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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
08/09/2012 10:12 AM
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DEP RTT REC'D FOR LAYTON CITY

AGREEMENT FOR THE ANNEXATION AND DEVELOPMENT OF LAND
BETWEEN LAYTON CITY AND CORPORATION OF THE PRESIDING
BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, A
UTAH CORPORATION SOLE.

11-086-0065, 0071, 0076

Return original to: Julie Jewell
Layton City Community Development
437 N. Wasatch Dr
Layton UT 84041

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Richards & Bott
Architects
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File
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AGREEMENT FOR THE ANNEXATION AND DEVELOPMENT OF LAND BETWEEN LAYTON CITY AND CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, A UTAH CORPORATION SOLE.

THIS AGREEMENT for the annexation and development of land (hereinafter referred to as this "Agreement") is made and entered into this 21 day of Sept, 2007 between LAYTON CITY, a municipal corporation of the State of Utah (hereinafter referred to as "City"), and CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, A UTAH CORPORATION SOLE (hereinafter referred to as "Owner"). City and Owner are collectively referred to as the "Parties" and individually as a "Party".

RECITALS

WHEREAS, in furtherance of the objectives of the Layton City General Plan, City has considered an application for the annexation of property into the City located at approximately 700 South 1200 West (Angel Street) in Layton City (hereinafter the "Subject Area");

WHEREAS, the total area proposed for annexation consists of approximately 39.96 acres, which is ~~described and~~ depicted on Exhibit A attached hereto (hereinafter Exhibit A);

and

WHEREAS, Owner is the Owner of the above described property ("Owner's Property") and has presented a proposal for annexation of the Subject Area to the City, which provides for development in a manner consistent with the overall objectives of Layton City's General Plan;

WHEREAS, Parties desire to enter into this Agreement to provide for the annexation and development of the Subject Area in a manner consistent with the overall objectives of the City's General Plan and the intent reflected in that Plan;

WHEREAS, City is willing to annex 39.96 acres (hereinafter Subject Area) subject to Owner agreeing to certain infrastructure improvements and undertakings described herein, which will provide protection for the Subject Area and surrounding property values and will enable the City Council to consider the approval of such development at this time; and

WHEREAS, City believes that entering into the Agreement with Owner is in the vital and best interest of the City and the health, safety, and welfare of its residents.

NOW, THEREFORE, each of the Parties hereto, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, covenant and agree as follows:

**ARTICLE I
DEFINITIONS**

The following terms have the meaning and content set forth in this Article I, wherever used in this Agreement:

- 1.1 "Owner's Property" shall mean that property owned by Owner, as depicted on Exhibit A.
- 1.2 "City" shall mean Layton City, a body corporate and politic of the State of Utah. The principal office of City is located at 437 North Wasatch Drive, Layton, Utah 84041.
- 1.3 "City's Undertakings" shall mean the obligations of the City set forth in Article III.
- 1.4 "Owner" shall mean CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, A UTAH CORPORATION SOLE. The principal mailing addresses for Owner is listed in paragraph 7.2.
- 1.5 "Owner's Undertakings" shall have the meaning set forth in Article IV.
- 1.6 "Subject Area" shall have the meaning set forth in the Recitals hereto. The Subject Area is depicted on Exhibit "A" attached hereto.

ARTICLE II CONDITIONS PRECEDENT

2.1 The following are conditions precedent to Owner's obligations under this Agreement, including without limitation Owner's Undertakings in Article IV: (a) City's approval of this Agreement, including approvals of City's Planning Commission and Council, and full execution of this Agreement by City, and (b) Zoning of Subject Area consistent with Exhibit A. In the event that these conditions have not been satisfied on or before November 1, 200~~8~~⁷, Owner shall have the right, at Owner's option, to terminate this Agreement. Once annexed, the City will act promptly to zone the Subject Area consistent with Exhibit A.

for
H 2.1.1 Changes in the number of acres in the A zone may be made only by mutual agreement between the Owner and the City, subject to approvals by the City's Planning Commission and Council.

ARTICLE III CITY'S UNDERTAKINGS

3.1 City shall approve this Agreement (including approvals by the City's Planning Commission and Council) prior to its decision to annex the Subject Area, and shall not file the annexation plat with the Davis County Recorder until the Subject Area is zoned pursuant to, and consistent with, Article II.

3.2 Upon provision of the necessary cost information by Owner, City agrees to enter into payback agreements for improvements or facilities intended to extend, expand or improve the City's utility system beyond the improvements required to service or benefit the development of the Subject Area, as provided in this Agreement. The amount of the payback to the Owner shall be based on the Owner's actual costs. Notice of the payback agreements shall be recorded so as to give notice to all parties owning or acquiring all or any part of the benefit areas.

ARTICLE IV OWNER'S UNDERTAKINGS AND RIGHTS

After the Effective Date, and conditioned upon City's performance of its undertakings set forth in Article III, and provided Owner has not terminated this Agreement pursuant to Section 7.8, Owner agrees to the following:

4.1 **Zoning.** Zoning and development of the Subject Area shall comply with Article II. Once the Subject Area is annexed and zoned in accordance with Article II, development of the Subject Area shall comply with all applicable City rules, regulations and codes.

4.2 **Culinary Water.** Culinary water is available for connection on 1200 West (Angel Street). Culinary water connection and installation with the development of the Subject Area shall be consistent with Layton City Engineering and Design Standards and shall be approved by the City Engineer.

4.3 **Sanitary Sewer.** Sanitary sewer is available for connection on 1200 West (Angel Street). Sanitary sewer connection and installation with the development of the Subject Area shall be consistent with Layton City Engineering and Design Standards and shall be approved by the City Engineer.

4.4 **Storm Drain.** Storm drainage for the Subject Area shall be directed to the storm drain detention pond located to the west of the Roberts Farms Subdivision on 1700 West.

4.4.1 Owner will be required to construct a storm drain line to said detention pond. The storm drain pipe must be installed within a future roadway and sized for future development within the

Subject Area. Said location and installation shall be per instructions of the City Engineer, and comply with all City codes and conditions. No on-site detention will be allowed.

4.5 **Not Considered Approvals.** Except as otherwise provided herein, these enumerations are not to be construed as approvals thereof, as any required approval process must be pursued independent hereof.

4.6 **Amendments.** Owner agrees to limit development to the uses provided herein. If other uses are desired, Owner agrees to seek amendment of this Agreement before pursuing approval of those uses.

4.7 **Conflicts.** Except as otherwise provided, any conflict between the provisions of this Agreement and the City's standards for improvements, shall be resolved in favor of the stricter requirement.

ARTICLE V GENERAL REQUIREMENTS AND RIGHTS OF CITY

5.1 **Issuance of Permits - Owner.** Owner, or its assignee, shall have the sole responsibility for obtaining all necessary building permits in connection with Owner's Undertakings and shall make application for such permits directly to the Layton City Community Development Department and other appropriate departments and agencies having authority to issue such permits in connection with the performance of Owner's Undertakings. City shall not unreasonably withhold or delay the issuance of its permits.

5.2 **Completion Date.** The Owner shall, in good faith, reasonably pursue completion of the development. Each phase or completed portion of the project must independently meet the requirements of this Agreement and the City's ordinances and regulations, such that it will stand alone, if no further work takes place on the project.

5.3 **Access to the Subject Area.** For the purpose of assuring compliance with this Agreement, so long as they comply with all safety rules of Owner and its contractor, representatives of City shall have the right of access to the Owner's Property without charges or fees during the period of performance of Owner's Undertakings. City shall indemnify, defend and hold Owner harmless from and against all liability, loss, damage, costs or expenses (including without limitation attorneys' fees and court costs) arising from or as a result of the death of a person or any accident, injury, loss or damage caused to any person, property or improvements on the Subject Area arising from the exercise by City, its agents or employees of its rights granted in this paragraph.

ARTICLE VI REMEDIES

6.1 **Remedies for Breach.** In the event of any default or breach of this Agreement or any of its terms or conditions, the defaulting Party or any permitted successor to such Party shall, upon written notice from the other, proceed immediately to cure or remedy such default or breach, and in any event cure or remedy the breach within thirty (30) days after receipt of such notice. In the event that such default or breach cannot reasonably be cured within said thirty (30) day period, the Party receiving such notice shall, within such thirty (30) day period, take reasonable steps to commence the cure or remedy of such default or breach, and shall continue diligently thereafter to cure or remedy such default or breach in a timely manner. In case such action is not taken or diligently pursued, the aggrieved Party may institute such proceedings, as may be necessary or desirable in its opinion to:

6.1.1 cure or remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the Party in default or breach of its obligations.

6.2 **Enforced Delay Beyond Parties' Control.** For the purpose of any other provisions of this Agreement, neither City nor Owner, as the case may be, nor any successor in interest, shall be considered in breach or default of its obligations with respect to its construction obligations pursuant to this Agreement, in the event the delay in the performance of such obligations is due to unforeseeable causes beyond its fault or negligence, including, but not restricted to, acts of God or of the public enemy, acts of the government, acts of

the other Party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes or unusually severe weather, or delays of contractors or subcontractors due to such causes or defaults of contractors or subcontractors. Unforeseeable causes shall not include the financial inability of the Parties to perform under the terms of this Agreement.

6.3 **Extension.** Any Party may extend, in writing, the time for the other Party's performance of any term, covenant or condition of this Agreement or permit the curing of any default or breach upon such terms and conditions as may be mutually agreeable to the Parties; provided, however, that any such extension or permissive curing of any particular default shall not operate to eliminate any other obligations and shall not constitute a waiver with respect to any other term, covenant or condition of this Agreement nor any other default or breach of this Agreement.

6.4 **Rights of Owner.** In the event of a default by Owner's assignee, Owner may elect, in its discretion, to cure the default of such assignee; provided, Owner's cure period shall be extended by 30 days.

ARTICLE VII GENERAL PROVISIONS

7.1 **Successors and Assigns of Owner.** This Agreement shall be binding upon Owner and its successors and assigns, and where the term "Owner" is used in this Agreement it shall mean and include the successors and assigns of Owner, except that City shall have no obligation under this Agreement to any successor or assign of Owner not approved by City. Notwithstanding the foregoing, City shall not unreasonably withhold or delay its consent to any assignment or change in Ownership (successor or assign of Owner) of all or any portion of Owner's Property. Upon approval of any assignment by City, or in the event Owner assigns all or part of this Agreement to an assignee, Owner shall be relieved from further obligation under that portion of the Agreement for which the assignment was made and approved by City.

7.2 **Notices.** All notices, demands and requests required or permitted to be given under this Agreement (collectively the "Notices") must be in writing and must be delivered personally or by nationally recognized overnight courier or sent by United States certified mail, return receipt requested, postage prepaid and addressed to the Parties at their respective addresses set forth below, and the same shall be effective upon receipt if delivered personally or on the next business day if sent by overnight courier, or three (3) business days after deposit in the mail if mailed. The initial addresses of the Parties shall be:

To Owners:

CORPORATION OF THE PRESIDING BISHOP
OF THE CHURCH OF JESUS CHRIST OF
LATTER-DAY SAINTS
c/o ~~Richard W. Ebert, Jr.~~ REAL ESTATE SERVICES
50 East North Temple, 467W 12TH FLOOR DIVISION
Salt Lake City, Utah 84150-6915 6320
801-240-2915 801-240-2913 FAX

To City:

LAYTON CITY CORPORATION
437 North Wasatch Drive
Layton, Utah 84041
Attn: Alex R. Jensen, City Manager
801/336-3800 801/336-3811 (FAX)

Upon at least ten (10) days' prior written notice to the other Party, either Party shall have the right to change its address to any other address within the United States of America

If any Notice is transmitted by facsimile or similar means, the same shall be deemed served or delivered upon confirmation of transmission thereof, provided a copy of such Notice is deposited in regular mail on the same day of such transmission.

7.3 **Third Party Beneficiaries.** Any claims of third party benefits under this Agreement are expressly denied, except with respect to permitted assignees and successors of Owner.

7.4 **Governing Law.** It is mutually understood and agreed that this Agreement shall be governed by the laws of the State of Utah, both as to interpretation and performance. Any action at law, suit in equity, or other judicial proceeding for the enforcement of this Agreement or any provision thereof shall be instituted only in the courts of the State of Utah.

7.5 **Integration Clause.** This document constitutes the entire agreement between the Parties and may not be amended except in writing, signed by the City and the Owner.

7.6 **Exhibits Incorporated.** Each Exhibit attached to and referred to in this Agreement is hereby incorporated by reference as though set forth in full where referred to herein.

7.7 **Attorneys' Fees.** In the event of any action or suit by a Party against the other Party for reason of any breach of any of the covenants, conditions, agreements or provisions on the part of the other Party arising out of this Agreement, the prevailing Party in such action or suit shall be entitled to have and recover from the other Party all costs and expenses incurred therein, including reasonable attorneys' fees.

7.8 **Termination.** Except as otherwise expressly provided herein, the obligation of the Parties shall terminate upon the satisfaction of the following conditions:

7.8.1 With regard to Owner's Undertakings, performance of Owner of Owner's Undertakings as set forth herein.

7.8.2 With regard to City's Undertakings, performance by City of City's Undertakings as set forth herein.

Upon an Owner's request (or the request of Owner's assignee), the other Party agrees to enter into a written acknowledgment of the termination of this Agreement, or part thereof, so long as such termination (or partial termination) has occurred.

7.9 **Recordation.** The recordation of any documents or plats shall be as follows:

7.9.1 Notice of this Agreement will be recorded in the Davis County Recorder's Office.

7.9.2 The Parties agree that the annexation plat will only be recorded with the Davis County Recorder's Office after the zoning amendments contemplated in Article II have been completed by the City Council.

7.10 **Recording Amendments.** Any subsequent amendment to this Agreement may be recorded as agreed by the Parties.

7.11 **Exhibits.** The following Exhibits are attached to and form a part of this Agreement:

Exhibit "A" - Description of Subject Area

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives effective as of the day and year first above written.

ATTEST:

By Thieda Wellman
THIEDA WELLMAN, City Recorder



LAYTON CITY CORPORATION:

By J. Stephen Curtis
J. STEPHEN CURTIS, Mayor

J. Stephen Curtis

Thieda Wellman

Signed by

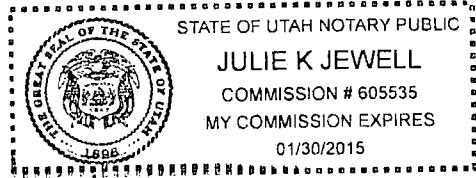
Julie K. Jewell

Subscribed and sworn to me this 16th day of July, 2002

Notary Julie K. Jewell

APPROVED AS TO FORM:

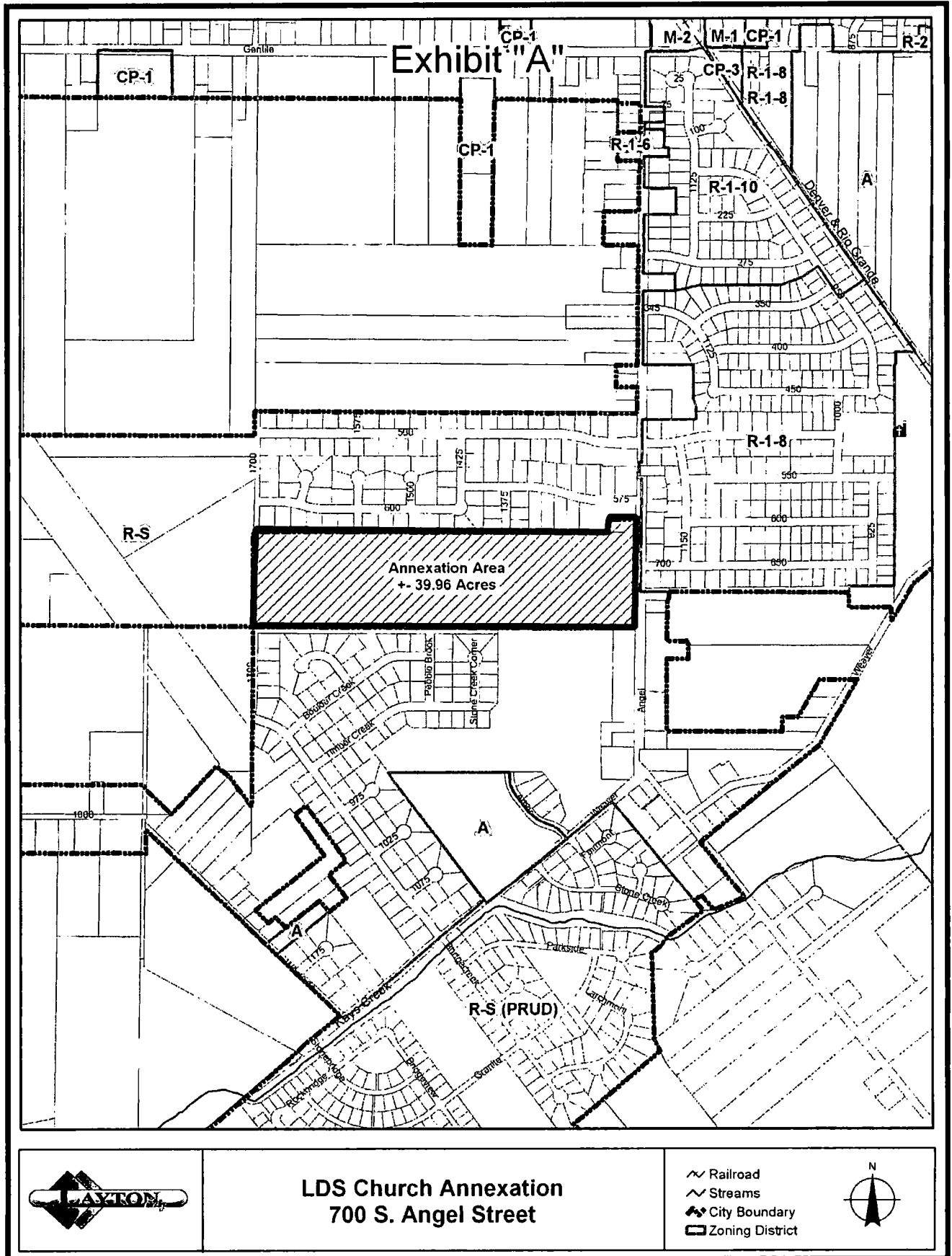
[Signature]
for GARY CRANE, City Attorney



OWNER:

Corporation of the Presiding Bishop of the Church of
Jesus Christ of Latter-day Saints, a Utah Corporation sole

By: [Signature]
AUTHORIZED AGENT fow



BOUNDARY DESCRIPTION

A part of the Southeast Quarter of Section 30, Township 4 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey:

Beginning at a point on the West right of way line of Angel Street and being the West Corporate Limits of Layton City; said point is 570.00 feet South 0°12'40" West along the Section line and 33.00 feet South 89°58'00" West from the Northeast corner of said Quarter Section; running thence two (2) courses along said Corporate Limits as follows: South 0°12'40" West 749.98 feet and South 89°57'50" West 2612.47 feet to the Quarter Section line; thence North 0°12'50" East 660.11 feet along said line to the Layton City Corporate Limits; thence three (3) courses along said Corporate Limits as follows: North 89°58'00" East 2430.94 feet, North 0°12'40" East 90.00 feet and North 89°58'00" East 181.50 feet to the point of beginning.

Contains 39.9598 Acres