give written notice of any claim, demand, action or proceeding which is the subject of Developer's hold harmless agreement as soon as practicable but not later than 30 days after the assertion or commencement of the claim, demand, action or proceeding. If any such notice is given, Developer 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.

33. 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 Developer violates 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 Developer has used its reasonable best efforts to cure such violation within such thirty (30) 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 Developer. City shall be free from any liability arising out of the exercise of its rights under this paragraph.

34. 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, 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 Fifth District Court, State of Utah, or in the Federal District Court for the District of Utah.

35. Annual Review. City may review progress pursuant to this Agreement at least once every twelve (12) months to determine if Developer has complied with the terms of this Agreement. If City finds, on the basis of substantial evidence, that Developer has failed to comply with the terms hereof, City may declare Developer to be in Default as provided in Paragraph 14 herein. City's failure to review at least annually Developer's 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 Developer or City.

36. 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 Hurricane City Council taken with the same formality as the vote approving this Agreement.

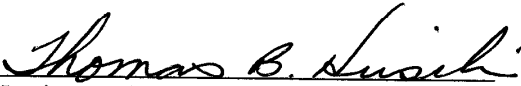
(Signature Page To Follow)

DATED effective the first date set forth above.

CITY:

HURRICANE CITY  
a Utah municipal corporation

Attest:

  
Hurricane City Mayor

  
Hurricane City Recorder

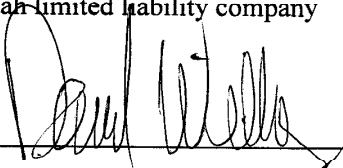
DEVELOPER:

SHR DEVELOPMENT, LLC  
a Utah limited liability company

By:   
\_\_\_\_\_

Its: \_\_\_\_\_

SAND HOLLOW DEVELOPMENT GROUP LLC  
a Utah limited liability company

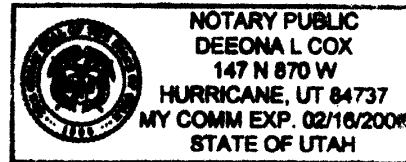
By:   
\_\_\_\_\_

Its: \_\_\_\_\_

STATE OF UTAH )  
 ) ss:  
COUNTY OF WASHINGTON )

Tom Hirshi and Clark R. Fawcett, being first duly sworn, deposes and says that they are the Mayor and City Recorder of City of Hurricane, a Utah municipal corporation; that they have read the foregoing Development Agreement for the Sand Hollow Resort and knows the contents thereof; and that they signed the said document for its intended purpose under the authority given by the Hurricane City Council.

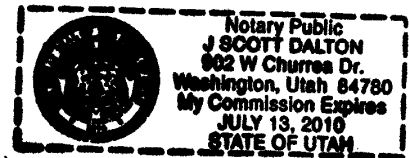
Deeona L. Cox  
NOTARY PUBLIC  
Address: 147 North 870 West  
My Commission Expires: 2-16-09



STATE OF UTAH )  
 ) ss:  
COUNTY OF WASHINGTON )

Thomas Seneca, being first duly sworn, deposes and says that he/she is a Managing Member of SHR Development, LLC, a Utah limited liability company; that he/she has read the foregoing Development Agreement for the Sand Hollow Resort and knows the contents thereof; and that he/she signed the said document for its intended purpose under the authority given him/her by the operating agreement of the company or by special resolution of the members of the company.

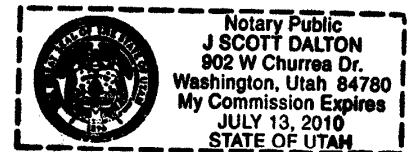
J. Scott Dalton  
NOTARY PUBLIC  
Address: 902 W. Churreea Drive Washington, UT  
My Commission Expires: July 13, 2010



STATE OF UTAH )  
 ) ss:  
COUNTY OF WASHINGTON )

David Wilkey, being first duly sworn, deposes and says that he/she is a Managing Member of Sand Hollow Development Group LLC, a Utah limited liability company; that he/she has read the foregoing Development Agreement for the Sand Hollow Resort and knows the contents thereof; and that he/she signed the said document for its intended purpose under the authority given him/her by the operating agreement of the company or by special resolution of the members of the company.

J. Scott Dalton  
NOTARY PUBLIC  
Address: 902 W. Churreea Drive Washington, UT  
My Commission Expires: July 13, 2010



**EXHIBIT A**

**Legal Description of Annexed Property**



# ALPHA ENGINEERING COMPANY

148 East Tabernacle, St. George, UT 84770 • (435) 628-6500 • Fax: (435) 628-6553

**LEGAL DESCRIPTION  
PDO BOUNDARY  
November 17, 2005  
(Revised December 13, 2005)**

A parcel of land located in Sections 21, 22, 23, 26, 27 and 28 Township 42 South Range 14 West, Salt Lake Base and Meridian, being more particularly described as follows:

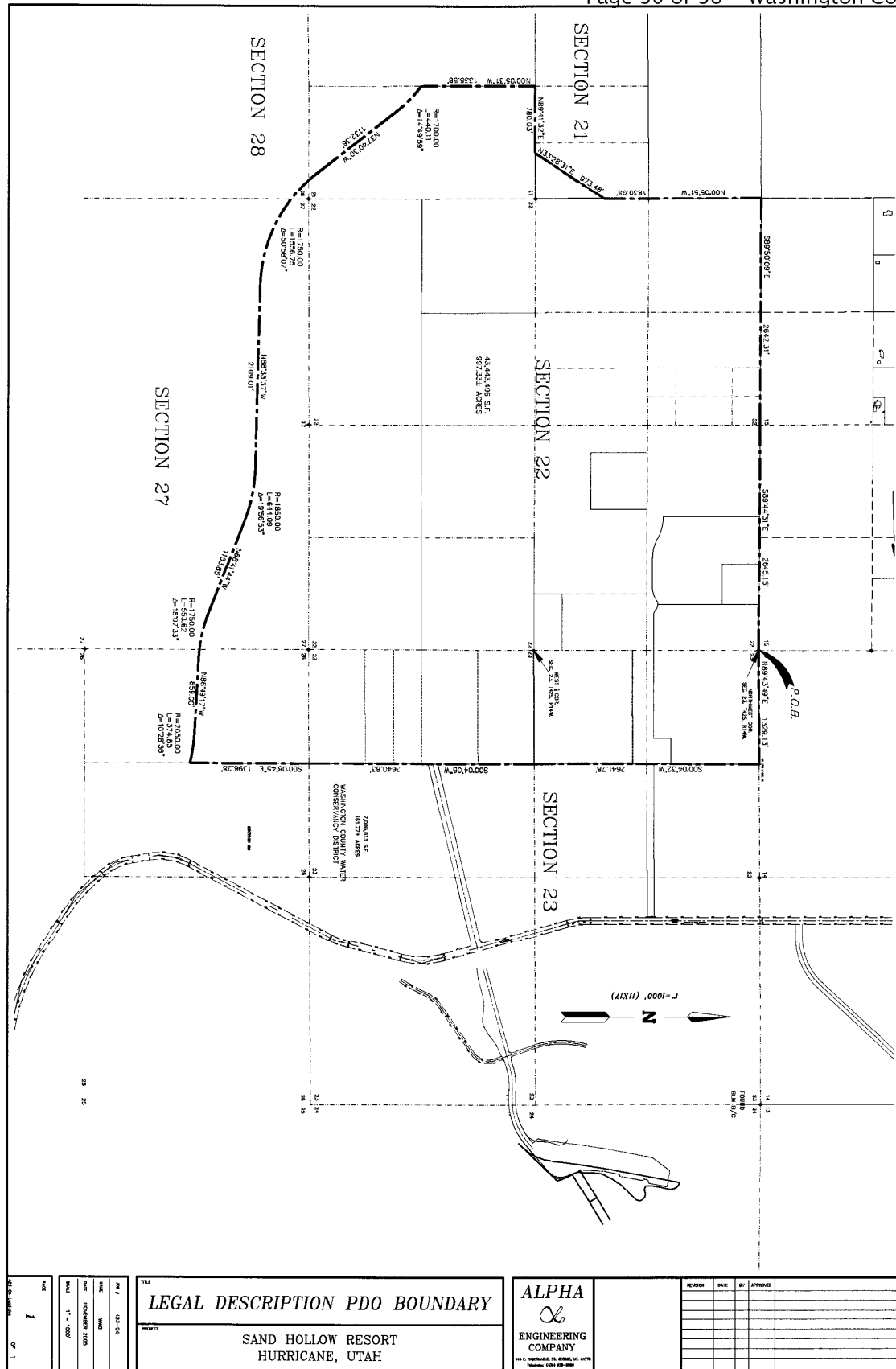
**BEGINNING** at the Northwest Corner of said Section 23,  
Thence North 89°43'49" East, 1,329.13 feet to the Northeast Corner of the Northwest ¼ of the Northwest ¼ of said Section 23;  
Thence South 00°04'32" West, 2,641.78 feet along the 1/16<sup>th</sup> line to the Southeast Corner of the Southwest ¼ of the Northwest ¼ of said Section 23;  
Thence South 00°04'08" West, 2,640.83 feet along the 1/16<sup>th</sup> line to the Southeast Corner of the Southwest ¼ of the Southwest ¼ of said Section 23;  
Thence South 00°08'45" East, 1,396.28 feet along the 1/16<sup>th</sup> line to a point on a 2,050.00 foot radius curve to the left, the radius point of which bears South 13°39'19" West;  
Thence Westerly, 374.85 feet along the arc of said curve through a central angle of 10°28'36";  
Thence North 86°49'17" West, 859.00 feet to the point of a 1,750.00 foot radius curve to the right;  
Thence Westerly, 553.62 feet along the arc of said curve through a central angle of 18°07'33";  
Thence North 68°41'44" West, 1,153.85 feet to the point of a 1,850.00 foot radius curve to the left;  
Thence Westerly, 644.09 feet along the arc of said curve through a central angle of 19°56'53";  
Thence North 88°38'37" West, 2,109.01 feet to the point of a 1,750.00 foot radius curve to the right;  
Thence Northwesterly, 1,556.75 feet along the arc of said curve through a central angle of 50°58'07";  
Thence North 37°40'30" West, 1,132.36 feet to the point of a 1,700.00 radius curve to the left;  
Thence Northwesterly, 440.11 feet along the arc of said curve through a central angle of 14°49'59" to a point on the west line of the East ½ of the East ½ of said Section 21;  
Thence North 00°05'31" West, 1,335.58 feet to the Northwest Corner of the Northeast ¼ of the Southeast ¼ of said Section 21;  
Thence North 89°41'32" East, 780.03 feet along the 1/16<sup>th</sup> line;  
Thence North 33°28'31" East, 973.48 feet to a point on the west line of said Section 22;  
Thence North 00°05'51" West, 1,839.95 feet to the Northwest Corner of the Northwest ¼ of the Northwest ¼ of said Section 22;  
Thence South 89°50'09" East, 2,642.31 feet to the North ¼ Corner of said Section 22;  
Thence South 89°44'31" East, 2,645.15 to the **POINT OF BEGINNING**.

Containing: 997.33 acres, more or less.

Tax ID number H-4199-A-NP

4205-11

4205-0-4	0-8
0-5	0-9
0-6	0-2
0-7	0-3



**EXHIBIT B**

Planned Development Overlay Zone  
Preliminary Site Plan, November 2006





**EXHIBIT C**

Planning Commission Recommendation of Approval  
Application # 2005-102

residential uses. The proposed amendment may adversely affect the use of adjacent residences, which are legal non-conforming uses. As far as Public facilities and services, the available capacity of existing water service in the area may not be adequate for this project, and the topography of the site could also result in potential storm drainage issues.

The Development Agreement is beneficial by providing some assurance some of the possible negative effects of the project on the neighborhood will be minimized. However there are a few additional matters that should be considered and added to the agreement if this zone change is recommended for approval.

Mike Jensen declared a conflict of interest and left the room.

Dee Bates came forward and stated they have complied with everything staff has asked of them.

**Pam Humphries closed the Public Hearing.**

Gerold Pratt asked if they plan to have a manager on living on site at the project? Mr. Bates indicated they would have a manager. Erroleen Scholzen asked what they planned to do to mitigate the crime problems? Mr. Bates said all renters would be screened because they want to make this a nice development.

Dean McNeill asked what type of wall they plan to build around the perimeter of the project? Mr. Bates indicated that decision had not been made yet, but would be before the site plan review.

Pam Humphries suggested there is still a problem with the access in her opinion.

Dave Sanders brought out the fact that the traffic engineer suggested a thru street to State Street.

Gerold indicated he felt this was a good plan to place some affordable housing within walking distance of the commercial uses and services. He also indicated he felt the changes were sufficient to merit the return request.

**Duane Beecher made a motion to recommend denial to City Council of application # 2005-11, for a zone change. Erroleen seconded the motion. The vote went as follows: Dean McNeill abstained, David Sanders – no, Duane Beecher – yes, Erroleen Scholzen –yes, Bob Petersen – no, Gerold Pratt – no. Motion failed.**

**Gerold Pratt made a motion to recommend approval to City Council of application #2005-11, for a zone change. Bob Petersen seconded the motion. The vote went as follows: Dean McNeill- abstained which equals a no vote, David Sanders – yes, Duane Beecher – no, Erroleen Scholzen –no, Bob Petersen – yes, Gerold Pratt – yes, Pam Humphries broke the tie with a no vote. Motion failed.**

**Pam Humphries opened the Public Hearing.**

**Application#2005-102 A request to change the zone from Single Family Residential 10 (R1-10) to Single Family Residential 10/Planned Development Overlay (R1-10/PDO), on 574.42 acres located approximately 2000 feet west of 4300 West, opposite the entrance to Sand Hollow State Park. Applicant Sand Hollow Resort**

Bob Britzman gave the following information from Staff Comments. The Council recently approved the annexation of approximately 2,409 acres, which included State Lands (560 acres), BLM land (approximately 1060 acres), a few smaller parcels under private ownership, and the proposed Sand Hollow Resort (574.42 acres). The entire area was zoned R1-10, to be used as a holding zone until specific plans and zoning requests are processed through the Planning Commission and City Council.

The Sand Hollow Resort includes a total of 574.42 acres of private land, plus approximately 250 acres of BLM land. The BLM lands are proposed to be used for a portion of the golf course, and recreation use. Additionally, BLM lands on the north outside of the plan are proposed for recreation, schools and City police/fire use. This is a proposal being developed between BLM and the City. A total of 1,837 residential units are proposed on the private

land, resulting in a density of 3.2 units per gross acre. There are 47.29 acres considered undevelopable due to steep slopes, leaving the net density on developable land at 3.49 units per acre. As noted on Exhibit A attached, net densities will vary throughout the site from 4.6 units per acre to 12.5 units per acre. A commercial area of 18.2 units per acre occurs near the golf club house and would include resort related commercial activities and uses.

Since the site is separated from 4300 West by approximately 2000 feet, initial construction of the southerly access road will occur as the first phase of development. This will be a four-lane road with provision for turning lanes. Although village areas have been identified on the Preliminary Plan, phasing has not been identified.

The lands between 4300 West and the project site owned by State Trust Lands and the Water Conservancy have proposed a mixture of commercial and residential use. The State Lands were included in the annexation and were zoned R1-10 as a holding zone, with a presumed density equaling or exceeding approximately 2200 units. The Water Conservancy Land was not annexed. They presume their site (south of the south entrance road) is a good commercial site.

The proposed Southern Corridor roadway is currently undergoing environmental analysis, and traverses near the southern boundary of the project. One of the actual alignment options would apparently go through the southern part of the project site. The Southern Corridor would intersect with 4300 West and traverse southerly of Sand Hollow Reservoir. It is unlikely that the corridor project will be built for at least 10 years.

There are numerous issues with this project, which have not been resolved at this time. Those problems that are internal to the project and can be resolved as detailed studies proceed leading up to approval of the first phase of the project. These concerns can be adequately addressed in a Development Agreement, requiring definition and resolution at specified times in the Agreement. Significant off-site improvement must be in place before any permits are issued for the project. Most significantly these are water and traffic improvements, but power and sewer improvements are also needed.

The most uncertain issue at this time is necessary traffic improvements. A traffic study has just recently been authorized to look at traffic issues at and near 4300 West intersection with SR9. Hopefully, when completed, this study will define an alternative solution for the intersection, and timing for construction and financing. Approval of this issue would magnify the hazard that already exists.

Staff will support the PDO zone change subject to the items listed in Staff Comments.

Don Leavitt came forward and stated the PDO zoning will help them know how to lay out the utilities as far as water, power, and sewer. He also indicated the traffic study would be an on going thing and they would like to be able to build as the traffic study shows they are able.

Kay Wright of 1465 West 300 South ask what Mr. Leavitt meant by saying the traffic study would be an ongoing thing? He wondered if the traffic is not addressed up front where would the developer be when there is a problem?

Terry Wittry of 980 North 2360 West came forward and stated this is a good plan and if we don't agree to this plan it will eventually be all high density.

**Pam Humphries closed the Public Hearing.**

Dean McNeill suggested he felt a combined traffic study should be done to consider all of the development that would be done in this area. He also said the PDO zone change would need to be contingent upon an approved Development Agreement.

Don Leavitt said the Development Agreement would be finalized with in a month.

Mac J. Hall stated this development would be designing the water system. Dixie REA will supply the power, and the Washington County Water Conservancy District will supply the water to Hurricane City for distribution.

Pam Humphries asked if the streets inside the project are planned to be public or private? Don Leavitt indicated they would be public streets. She said the City Council would need to give special approval for any private streets.

Dean McNeill asked what they plan to do with signage? Don Leavitt indicated they had not made a decision on this.

Mayor Hirschi said the golf course would be a Van Guard course. They will design and build it the course and then turn over to the City to be leased back to a private group to manage.

Bob Petersen asked about the access to the BLM properties.

Don Leavitt stated the School and Park would be serviced by a collector street, which would also serve as access to the public area to the north of these public sites.

There was a question regarding the width of 4300 West. It was stated it would be a 100-foot right of way.

Pam Humphries asked how many golf courses we are looking at?

Don Leavitt said the trails system to be created within the project would connect the other trails systems in the City and County.

**Dean McNeill made a motion to recommend approval to the City Council for application # 2005-102, for the PDO zone subject to the following: A.) Submittal of a Development Agreement that is accepted by the City and recorded prior to the PDO zone change becoming effective. B.) The Development Agreement at a minimum to include provisions, which address: 1.) The maximum number of units to be permitted on the site is 1837 units. 2.) A total of 16.533 acres of parks shall be provided to serve the anticipated population of approximately 5500 persons. 3.) The developer's responsibility for dedication and improvement of parks shall be defined. 4.) A final site plan review is required per Section 10-7-10 of the Land Use Ordinance. 5.) As part of the final Site Plan Review, the following issues shall be resolved: a.) The design of the entrance streets from 4300 West, including width, landscaping, pedestrian walkways, and walls. b.) Definition of the types of uses proposed on the Commercial land. c.) Location and design of Collector and other streets within the project. d.) Provisions for grade separation for golf cart crossings of collector streets. e.) Elimination of dead end streets, except as permitted by current ordinances. f.) Modification of right angle on the major through street. g.) Definition of how phasing for the project will occur and provisions for related infrastructure to satisfy the needs of each phase. h.) Definition of an architectural theme. i.) Definition for the design of proposed trails and clarification, which are to be public or private. k.) Provisions for a homeowners association to maintain common areas and/or agreement to participate in a special improvement agreement for landscape maintenance. l.) Provide a master drainage study m.) Provide a master utility study (water, sewer, power) for entire project. 6.) A provision which will preclude issuance of any building permit and recordation of any final plat until traffic impacts on 4300 West and SR9 are resolved and adequate provisions have been made to mitigate safety and capacity impacts. Dave Sanders seconded the motion. All approved.**

**Pam Humphries opened the Public Hearing.**

**Application#2005-103 A proposal to adopt a route alignment, amending the City Master Street Plan for an arterial roadway running north/south in a corridor between 1150 West and 1380 West. Initiated by City of Hurricane.**

Bob Britzman gave the following information from Staff Comments. With the recent approval of the Preliminary Site Plan and PDO zoning for Painted Hills Phase II, and with the discussion of other projects along 1150 West, it has become necessary to determine a more precise alignment of this arterial street to adequately serve the planned densities for the area. The current City Master Street Plan designates the current alignment of 1150 West as a 58-foot roadway, between 600 North to the curve west of the airport, aligning with 1100 South

**EXHIBIT D**

City Council Approval  
Application # 2005-102

COUNCIL 12-15-05

Mr. Curtis pointed out that the property is designated as multiple family on the general plan map. Council members agreed, stating it should be changed to commercial in that area. Mayor Hirschi said the denial stands with the 3-2 vote.

**Consideration and possible approval of a zone change ordinance changing the zoning of property located approximately 2000 feet west of 4300 West opposite the entrance to Sand Hollow State Park from R-1-10, Single Family Residential 10,000 sq. ft. lots, to PDO/R-1-10, Planned Development Overlay/ Single Family Residential 10,000 sq. ft. lots- Sand Hollow Resort applicant**

Don Leavitt explained the infrastructure must be built to serve this area and land uses must be identified to design the infrastructure. The Environmental Assessment is about to be opened for the final comment period and water tank construction could begin within 45 days, taking advantage of the crews working in the area on Dixie Springs Subdivision. The BLM RP& P lease property is included within the PDO and will include the golf course and public sites. He said the development agreement should be ready by the middle of January. He agrees with all the staff findings and comments. Right now there is no development across the river from this site.

Access to SR-9 from 4300 West was discussed. Mr. Leavitt indicated traffic studies will be ongoing as the area develops and all developers have a responsibility to participate. The Southern Corridor will affect the south edge of the development and McNeil Development is suggesting access onto SR-9 at 3700 West rather than 4300 West. Southern Corridor should alleviate the traffic onto SR-9. Staff findings including a required traffic study and mitigation of traffic problems will be included in the development agreement. Mr. Leavitt said Sand Hollow Resort is not willing to mitigate Dixie Springs' 140,000 trips per day. Fay Reber questioned if the annexation plat is recorded yet and said any approvals given tonight should be subject to the recordation of the plat and the development agreement.

Glenwood made a motion to approve the PDO Overlay zone, subject to recordation of the plat and approval of a development agreement, seconded by John Bramall. Motion unanimously approved.

**Items #17 & 18 were moved to the end of the meeting to see if applicants would be present.**

**Consideration and possible approval of a preliminary plat for a 10 townhouse subdivision located at the northeast corner of 200 North and Main Street – Edmund and Shannon LeBaron applicants**

Danny Campbell stated a conflict of interest and removed himself from the Council chambers. Ed LeBaron asked for clarification on the staff recommendation requiring paving between the existing roadway on 200 North and new curb and gutter, stating he thought the City would do the paving. It was clarified for a new development, other than single homes, the developer is responsible.

John Bramall made a motion to approve the preliminary plat, seconded by Glenwood Humphries. Motion unanimously approved.

**Consideration and possible approval of a preliminary plat for a 15 lot subdivision located at the northwest corner of SR9 and 2720 West – Mike Kelly applicant**

Tracy Stokes represented Mike Kelly because he is ill. One of the conditions of approval is the enlargement of the 80' roadway to a 100' roadway. The Sewer District notified the City it does not want approval with a lift station. Ms. Stokes said they are working with Kendrick Rogers and his project to run sewer a different direction. This subdivision project will include 8,000, 10,000 and 12,000 square foot lots. Starting homes will be around \$240,000. Project will