



\*W3142026\*

WHEN RECORDED MAIL TO:

GB MS Industrial, LLC  
423 West 300 South, Suite 230  
Salt Lake City, UT 84101

File No.: 134265-MCY

E# 3142026 PG 1 OF 29  
Leann H. Kilts, WEBER COUNTY RECORDER  
06-Apr-21 0421 PM FEE \$40.00 DEP TN  
REC FOR: COTTONWOOD TITLE INSURANCE AGENCY  
ELECTRONICALLY RECORDED

## **MARRIOTT-SLATERVILLE CITY SITE DEVELOPMENT AGREEMENT**

In Reference to Tax ID Number(s):

15-031-0020 and 15-030-0117

## MARRIOTT-SLATERVILLE CITY SITE DEVELOPMENT AGREEMENT

The Parties to this Site Development Agreement ("Agreement") are GB MS INDUSTRIAL, LLC, ("Developer") and MARRIOTT-SLATERVILLE CITY ("City"). The Agreement is effective this 5 day of April, 2021.

### RECITALS

WHEREAS, Utah Code §10-9a-604.5 provides for this Agreement;

WHEREAS, the Developer seeks permission to develop property within Marriott-Slaterville City, to be known as GB MS WAREHOUSE PHASE 1 ("Site"), which property is more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference ("Property");

WHEREAS, the City seeks to protect the health, safety, and general welfare of the residents by requiring the completion of various improvements in the Site and thereby to limit the harmful effects of substandard development;

WHEREAS, the purpose of this Agreement is to protect the City from the cost of completing subdivision improvements itself and is not executed for the benefit of material, men, laborers, or others providing work, services or material to the Site or for the benefit of third-parties, purchasers, or others affected by the Site;

WHEREAS, the mutual promises, covenants, and obligations contained in this Agreement are authorized by state law and the City's Municipal Code;

THEREFORE, the Parties hereby agree as follows:

### DEVELOPER'S OBLIGATIONS

1. **Legal Description.** The Site and Property is legally described as set forth in Exhibit "A" attached hereto and incorporated herein by this reference.
2. **Improvements.** The Developer shall construct and install, at its own expense, those on-site and off-site improvements listed on Exhibit "B" attached hereto and incorporated herein by this reference ("the Improvements"). The Developer's obligation to complete the Improvements will be conditioned on the commencement of construction to the development of the Site.
3. **Security.** To secure the performance of its obligations hereunder, the Developer will make a Cash Deposit ("Financial Guarantee") to be held in Escrow. The Financial Guarantee shall be established on or prior to the effective date pursuant to the terms of an Escrow Agreement in substantially the form attached hereto as Exhibit "C", which shall be executed with the Escrow Holder and Parties. The Financial Guarantee is to be in the amount specified in the Improvements completed prior to recording. The Financial Guarantee will be established at UMB

BANK ("Escrow Holder"). The Financial Guarantee (or portions thereof) shall be payable to the City as set forth herein, and will bear an expiration date not earlier than two (2) years after the Effective Date of this Agreement. The Financial Guarantee (or portion thereof) will be payable to the City as more fully set forth in the Escrow Agreement at any time upon presentation of:

- a. A demand made by the City on the issuing Escrow Holder in the amount to which the City is entitled to draw pursuant to the terms of this Agreement; or
- b. A request executed by the City Attorney or City Recorder stating that the City is entitled to make a draw or Developer is in default under this Agreement;

4. **Standards.** The Developer will construct the Improvements according to the *Marriott-Slaterville City Public Works Standards and Technical Specifications*, municipal code, applicable building or other codes adopted by City, all of which are incorporated herein by this reference.

5. **Warranty.** The Developer warrants that all of the Improvements will be free from defects for a period of one (1) year from the date that the City accepts the improvement when completed by the Developer ("Warranty Period") and as requested by the Developer for conditional acceptance and final acceptance as provided in state law.

6. **Completion Periods.** The Developer shall commence work on the Improvements within one year from the Effective Date ("Commencement Period") and all of the Improvements will be completed within two (2) years from the Effective Date ("Completion Period").

7. **Compliance.** The Developer will comply with all approval requirements, relevant laws, code requirements, standards, specifications, and regulations in effect at the time of Site Plan approval when fulfilling its obligations under this Agreement. When necessary to protect public health, the Developer will be subject to laws, ordinances and regulations that become effective after final plat approval. The Developer shall specifically comply as follows:

- a. Conform to the approved Site Plan to attached in Exhibit "D" incorporated herein by this reference.
- b. Dedicate to the City the required number of shares of the Smout-Holley Irrigation Company.
- c. Conform to the Site Plan approval granted by the Planning Commission as set forth in the minutes.

8. **Dedication.** The Developer will dedicate to the City or other applicable agency as designated by the City the Improvements listed on Exhibit "B" attached hereto and incorporated herein by this reference pursuant to the procedure described below along with the water shares specified herein.

9. **Annexation.** The Developer hereby consents to annexation into the Pioneer Special Service District in order to obtain the required secondary water service and related service provided by the Pioneer Special Service District. The Developer hereby consents to annexation into any other special district providing service to the Site, including but not limited to Central Weber Sewer Improvement District and Bona Vista Water Improvement District. . The Site shall be

subject to lawfully adopted taxes, assessments, and monthly user fees as imposed by any legally created special district, specifically including the Pioneer Special Service District.

### **CITY'S OBLIGATIONS**

10. **Site Plan Approval.** The City has previously granted Site Plan ("Site Plan") approval for the Site Plan, in substantially the form of the Site Plan attached in Exhibit "D" and incorporated herein. Approval of the Site Plan is vested to the applicable state laws and local ordinances in effect at the time of Site Plan approval.
11. **Special Improvements.** The City, at its sole discretion, may use the collected impact fees for special improvements or connections as may be needed and as permitted by applicable Utah law.
12. **Inspection and Certification.** The City will inspect the Improvements (or portions thereof) as they are being constructed and, if acceptable to the City Engineer, certify such improvement as being in compliance with the standards and specifications of the City. Such inspection and certification, if appropriate, will occur within a reasonable time of notice by the Developer that it desires to have the City inspect an improvement. Before obtaining certification of any such improvement, the Developer will present to the City valid lien waivers from all persons providing materials or performing work on the improvement for which certification is sought. Certification by the City Engineer does not constitute a waiver by the City of the right to draw funds under the Financial Guarantee on account of defects in or failure of any Improvement that is detected or which occurs following such certification and during the Warranty Period.
13. **Notice of Defect.** The City will provide timely notice to the Developer whenever inspection reveals that an Improvement does not conform to the standards and specifications shown on the approved subdivision improvement drawings on file in the Marriott-Slaterville City Engineering and Surveyor's Office or is otherwise defective. The Developer will have thirty (30) days from the issuance of such notice to cure or substantially cure the defect, or such additional time as may reasonably be required so long as Developer commences such cure within such initial thirty (30) days and diligently pursues such cure to completion.
14. **Acceptance of Dedication.** The City or other applicable agency will accept the dedication of any validly certified Improvement within thirty (30) days of the Developer's offer to dedicate the Improvement. The City's or agency's acceptance of dedication is expressly conditioned on the presentation by the Developer of a policy of title insurance, where appropriate, for the benefit of the City showing that the Developer owns the Improvement in fee simple and that there are no liens, encumbrances, or other restrictions on the improvement unacceptable to the City in its reasonable judgment. Acceptance of the dedication of any improvement does not constitute a waiver by the City of the right to draw funds under the Financial Guarantee on account of any defect in or failure of the Improvement that is detected or which occurs after the acceptance of the dedication. The Improvements must be offered to the City in no more than one (1) dedication per month.

15. **Reduction of Security:** After the approval of any inspection conducted by the City under Section 12 above of an Improvement or portion thereof, the amount which the City is entitled to draw on the Financial Guarantee shall be reduced by a the cost of the Improvement or portion thereof which is incurred by Developer, as shown on Exhibit "B", and the Escrow shall be reduced to reimburse Developer its costs associated with such Improvements. At the request of the Developer, the City will execute a Certificate of Release verifying the approval of the Improvement or portion thereof and waiving its right to draw on the Financial Guarantee to the extent of such amount. Upon receipt of such Certificate of Release, the City agrees that such amount shall be released from the Escrow established under the Financial Guarantee to Developer to reimburse Developer its costs associated with such Improvements. In the event of a default hereunder, Developer will have no right to such a certificate. Upon the acceptance of all of the Improvements, the remaining ten percent (10%) of the cost of the Improvements that will remain in the Escrow for the duration of the Warranty Period may be drawn and will be available to the City until expiration of the Warranty Period, at which time the Escrow Agreement shall terminate, and all remaining amounts in the Escrow shall be released to Developer.
16. **Use of Proceeds.** The City will use funds drawn under the Financial Guarantee only for the purposes of completing the Improvements or correcting defects in or failures of the Improvements as set forth in this Agreement.

#### OTHER PROVISIONS

17. **Events of Default.** The City may not declare a default until written notice has been given to the Developer. The following conditions, occurrences, or actions will constitute a default by the Developer during the Construction Period (each, an "Event of Default"):
  - a. Developer's failure to commence construction of the Improvements within one (1) year of executing this Agreement.
  - b. Developer's failure to complete construction of the Improvements within two (2) years of executing this Agreement
  - c. Developer's failure to cure defective construction of any Improvement within applicable cure period.
  - d. Developer's insolvency, the appointment of a receiver for the Developer or the filing of a voluntary or involuntary petition in bankruptcy respecting the Developer.
  - e. Foreclosure of any lien against the Property or a portion of the Property or assignment or conveyance of the Property in lieu of foreclosure, unless the acquiring party assumes all obligations of Developer under this Agreement in a manner reasonably acceptable to City within sixty (60) days after taking title to the Property.
18. **Measure of Damages.** The measure of damages for breach of this Agreement will be the reasonable cost of completing the Improvements. For Improvements upon which construction has not begun, the estimated cost of the Improvements as shown on Exhibit "B" will be prima facie evidence of the minimum cost of completion. However, neither that amount nor the

amount of the Financial Guarantee establishes the maximum amount of the Developer's liability. The City will be entitled to complete all unfinished Improvements at the time of an Event of Default, regardless of the extent to which development has taken place in the Site Plan or whether Development ever commenced.

19. **City's Rights Upon Event of Default.** When any Event of Default occurs, the City may draw on the Financial Guarantee pursuant to the terms of the Escrow Agreement, to the extent of the estimated cost of the Improvements to be completed by the City (as shown on Exhibit "B"). The City will have the right to complete Improvements itself or contract with a third party for completion, and the Developer hereby grants to the City, its successors, assigns, agents, contractors, and employees, a nonexclusive right and easement to enter the Property for the purposes of constructing, maintaining, and repairing such improvements. Alternatively, the City may assign the proceeds of the Financial Guarantee to a subsequent developer (or a lender) who has acquired the Site Plan by purchase, foreclosure, or otherwise who will then have the same rights of completion as the City if and only if the subsequent developer (or lender) agrees in writing to complete the unfinished Improvements. In addition, the City also may suspend final occupancy until the Improvements are completed and by the City. These remedies are cumulative in nature except that during the Warranty Period, the City's only remedy will be to draw funds under the Financial Guarantee. The City may file a Certificate of non-compliance on the Site Plan with applicable fines set forth in code, or pursue other remedies at law or equity.
20. **Indemnification and Improvements.** The Developer hereby expressly agrees to forever indemnify and hold the City harmless from and against all claims, costs, and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of the development and construction relating to the Improvements . The Developer agrees to indemnify and defend the City in the event that the City is named as a defendant in an action concerning the performance of work by Developer of any Improvements pursuant to this Agreement. Developer also agrees to hold City harmless from any third party negligence, service interruption, power failure, water shortage, drowning, misuse, water staining or discoloration, or any other use or service limitation relating to the Secondary Water System (the "System"), failure to provide timely service, or otherwise. Developer acknowledges that the City has disclosed that the System will receive chemical treatments and that Developer understands that it is not to consume, drink, or use secondary water for any purpose other than outdoor irrigation, including not allowing any animals or pets to use or consume secondary water. Also, Developer acknowledges that said System may contain bryozoan or bryozoan colonies, mollusks, crustaceans, moss, algae, debris, or foreign objects that requires Developer to provide continuous maintenance and upkeep, winterization measures, and specialized operation or handling. Developer also acknowledges and holds City harmless for the operation of the pressurized sewer system and agree to operate and maintain such water or sewer pumps, where such pumps are installed, according to manufacturer specifications.
21. **Employment.** The Developer is not an agent or employee of the City.

22. **No Waiver.** No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both City and Developer; nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The City's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Developer or the acceptance of any improvement.
23. **Amendment or Modification.** The parties to this Agreement may amend or modify this Agreement only by written instrument executed by the City and by the Developer, or authorized agent. Such amendment or modification will be properly notarized before it may be effective.
24. **Attorney's Fees.** Should either party be required to resort to litigation, arbitration, or mediation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, will be entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If the court, arbitrator, or mediator awards relief to both parties, each will bear its own costs in their entirety.
25. **Other Approvals.** The City does not warrant by this Agreement that the Developer is or is not entitled to any other approval(s), permits, or licenses required by the City or has vested right to such.
26. **Third Party Rights.** No person or entity who or which is not a party to this Agreement will have any right of action under this Agreement.
27. **Scope.** This Agreement constitutes the entire agreement between the Parties and no statement(s), promise(s) or inducement(s) that is/are not contained in this Agreement will be binding on the parties.
28. **Time.** For the purpose of computing time periods under this Agreement for a party's action, such times in which civil disaster, acts of God, or extreme weather conditions occur or exist will not be included if such times prevent the Developer or City from performing its obligations under the Agreement.
29. **Severability.** If any part, term or provision of this Agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or unenforceability will not affect the validity of any other part, term, or provision and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.
30. **Benefits.** The benefits of this Agreement to the Developer are personal and may not be assigned without the express written approval of the City. Such approval may not be unreasonably withheld, but any unapproved assignment is void. Notwithstanding the foregoing, the burdens of this Agreement are personal obligations of the Developer and also bind the heirs, successors, and assigns of the Developer. There is no prohibition on the right of the City to assign its rights under this Agreement. The City will release the Developer's Financial

Guarantee if it accepts new security from another developer or lender who obtains the Property. However, no act of the City will constitute a release of the original Developer from this liability under this Agreement.

31. **Notice.** Any notice required or permitted by this Agreement will be deemed effective when personally delivered in writing or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified, and return receipt requested, and addressed as follows:
  - a. Developer: GB MS Industrial, LLC, 423 West 300 South, Suite 230, SLC, UT 84101.
  - b. City: Marriott-Slaterville City, 1570 West 400 North, MSC, UT 84404
32. **Recordation.** Either Developer or City may record a copy of this Agreement at any time in the Recorder's Office of Weber County, Utah.
33. **Immunity.** Nothing contained in this Agreement constitutes a waiver of any of the City's immunity, including governmental immunity, under any applicable state law or otherwise.
34. **Personal Jurisdiction and Venue.** Personal jurisdiction and venue for any civil action commenced by either party to this Agreement whether arising out of or relating to the Agreement or Financial Guarantee will be deemed proper only if such action is commenced in Second District Court of and for Weber County. The Developer expressly waives its right to bring such action in or to remove such action to any other court whether state or federal.

*[Remainder of Page Intentionally Left Blank.]*

IN WITNESS WHEREOF, the parties have entered into this Agreement effective as of the date first set forth above.

FOR DEVELOPER:

GB MS INDUSTRIAL, LLC

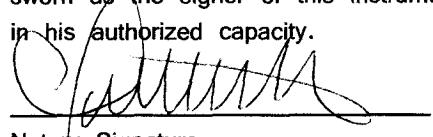
By: Jonathan S. Gardner  
Name: Jonathan S. Gardner  
Title: Manager

March 26, 2021  
Date

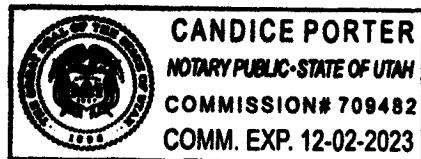
ACKNOWLEDGMENT

State of Utah )  
ss:  
County of Salt Lake )

On the 24 day of March 2021, before me, a Notary Public, personally appeared, JONATHAN GARDNER, who is personally known to me or proved to me on the basis of valid identification to be the Managing Member/Authorized Agent of GB MS INDUSTRIAL, LLC, and was duly sworn as the signer of this instrument and did duly acknowledged to me that he executed the same in his authorized capacity.



Notary Signature



FOR MARRIOTT-SLATERVILLE CITY:

Scott Van Leeuwen  
Mayor

March 30 2021  
Date

ATTEST:

Dana Spencer  
City Recorder

APPROVED AS TO FORM:

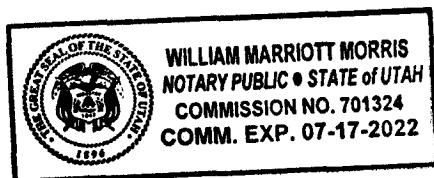
Dana Spencer  
City Attorney

ACKNOWLEDGMENT

State of Utah )  
s:  
County of Weber )

On the 30 day of March 2021, before me, a Notary Public, personally appeared SCOTT VAN LEEUWEN, Mayor of Marriott-Slaterville City, who was duly sworn and is the signer of this instrument, who duly acknowledged to me that he executed the same in his authorized capacity.

Notary Public



**SCHEDULE OF EXHIBITS**

Exhibit A: Property Description

Exhibit B: Required On-site and Off-site Subdivision Improvements (Engineer's Cost Estimate)

Exhibit C: Financial Guarantee (Escrow Agreement)

Exhibit D: Final Site Plan

## EXHIBIT A

### PROPERTY DESCRIPTION

#### PARCEL 1:

A parcel of land, situate in the Northwest quarter of Section 12 and the Northeast quarter of Section 11, Township 6 North, Range 2 West, Salt Lake Base and Meridian, said parcel also located in Marriott-Slaterville, Weber County, Utah. Being more particularly described as follows:

Beginning at a point on the Easterly right-of-way line of Interstate 15, said point being South 00°12'35" East 1095.31 feet along the section line and South 89°47'25" West 110.08 feet from the Northwest corner of said Section 12 and running thence: South 89°57'35" East 1,445.92 feet along the Southerly lines of Parcels 15-031-0008, 15-031-0007 and 15-031-0006; thence South 00°00'02" East 993.94 feet to the Northerly line of parcel 15-031-0021 as surveyed January 29, 2014 (see record of survey 5043); thence along the Northerly and Westerly lines of said parcel the following six (6) courses and distances: 1) North 89°23'09" West 662.16 feet; 2) South 03°46'34" West 354.62 feet; 3) South 03°41'34" West 451.60 feet; 4) South 02°28'23" West 23.49 feet; 5) South 08°32'28" East 9.26 feet; 6) South 11°52'50" East 344.30 feet, more or less, to the center of 4 Mile Creek and the Northerly line of Parcel 15-031-0016; thence South 42°53'15" West 120.45 feet and South 89°31'51" West 87.84 feet along said center of 4 Mile Creek; thence South 34°41'23" West 146.20 feet to the Northerly right-of-way line of Pioneer Road (400 North Street); thence along the Northerly right-of-way line of Pioneer Road the following two (2) courses and distances: 1) North 56°42'25" West 69.18 feet; 2) Northwesterly 10.86 feet along the arc of an 878.51-foot radius tangent curve to the left (center bears South 33°17'35" West and the long chord bears North 57°03'39" West 10.86 feet with a central angle of 00°42'29") to the boundary of Parcel 15-031-0016; thence North 34°41'23" East 121.79 feet along said boundary to the center of 4 Mile Creek; thence along the center of 4 Mile Creek and the boundary of Parcel 15-031-0016 the following ten (10) courses and distances: 1) North 33°24'01" West 165.91 feet; 2) North 56°06'57" West 39.43 feet; 3) North 62°43'59" West 99.96 feet; 4) westerly 100.23 feet along the arc of a 90.00-foot radius nontangent curve to the left (center bears South 27°16'05" West and the long chord bears South 85°21'50" West 95.13 feet with a central angle of 63°48'30"); 5) South 53°27'39" West 60.37 feet; 6) Westerly 45.97 feet along the arc of a 25.00-foot radius non-tangent curve to the right (center bears North 36°32'34" West and the long chord bears North 73°52'07" West 39.76 feet with a central angle of 105°20'54"); 7) North 21°11'53" West 119.49 feet; 8) North 01°00'51" East 143.31 feet; 9) North 23°05'37" West 165.81 feet; 10) North 57°39'20" West 19.27 feet to the Easterly right-of-way line of Interstate 15; thence North 06°00'51" West 56.55 feet along said right-of-way; thence East 22.13 feet; thence North 0°00'02" East 461.99 feet; thence West 19.68 feet to the Easterly right-of-way line of Interstate 15; thence along said Easterly right-of-way line the following: 1) North 02°13'10" West 579.53 feet; 2) North 01°10'49" West 500.38 feet; 3) North 01°00'26" East 38.27 feet to the point of beginning.

#### PARCEL 2:

A parcel of land being an entire tract of property situate in the Southeast quarter of the Northeast quarter of Section 11, Township 6 North, Range 2 West, Salt Lake Base and Meridian. The boundaries of said parcel of land are described as follows:

Beginning at the East quarter corner of said Section 11; thence West 22 feet to the East right of way and no-access line of a freeway known as Project No. I-15-8(7)338; thence Northerly along said right of way line the following three (3) courses: North 05°59'08" West 114.39 feet; thence North 04°39'16" East 232.96 feet; thence North 02°11'14" West 116.12 feet to the Northerly boundary line of said entire tract; thence East 19.46 feet along said Northerly boundary line to the East line of said Section 11; thence South 462 feet along said East line to the point of beginning.

Tax Id No.: 15-031-0020 and 15-030-0117

EXHIBIT B

REQUIRED ON-SITE AND OFF-SITE SUBDIVISION IMPROVEMENTS  
(ENGINEER'S COST ESTIMATE)

*See attached.*

## DUT-5 Marriott - Slaterville

ITEMIZED DESCRIPTION	QUANTITY	UNITS	UNIT COST	COST
<b>ROADWAY IMPROVEMENTS</b>				
1 Sawcut Edge of Existing Asphalt	240	Linear Feet	\$1.50	\$360.00
2 4" Asphalt over 8" Gravel Base Course over 8" Sub-Base Course	193,999	Square Feet	\$3.25	\$630,496.27
3 2'-6" Curb and Gutter per dwg 3 Marriott - Slaterville Std's	8,646	Linear Feet	\$18.50	\$159,954.18
4 UDOT B5 Curb Back to Back	215	Linear Feet	\$24.50	5,267.50
5 Type P curb per APWA 209	115	Linear Feet	\$17.50	2,012.50
6 6-inch Thick Concrete Sidewalk with 6" Base Course	16,260	Square Feet	\$6.00	97,562.47
7 ADA Handicap Ramps	15	Each	\$900.00	13,500.00
8 Plowable End Section	2	Each	\$2,500.00	5,000.00
9 5" Thick Concrete for Island	511	Square Feet	\$6.00	3,066.00
10 8' Waterway	50	Linear Feet	\$45.00	2,250.00
11 Earthworks	12,910	Cubic Yards	\$4.50	58,095.00
12 Striping	1	Lump Sum	\$7,500.00	\$7,500.00
		<b>SUBTOTAL</b>	=	<b>\$ 985,063.93</b>
<b>DOMESTIC WATER SYSTEMS</b>				
1 10" C-900 PVC Culinary Water Line	4,430	Linear Feet	\$34.50	\$152,835.00
2 10" Gate Valve	10	Each	\$2,500.00	25,000.00
3 10" Tee	3	Each	\$850.00	2,550.00
4 10" Cross	1	Each	\$850.00	850.00
5 10" Fittings	7	Each	\$660.00	4,550.00
6 Install Fire Hydrant, Complete	9	Each	\$3,750.00	33,750.00
7 Connect to Existing Culinary Waterline with Tapping Sleeve	3	Each	\$2,800.00	8,400.00
8 20" Water line Casing	30	Linear Feet	\$75.00	2,250.00
9 4" Blow-off	2	Each	\$2,100.00	4,200.00
10 Thrust Blocks	19	Each	\$1,500.00	2,850.00
11 Testing	1	Lump Sum	\$4,744.70	\$4,744.70
		<b>SUBTOTAL</b>	=	<b>\$ 241,979.70</b>
<b>SECONDARY WATER SYSTEM</b>				
1 8" PVC C-900 Irrigation Pipe	4445	Linear Feet	\$27.50	\$122,237.50
2 8" Gate Valves	4	Each	\$1,500.00	6,000.00
3 8" Cross	1	Each	\$650.00	650.00
4 8" Fittings	7	Each	\$600.00	3,500.00
5 Connect to Existing Pressurized Irrigation Line	1	Each	\$2,200.00	2,200.00
6 6X10 Reducer	1	Each	\$500.00	500.00
7 12" Steel Casing	30	Linear Feet	\$60.00	1,800.00
8 2" Drain line	1	Each	\$500.00	500.00
9 4" Blow-off	2	Each	\$1,750.00	3,500.00
10 2" Irrigation Service POC	1	Each	\$4,500.00	4,500.00
11 Thrust Blocks	9	Each	\$1,500.00	1,350.00
12 Testing	1	Lump Sum	\$2,934.75	\$2,934.75
		<b>SUBTOTAL</b>	=	<b>\$ 149,672.25</b>
<b>STORM DRAIN SYSTEMS</b>				
1 48" Class III RCP Storm Drain Pipe	115	Linear Feet	\$180.00	\$20,700.00
2 24" Class III RCP Storm Drain Pipe	2,060	Linear Feet	\$60.00	\$123,600.00
3 18" Class III RCP Storm Drain Pipe	170	Linear Feet	\$42.00	\$7,140.00
4 15" Class III RCP Storm Drain Pipe	1,646	Linear Feet	\$38.00	\$57,610.00
5 8x4' Box Culvert	98	Linear Feet	\$1,800.00	172,800.00
6 18" HP Storm Drain Pipe	582	Linear Feet	\$38.00	22,116.00
7 15" HP Storm Drain Pipe	588	Linear Feet	\$34.00	19,992.00
8 Culvert Headwall with Wing Walls and Apron	4	Each	\$6,600.00	26,000.00
9 6' Clean Out Box with Grated Cover	2	Each	\$8,900.00	11,800.00
10 4' Clean Out Box	13	Each	\$3,400.00	44,200.00
11 SD Combo Box	3	Each	\$4,200.00	12,600.00
12 SD Catch Basin	17	Each	\$2,100.00	35,700.00
13 Cap or Plug Proposed (upstream) Storm Drain Pipe	3	Each	\$750.00	2,250.00
14 Detention Basin Outlet Structure	2	Each	\$4,200.00	8,400.00
15 24" Flared End Section	1	Each	\$1,800.00	1,800.00
16 15" Flared End Section	4	Each	\$1,500.00	6,000.00
17 SDCO with Orifice Plate	1	Each	\$4,000.00	4,000.00
18 5 Dry Utility Casings (Steel)	150	Linear Feet	\$60.00	9,000.00
19 12" D50 Rip-Rap 24" Thick	310	Square Feet	\$25.00	7,750.00
20 Relocate existing Outfall Structures	2	Each	\$1,000.00	2,000.00
21 Emergency Spill Way 12" D50 Rip-Rap 24" Thick	1	Each	\$2,500.00	2,500.00
22 Landscaping	18,850	Square Feet	\$2.50	47,125.00
		<b>SUBTOTAL</b>	=	<b>\$ 597,958.00</b>
<b>SEWER</b>				
1 Raise Existing Manhole Rims	5	Each	\$1,500.00	\$7,500.00
		<b>SUBTOTAL</b>	=	<b>\$ 7,500.00</b>

## DUT-5 Marriott - Slaterville

ITEMIZED DESCRIPTION	QUANTITY	UNITS	UNIT COST	COST
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**STREET LIGHTS**

1 Street Lights	7	Each	\$3,000.00	\$ 21,000.00
<b>SUBTOTAL =</b>				<b>\$ 21,000.00</b>

**MISCELLANEOUS**Detention Basins

1 Earthworks	3,800	Cubic Yards	\$4.50	\$ 17,100.00
2 Landscaping	73,700	Square Feet	\$1.75	\$ 128,975.00
3 Re-Grading Four Mile Creek	300	Cubic Yards	\$10.50	\$ 3,150.00
<b>SUBTOTAL =</b>				<b>\$ 149,225.00</b>

Signage

1 Stop Signs	11	Each	\$650.00	\$ 7,150.00
2 Street Identification Signs	3	Each	\$450.00	\$ 1,350.00
3 Speed Limit Signs	8	Each	\$360.00	\$ 2,800.00
4 Keep Right Median Sign	1	Each	\$600.00	\$ 600.00
5 Right Turn Only	1	Each	\$450.00	\$ 450.00
6 No Left Turn Sign	1	Each	\$450.00	\$ 450.00
				<b>\$ 12,800.00</b>

Erosion Control

1 Stabalized Construction Entrance	2	Each	\$2,500.00	\$ 5,000.00
2 SWPPP/ Maintenance	1	Lump Sum	\$7,500.00	\$ 7,500.00
<b>SUBTOTAL =</b>				<b>\$ 12,500.00</b>

MISCELLANEOUS	TOTAL =	\$ 174,525.00
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**MISCELLANEOUS (ON-SITE)**Detention Basins

1 Earthworks	7,800	Cubic Yards	\$4.50	\$ 35,100.00
2 Landscaping (Detention Ponds)	49,500	Square Feet	\$1.75	\$ 86,625.00
3 48" Class III RCP Irrigation Pipe (Connect Irrigation from East to West)	262	Linear Feet	\$120.00	\$ 31,440.00
4 24" Class III RCP Irrigation Pipe (Connect Irrigation from East to West)	736	Linear Feet	\$80.00	\$ 58,800.00
5 24" Class III RCP Irrigation Pipe (North Irrigation ditch East to West)	245	Linear Feet	\$80.00	\$ 67,600.00
6 24" Flared End Section	2	Each	\$1,800.00	\$ 3,600.00
7 12" D50 Rip-Rap 24" Thick	420	Square Feet	\$25.00	\$ 10,500.00
8 5' SD Combo Box	7	Each	\$4,200.00	\$ 29,400.00
				<b>\$ 323,065.00</b>

ROADWAY IMPROVEMENTS =	\$ 985,063.93
DOMESTIC WATER SYSTEMS =	\$ 241,979.70
SECONDARY WATER =	\$ 149,672.25
STORM DRAIN SYSTEM =	\$ 597,958.00
SEWER =	\$ 7,500.00
STREET LIGHTS =	\$ 21,000.00
MISCELLANEOUS =	\$ 174,525.00
MISCELLANEOUS (ON-SITE) =	\$ 323,065.00
10% Contingency and guarantee =	\$ 250,076.39
5% City Fee =	\$ 125,038.19

SITE IMPROVEMENT COSTS = \$ 2,875,878.46

EXHIBIT C

ESCROW AGREEMENT

*See attached.*

## ESCROW AGREEMENT

THIS Escrow Agreement (this “**Agreement**”) made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by and among GB MS INDUSTRIAL, LLC, a Utah limited liability company (“Developer”), MARRIOTT-SLATERVILLE CITY (“City”) and UMB Bank, N.A., as Escrow Agent, a national banking association organized and existing under the laws of the United States of America (the “**Escrow Agent**”).

### RECITALS

A. Developer and City are parties to a certain Site Development Agreement dated of approximately even date herewith (the “**Development Agreement**”). Capitalized terms not otherwise defined herein shall have the meaning given to such terms in the Development Agreement.

B. The Development Agreement provides for the creation and funding by Developer of an escrow account in connection with the development of certain public improvements more particularly identified in the Development Agreement (the “**Improvements**”).

B. Developer and City desires that UMB Bank, N.A. act as Escrow Agent, and Escrow Agent is willing to act in such capacity.

### AGREEMENT

NOW, THEREFORE, Developer, City and Escrow Agent agree to the terms of this Agreement as follows:

1. Commencement of Duties. Promptly following execution and delivery of this Agreement, Developer shall transfer to the Escrow Agent an amount equal to \$2,875,878.46 (the “**Escrowed Funds**”). Upon receipt of the Escrowed Funds, the duties and obligations of each of the parties to this Agreement will commence.

2. Operation of the Escrow.

(a) Disbursements of Escrowed Funds to Developer. As set forth in the Development Agreement, after the approval of any inspection by the City of an Improvement or portion thereof, an amount of the Escrowed Funds equal to cost of such Improvement or portion thereof that has been inspected and approved by City shall be released to Developer to reimburse Developer’s cost associated with such Improvements or portion thereof. City shall execute a Disbursement Request / Certificate of Release in the form attached as Exhibit B hereto, signed by Developer and City, and shall deliver the same to Escrow Agent, whereupon the Escrow Agent shall promptly pay the portion of the Escrowed Funds identified in such Disbursement Request / Certificate of Release to Developer. In no event shall Developer request any disbursement of an amount of Escrowed Funds that would result in a balance of Escrowed Funds less than the “**Warranty Amount**” (defined below) prior to the expiration of the **Warranty Period**.

(b) Disbursements of Escrowed Funds to City. Upon any Event of Default under the Development Agreement, City may make a demand to Escrow Agent for a release of the Escrowed Funds or portion thereof by executing such Disbursement Request / Certificate of Release (with no signature of Developer required), and by delivering to Escrow Agent such Disbursement Request / Certificate of Release together with an accompanying affidavit (upon which the Escrow Agent may conclusively rely without investigation) swearing to the existence of an Event of Default by Developer under the Development Agreement. Upon receipt of the same, the Escrow Agent shall release to City the amount demanded by City, which the City agrees shall be equal to the estimated cost of the Improvements to be completed by the City as a result of the Event of Default by Developer.

(c) Warranty Period. Upon completion of all of the Improvements and acceptance of the same by City as set forth in the Development Agreement, the City and Developer shall certify the same jointly in writing to the Escrow Agent, and all remaining amounts of the Escrowed Funds shall be released to Developer except for an amount equal to \$287,587.85 (the “**Warranty Amount**”). The Warranty Amount shall be held by Escrow Agent as Escrowed Funds for the duration of the one (1) year Warranty Period identified in the Development Agreement. Upon expiration of the Warranty Period, City and Developer shall execute a final Disbursement Request / Certificate of Release, whereupon the Escrow Agent shall promptly pay the Warranty Amount to Developer and this Agreement, whereupon this Agreement shall be terminated.

3. Escrowed Funds. Upon receipt of the Escrowed Funds, the Escrow Agent shall hold the Escrowed Funds in escrow pursuant to the terms of this Agreement. Until such time as the Escrowed Funds shall be distributed by the Escrow Agent as provided herein, the Escrowed Funds shall be invested and reinvested as directed in writing by the Developer. If no such written investment direction is received, the Escrow Agent shall invest and re-invested the Escrowed Funds in the UMB Corporate Trust FDIC Deposit Sweep Program. To the extent that all balances cannot be invested and reinvested in such investment, the Escrow Agent is shall invest all residual cash balances in the UMB CT Deposit Plus money market account. Income, if any, resulting from the investment of the Escrowed Funds shall be retained by the Escrow Agent and shall be considered, for all purposes of this Agreement, to be part of the Escrowed Funds.

4. Duties of the Escrow Agent. The Escrow Agent shall have no duties or responsibilities other than those expressly set forth in this Agreement, and no implied duties or obligations shall be read into this Agreement against the Escrow Agent. The Escrow Agent has no fiduciary or discretionary duties of any kind. The Escrow Agent is not a party to, or bound by, any other agreement among the Developer and any person, and the Escrow Agent’s duties shall be determined solely by reference to this Agreement. The Escrow Agent shall have no duty to enforce any obligation of any person, other than as provided herein. The Escrow Agent shall be under no liability to anyone by reason of any failure on the part of any party hereto or any maker, endorser or other signatory of any document or any other person to perform such person’s obligations under any such document.

5. Liability of the Escrow Agent; Indemnification. The Escrow Agent acts hereunder as a depository only. The Escrow Agent is not responsible or liable in any manner for the sufficiency, correctness, genuineness or validity of this Escrow Agreement or with respect to the form of execution of the same. The Escrow Agent shall not be liable for any action taken or omitted by it,

or any action suffered by it to be taken or omitted, in good faith, and in the exercise of its own best judgment, and may rely conclusively and shall be protected in acting upon any order, notice, demand, certificate, opinion or advice of counsel (including counsel chosen by the Escrow Agent), statement, instrument, report or other paper or document (not only as to its due execution and the validity and effectiveness of its provisions, but also as to the truth and acceptability of any information therein contained) which is believed by the Escrow Agent to be genuine and to be signed or presented by the proper person(s). The Escrow Agent shall not be held liable for any error in judgment made in good faith by an officer or employee of the Escrow Agent unless it shall be proved that the Escrow Agent was grossly negligent in ascertaining the pertinent facts or acted intentionally in bad faith. The Escrow Agent shall not be bound by any notice of demand, or any waiver, modification, termination or rescission of this Agreement or any of the terms hereof, unless evidenced by a writing delivered to the Escrow Agent signed by the proper party or parties and, if the duties or rights of the Escrow Agent are affected, unless it shall give its prior written consent thereto.

The Escrow Agent may consult legal counsel in the event of any dispute or question as to the construction of any provisions hereof or its duties hereunder, and it shall incur no liability and shall be fully protected in acting in accordance with the opinion or instructions of such counsel.

The Escrow Agent shall not be responsible, may conclusively rely upon and shall be protected, indemnified and held harmless by City and Developer for the sufficiency or accuracy of the form of, or the execution, validity, value or genuineness of any document or property received, held or delivered by it hereunder, or of the signature or endorsement thereon, or for any description therein; nor shall the Escrow Agent be responsible or liable in any respect on account of the identity, authority or rights of the persons executing or delivering or purporting to execute or deliver any document, property or this Agreement.

In the event that the Escrow Agent shall become involved in any arbitration or litigation relating to the Escrowed Funds, the Escrow Agent is authorized to comply with any decision reached through such arbitration or litigation.

City and Developer hereby agree to indemnify the Escrow Agent for, and to hold it harmless against any loss, liability or expense incurred in connection herewith without gross negligence or willful misconduct on the part of the Escrow Agent, including without limitation legal or other fees arising out of or in connection with its entering into this Agreement and carrying out its duties hereunder, including without limitation the costs and expenses of defending itself against any claim of liability in the premises or any action for interpleader. The Escrow Agent shall be under no obligation to institute or defend any action, suit, or legal proceeding in connection herewith, unless first indemnified and held harmless to its satisfaction in accordance with the foregoing, except that the Escrow Agent shall not be indemnified against any loss, liability or expense arising out of its own gross negligence or willful misconduct. Such indemnity shall survive the termination or discharge of this Agreement or resignation of the Escrow Agent.

**6. The Escrow Agent's Fee.** Escrow Agent shall be entitled to fees and expenses for its regular services as Escrow Agent as set forth in Exhibit A. Additionally, Escrow Agent is entitled to fees for extraordinary services and reimbursement of any out of pocket and extraordinary costs and expenses, including, but not limited to, attorneys' fees. Escrow Agent shall have a first lien upon

all Escrowed Funds for the purposes of paying its fees and expenses. All of the Escrow Agent's compensation, costs and expenses shall be paid by Developer.

7. Security Interests. No party to this Escrow Agreement shall grant a security interest in any monies or other property deposited with the Escrow Agent under this Escrow Agreement, or otherwise create a lien, encumbrance or other claim against such monies or borrow against the same.

8. Dispute. In the event of any disagreement between the undersigned or the person or persons named in the instructions contained in this Agreement, or any other person, resulting in adverse claims and demands being made in connection with or for any papers, money or property involved herein, or affected hereby, the Escrow Agent shall be entitled to refuse to comply with any demand or claim, as long as such disagreement shall continue, and in so refusing to make any delivery or other disposition of any money, papers or property involved or affected hereby, the Escrow Agent shall not be or become liable to the undersigned or to any person named in such instructions for its refusal to comply with such conflicting or adverse demands, and the Escrow Agent shall be entitled to refuse and refrain to act until: (a) The rights of the adverse claimants shall have been fully and finally adjudicated in a Court assuming and having jurisdiction of the parties and money, papers and property involved herein or affected hereby, or (b) All differences shall have been adjusted by agreement and the Escrow Agent shall have been notified thereof in writing, signed by all the interested parties.

9. Resignation of Escrow Agent. Escrow Agent may resign or be removed, at any time, for any reason, by written notice of its resignation or removal to the proper parties at their respective addresses as set forth herein, at least 30 days before the date specified for such resignation or removal to take effect; upon the effective date of such resignation or removal:

(a) All cash and other payments and all other property then held by the Escrow Agent hereunder shall be delivered by it to such successor Escrow Agent as may be designated in writing by the Developer, whereupon the Escrow Agent's obligations hereunder shall cease and terminate;

(b) If no such successor Escrow Agent has been designated by such date, all obligations of the Escrow Agent hereunder shall, nevertheless, cease and terminate, and the Escrow Agent's sole responsibility thereafter shall be to keep all property then held by it and to deliver the same to a person designated in writing by the Developer or in accordance with the directions of a final order or judgment of a court of competent jurisdiction.

(c) Further, if no such successor Escrow Agent has been designated by such date, the resigning or removed Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor agent; further the resigning or removed Escrow Agent may pay into court all monies and property deposited with Escrow Agent under this Agreement.

10. Notices. All notices, demands and requests required or permitted to be given under the provisions hereof must be in writing and shall be deemed to have been sufficiently given, upon

receipt, if (i) personally delivered, (ii) sent by telecopy and confirmed by phone or (iii) mailed by registered or certified mail, with return receipt requested, delivered as follows:

(1) If to Developer:	GB MS Industrial, LLC 423 West 300 South Suite 230 Salt Lake City, UT 84101
(2) If to City:	Marriott-Slaterville City 1570 West 400 North Marriott-Slaterville City, UT 84404
(3) If to the Escrow Agent:	UMB Bank, N.A.  2777 E.Camelback Road, Suite 350 Phoenix, AX 85016 Attn: Sandy Battas Sandra.Battas@umb.com

11. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado without regard to the principles of conflicts of law.

12. Binding Effect; Benefit. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the parties hereto. Without limiting the generality of the foregoing, if an Event of Default occurs under the Development Agreement the City may assign its rights under this Agreement to a subsequent developer (or a lender) which has acquired the Site by purchase, foreclosure, or otherwise.

13. Modification. This Agreement may be amended, modified or terminated at any time by a writing executed by Developer, City and the Escrow Agent.

14. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law. The parties hereto agree the transactions described herein may be conducted and related documents may be sent and stored by electronic means.

15. Headings. The section headings contained in this Agreement are inserted for convenience only, and shall not affect in any way, the meaning or interpretation of this Agreement.

16. Severability. This Agreement constitutes the entire agreement among the parties and supersedes all prior and contemporaneous agreements and undertakings of the parties in connection herewith. No failure or delay of the Escrow Agent in exercising any right, power or remedy may be, or may be deemed to be, a waiver thereof; nor may any single or partial exercise of any right, power or remedy preclude any other or further exercise of any right, power or remedy.

In the event that any one or more of the provisions contained in this Agreement, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement.

**17. Earnings Allocation; Tax Matters; Patriot Act Compliance.** The Developer and City agrees to provide the Escrow Agent completed Forms W-9 (or Forms W-8, in the case of non-U.S. persons) and other forms and documents that the Escrow Agent may reasonably request (collectively, "Tax Reporting Documentation") at the time of execution of this Agreement and any information reasonably requested by the Escrow Agent to comply with the USA Patriot Act of 2001 and Bank Secrecy Act, as amended from time to time, which information will be used to verify the identities of the parties to ensure compliance with the terms of such acts. The parties hereto understand that if such Tax Reporting Documentation is not so certified to the Escrow Agent, the Escrow Agent may be required by the Internal Revenue Code, as it may be amended from time to time, to withhold a portion of any interest or other income earned on the investment of monies or other property held by the Escrow Agent pursuant to this Escrow Agreement.

**[SIGNATURE PAGES FOLLOW]**

IN WITNESS WHEREOF, the parties sign this Escrow Agreement to be effective as of the date first set forth above.

**DEVELOPER:**

GB MS INDUSTRIAL, LLC, a Utah limited liability company

By: Jonathan S. Gardner  
Name: Jonathan S. Gardner  
Title: Manager

**CITY:**

MARRIOTT-SLATERVILLE CITY

By: Scott VanLeeuwen  
Name:  
Title: Mayor

**ATTEST:**

Dana Spencer  
City Recorder

**APPROVED AS TO FORM:**

Mark W.  
City Attorney

**ESCROW AGENT:**

UMB BANK, N.A.

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

Name: Casey Gunning

Title: Senior Vice President

**EXHIBIT A****ESCROW FEES AND EXPENSES OF ESCROW AGENT**

Acceptance Fee	\$500/one-time
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For initial services including review, execution and delivery of the agreements and all supporting documents, acceptance of the appointment and establish accounts of the agreement and all supporting documents. This is a one-time fee payable at the time of the closing. The acceptance fee (i.e. for administrative review time) and any out-of-pocket expenses will be payable whether or not the transaction closes.

Administration Fee	\$2,500/per annum
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For ordinary services of the escrow including normal administration of the account, payable annually in advance, with the first installment payable at the time of the closing. This schedule of fees applies to our present understanding of the transaction. Should the transaction terms change, UMB reserves the right to modify our pricing.

Transaction Fees	
Amendments	\$250/per

In connection with the initial review of documents, UMB will not require reimbursement for any legal fees that it may incur through the use of in-house counsel. Administration fees and other fees and expenses will be billed annually in advance.

The fees, charges and expenses specified herein are for the typical and customary services as escrow agent. Fees for additional or extraordinary services not now part of the customary services provided, such as special services during defaults, additional government reporting requirements, or document amendments will be charged at the then current rates for such services. Extraordinary expenses, such as legal fees and travel expenses, shall be invoiced to the client based upon the actual out of pocket cost to the escrow agent. UMB reserves the right to renegotiate its current fee schedule to correspond with changing economic conditions, inflation, and changing requirements relating to the day to day service delivery.

**EXHIBIT B**

\_\_\_\_\_, 2021

UMB Bank, N.A.  
Corporate Trust & Escrow Services  
1670 Broadway  
Denver, CO 80202

**JOINT DISBURSEMENT REQUEST / CERTIFICATE OF RELEASE**

Ladies and Gentlemen:

Reference is made to the Escrow Agreement among GB MS INDUSTRIAL, LLC, a Utah limited liability company (“Developer”), MARRIOTT-SLATERVILLE CITY (“City”) and UMB Bank, n.a. as Escrow Agent dated as of \_\_\_\_\_, \_\_\_ 2021 (the “Escrow Agreement”). All capitalized words and phrases used herein shall have the meaning as in the Escrow Agreement unless the context otherwise requires.

In accordance with the terms of the Escrow Agreement, Developer and City hereby jointly authorize and direct you to pay the sum of (US) \$\_\_\_\_\_ from the Escrow Funds directly to:

[Payee]  
[Address]  
[Payment Instructions-wire/check]

DEVELOPER  
By:

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

CITY  
By:

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

EXHIBIT D

FINAL SITE PLAN

*See attached.*

