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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
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AGREEMENT FOR THE ANNEXATION AND DEVELOPMENT OF LAND BETWEEN
LAYTON CITY AND CALL PROPERTY OWNERSHIP GROUP

Parcel #s: ~~12-110-0313~~
~~12-110-0264~~
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11-087-0090
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11-087-0052

**AGREEMENT FOR THE ANNEXATION AND DEVELOPMENT OF LAND BETWEEN
LAYTON CITY AND CALL PROPERTY OWNERSHIP GROUP**

THIS AGREEMENT for the annexation and development of land (hereinafter referred to as this "Agreement") is made and entered into this 5th day of Oct, 2017, between LAYTON CITY, a municipal corporation of the State of Utah (hereinafter referred to as "City"), and property owners Larry and Dixie Call, Duane and Beverly Call, and James and Kara Call (hereinafter referred to as "Owners"). City and Owners 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 an annexation of property into the City located at approximately 800 South and 2200 West in Layton City (hereinafter the "Annexation Area");

WHEREAS, the total area proposed for annexation consists of approximately 5.818 acres, which is described and depicted on Exhibit A attached hereto (hereinafter Exhibit A);

WHEREAS, the total area proposed for rezone consists of approximately 9.63 acres (hereinafter the "Subject Area"), which is described and depicted on Exhibit B attached hereto (hereinafter Exhibit B);

WHEREAS, Parties desire to enter into this Agreement to provide for the annexation and development of the Annexation Area and 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 5.818 acres (hereinafter "Annexation Area") and zone the Subject Area subject to Owners agreeing to certain development limitations and undertakings described herein, which will provide protection for the Annexation 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 Owners 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, covenants and agrees 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 "City's Undertakings" shall mean the obligations of the City set forth in Article III.
- 1.2 "Owners Undertakings" shall have the meaning set forth in Article IV.
- 1.3 "R-1-6" zoning shall mean a single family residential use district, the minimum lot area, setbacks and frontage, as well as the principal and accessory structures within which, are restricted by Table 5-1 of the Zoning Regulation Chart of the Zoning Ordinance, and further restricted by the provisions set forth in Article IV.

**ARTICLE II
CONDITIONS PRECEDENT**

2.1 The following are conditions precedent to Owners obligations under this Agreement, including without limitation Owners 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, (b) Zoning of the Subject Area, and (c) recordation of the annexation plat for the Annexation Area. Once annexed, the City will act promptly to zone the Subject Area R-1-6.

2.2 Owner agrees to construct only detached single family homes and other allowed uses in the R-1-6 zone.

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 and this Agreement has been fully executed by all parties.

ARTICLE IV OWNERS' UNDERTAKINGS AND RIGHTS

After the Effective Date, and conditioned upon City's performance of its undertakings set forth in Article III, and provided Owners have not terminated this Agreement pursuant to Section 7.7, Owners agree to the following:

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

4.1.1. Development of the Subject Area shall comply with the standards and requirements of the R-1-6 zone.

4.1.2. The architectural plans, building elevations, and building materials for the homes shall be similar to that of the single family residential structures located in the area of the subject property. The following materials shall be used for exterior construction: brick, rock, stucco, or hardy board. The front, or street-facing façade of each home, shall have thirty percent (30%) brick or rock masonry. Vinyl siding shall not be allowed. The maximum height for the buildings is thirty (30) feet.

4.1.3. The homes shall include an attached two car garage as a minimum.

4.1.4. The maximum number of lots shall be thirty (30) for a total gross density of 3.11 units per acre, as shown in Exhibit B. The minimum lot size shall be eight thousand (8,000) square feet, with the exception of Lot 20 which shall be limited to a minimum lot size of seven thousand (7,000) square feet. The Preliminary Plat shall be similar to the Concept Plan shown in Exhibit B.

4.1.5 Street trees with a minimum caliper of two (2) inches shall be planted every thirty (30) feet in the parking strip of the public street section, in accordance with Layton Municipal Code 19.16.075 – Permitted Trees Within Park Strips and Along Frontages. Street tree species should vary between streets to create a unique street identity, visual variety, and to promote the health of the City's urban forestry. In the event that any of the trees or shrubs die or do not adequately grow, they shall be promptly replaced.

4.2 **Public Utilities.** Owners acknowledge and agrees that any development shall comply with any and all development standards, guidelines, ordinances, regulations, and statues as exist at time of development.

4.3 **Water Exactions.** Owners shall be responsible for complying with Layton City's Water Exactions requirements effective on the date of execution of this agreement.

4.4 **Precedence of this Agreement.** This agreement shall take precedence over any contrary provisions of any City Staff memorandums or representations.

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.** Owners agree to limit development to the uses provided herein unless, City and Owners mutually agree to amend this agreement in writing to reflect such.

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

5.2 **Completion Date.** Owners 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 Owners and its contractor, representatives of City shall have the right of access to the Subject Area without charges or fees during the period of performance of Owners Undertakings. City shall indemnify, defend and hold Owners 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 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 Owners, 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 Owners.** In the event of a default by Owners assignee, Owners may elect, in its discretion, to cure the default of such assignee; provided, Owners cure period shall be extended by thirty (30) days.

ARTICLE VII GENERAL PROVISIONS

7.1 **Successors and Assigns of Owners.** This Agreement shall be binding upon Owners and its successors and assigns, and where the term "Owners" is used in this Agreement it shall mean and include the successors and assigns of Owners, except that City shall have no obligation under this Agreement to any successor or assign of Owners 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 Owners) of all or any portion of the Subject Area. Upon approval of any assignment by City, or in the event Owner assigns all or part of this Agreement to an assignee, Owners 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:

Larry and Dixie Call
878 South 2000 West
Layton, UT 84041

Duane and Beverly Call
825 South 2200 West
Layton, UT 84041

James and Kara Call
6200 West 3600 West
Brigham City, UT 84302

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 Owners.

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 Owners.

7.6 **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.

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

7.7.1 With regard to Owners Undertakings, performance of Owners Undertakings as set forth herein.

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

Upon an Owners 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.

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

7.8.1 Notice of this Agreement will be recorded against the Subject Area in the Davis County Recorder's Office.

7.8.2 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.

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

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

Exhibit "A" - Description of Annexation Area

Exhibit "B" - Subject Area / Concept Plan

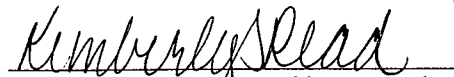
IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives effective as of the day and year first above written.

LAYTON CITY CORPORATION:




ROBERT J STEVENSON, Mayor

ATTEST:


KIMBERLY S READ, City Recorder

APPROVED AS TO FORM:

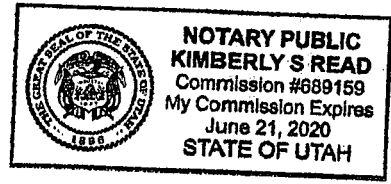

GARY CRANE, City Attorney

CITY ACKNOWLEDGEMENT

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

On this 5th day of October, 2017, personally appeared before me Robert J Stevenson, who being duly sworn, did say that he/she is the Mayor of LAYTON CITY, a municipal corporation of the State of Utah, and that the foregoing Annexation Agreement was signed in his/her capacity as Mayor on behalf of the City for approval of the Annexation Agreement.

Kimberly S Read
Notary Public

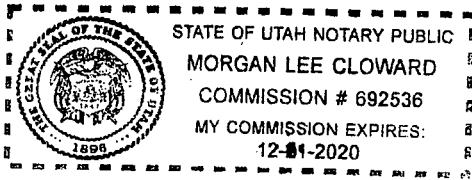


OWNER ACKNOWLEDGEMENT

Larry Call
Larry Call
Dixie Call
Dixie Call

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

On this 5th day of OCTOBER, 2017, personally appeared before me Larry and Dixie Call, who being duly sworn, did say that he/she is the legal property owner of record of the property subject to this Agreement and that he/she has executed this Agreement with full authority to do so.



Morgan Cloward
Notary Public

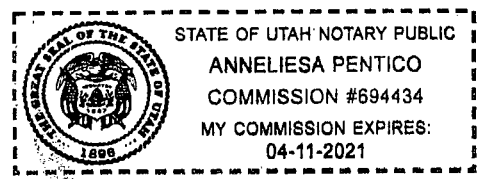
OWNER ACKNOWLEDGMENT

Duane Call
Duane Call

Beverly Call
Beverly Call

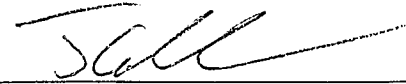
STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

On this 5 day of October, 2017, personally appeared before me Duane and Beverly Call, who being duly sworn, did say that he/she is the legal property owner of record of the property subject to this Agreement and that he/she has executed this Agreement with full authority to do so.

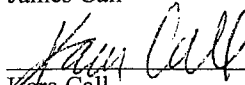


Anneliesa Pentico
Notary Public

OWNER ACKNOWLEDGMENT



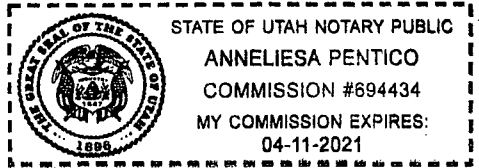
James Call

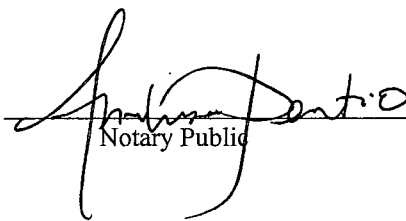


Kara Call

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

On this 5 day of October, 2017, personally appeared before me James and Kara Call, who being duly sworn, did say that he/she is the legal property owner of record of the property subject to this Agreement and that he/she has executed this Agreement with full authority to do so.





Notary Public

BOUNDARY DESCRIPTION

PART OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE CURRENT BOUNDARY LINE OF THE CORPORATION OF LAYTON CITY, SAID POINT LIES N89°57'40"E ALONG THE LINE BETWEEN THE NORTHWEST CORNER AND THE NORTHEAST CORNER OF SAID SECTION 31, 801.07 FEET AND S00°02'20"E 232.99 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 31 (NORTHEAST CORNER BEING N89°57'40"E 5277.10 FEET FROM SAID NORTHWEST CORNER); AND RUNNING THENCE ALONG THE BOUNDARY OF THE CORPORATION OF LAYTON CITY THE FOLLOWING FIVE (5) COURSES; (1) N89°57'40"E 514.23 FEET; (2) N89°58'26"E 282.25 FEET; (3) S00°02'20"E 214.85 FEET; (4) S89°58'19"W 282.68 FEET; (5) S00°04'33"W 429.22 FEET; THENCE N39°21'40"W 228.07 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 4800.00 FEET, AN ARC LENGTH OF 544.85 FEET, A DELTA ANGLE OF 06°30'13", A CHORD BEARING OF N42°36'47"W, AND A CHORD LENGTH OF 544.56 FEET; THENCE N00°02'20"W 66.63 FEET TO A POINT ON THE CURRENT BOUNDARY OF THE CORPORATION OF LAYTON CITY, SAID POINT ALSO BEING THE POINT OF BEGINNING.

CONTAINING 237,048 SQUARE FEET OR 5.442 ACRES MORE OR LESS