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RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
5/24/2023 1:23 PM  
FEE 0.00 Pgs: 8  
DEP MEC REC'D FOR LAYTON  
CITY CORPORATION

**CONSENT AND ACKNOWLEDGEMENT**  
[Participation Agreement]

15 This CONSENT AND ACKNOWLEDGEMENT ("Consent"), dated effective as of May, 2023 (the "Effective Date"), is made by and between NORTH UTAH HOLDINGS, LLC, a Utah limited liability company ("Participant"), and the REDEVELOPMENT AGENCY OF LAYTON CITY, a political subdivision of the State of Utah (the "RDA").

**RECITALS**

A. Participant and RDA are parties to that certain Participation Agreement, with an effective date of June 6, 2016 (the "Participation Agreement"). The Participation Agreement sets forth certain payment obligations by the RDA (the "RDA Payment") to Participant, which RDA Payment has been completed as to the "Tax Increment" portion but not as to reimbursement for certain environmental remediation costs in accordance with Section 2.4.2 of the Participation Agreement. The Participation Agreement also sets forth certain development obligations by Participant (the "Obligations") for the "Site" (as defined in the Participation Agreement) and otherwise referred to as Tax Parcel ID: 11-061-0157, 11-061-0158, and 11-061-0029.

B. Winkel Rock, LLC, a Utah limited liability company ("Developer") contemplates developing the Site and other adjacent real property as a multifamily, retail, commercial, and hospitality development (the "Mixed-Use Project"). Developer is currently in the process of obtaining the necessary land use approvals and permits necessary for first phase of the Mixed-Use Project (the "Phase 1").

C. Participant, by and through its member(s) and/or manager(s) or other affiliate(s), has a membership interest in Developer and is contributing, deeding, or otherwise conveying the Site to Developer, and other adjacent real property, for the completion of Phase 1 of the Mixed-Use Project.

D. In accordance with Section 1.7.1 and 1.7.2 of the Participation Agreement, RDA's prior written consent is required for deeding, selling, conveying, assigning, or otherwise alienating or leasing the Site.

E. RDA is entering into this Consent for the limited purpose of (i) consenting to the conveyance of the Site from Participant to Developer; and (ii) agreeing to the scope of the outstanding Obligations.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Participant and RDA agree as follows:

1. **Consent.** In accordance with Section 1.7.1 and 1.7.2 of the Participation Agreement, the RDA hereby provides its express consent to the contribution, deed, and/or conveyance of the Site by Participant to Developer.

2. **Outstanding Obligations.** The RDA and Participant hereby agree and acknowledge that the following table sets forth the Obligations under the Participation Agreement and the status for the same:

Section	Obligation	Status
2.4	Participant agrees to sign a Promissory Note (the Note) for the full amount of the Tax Increment paid to Participant.	Completed by Participant.
2.4.1	Participant shall deed or dedicate by plat to Layton City, at no cost, a public right-of-way access connected to an	Outstanding – this obligation will be completed by Developer in its

	intersection with Main Street.	development of Phase 1.
2.4.1	Participant shall proceed with obtaining subdivision approval (if necessary) and complete the process in good faith and in a reasonable period of time.	Outstanding – this obligation will be completed by Developer in its development of Phase 1.
2.4.2	Participant agrees that the existing building(s) shall be demolished and all debris removed from the Site.	Completed by Participant.
2.4.2	Participant and RDA agree to remediate additional environmental contaminations, if any, as determined in the conclusions of the Limited Subsurface Investigations dated June 2, 2015 and June 5, 2015 conducted by EarthTouch Inc. for the Site.	Completed by Participant.
2.4.3	Participant agrees that development of the Main Street frontage of the Site shall be compliant with MU-TOD zoning regulations and include, at minimum, office/retail uses on the main floor level of the Main Street frontage.	Outstanding – this obligation will be completed by Developer in its development of Phase 1.
2.4.4	Participant agrees to not erect, or cause to be erected, any billboards advertising off-site business on the entire development site.	Outstanding – this obligation will be completed by Developer in its development of Phase 1.
3.1; 3.3	Participant will at all times be responsible for all development of the Site pursuant to the "Plan" (as defined in the Participation Agreement). Participant agrees to improve and develop the Site according to the terms of the Participation Agreement.	Outstanding – this obligation will be completed by Developer in its development of Phase 1.
3.2	Participant shall be responsible for the preparation of all plans and securing all permits for the development of the Site.	Outstanding – this obligation will be completed by Developer in its development of Phase 1.

As set forth in the Participation Agreement, upon completion of the foregoing Obligations through construction of improvements depicted on the attached Exhibit A, the RDA shall issue a "Certificate of Completion" and thereafter terminate and release the promissory note contemplated under the Participation Agreement. The parties agree that upon issuance of the last certificate of occupancy on Phase 1, as depicted on Exhibit A, the RDA shall issue a Certificate of Completion and consider all of the Obligations discharged and terminated as they relate to the owner of the Site and Participant under the Participation Agreement.

3. **Miscellaneous.**

a. **Governing Law.** This Consent shall be governed by and construed in accordance with the internal laws of the State of Utah without giving effect to any choice or conflict of law provision or rule.

b. **Successors and Assigns.** This Consent shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

c. **Counterparts.** This Consent may be executed in counterparts, each of which will be deemed an original but which together constitute one and the same instrument. Delivery of executed signature pages by facsimile or email transmission shall be effective.

*[Signatures and Acknowledgments Follow]*







**EXHIBIT B**

**Parcel 11-061-0029 Description:**

BEGINNING ON THE EAST UNE OF HIGHWAY 91 AT A POINT WHICH IS SOUTH 25°25' EAST 55 FEET FROM A POINT ALSO ON THE EAST UNE OF SAID HIGHWAY 91, 1476.71 FEET WEST, 691.22 FEET SOUTH FROM THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 25°25' EAST 75 FEET; THENCE NORTH 76°39' EAST 205.42 FEET; THENCE NORTH 1°55' WEST 74.95 FEET; THENCE SOUTH 76°39' WEST 240 FEET MORE OR LESS TO BEGINNING.

0.36 acres

**EXHIBIT B**

**Parcel 11-061-0157 Description:**

(0157+0158)  
BEGINNING ON THE EAST UNE OF HIGHWAY 91 AT A POINT 1528.22 FEET WEST AND 582.84 FEET SOUTH OF THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, IN THE CITY OF LAYTON; AND RUNNING THENCE NORTH 76°33' EAST 307.21 FEET; THENCE SOUTH 1 °55' EAST 174.95 FEET; THENCE SOUTH 76°39' WEST 235.94 FEET TO THE EASTERLY UNE OF SAID HIGHWAY; THENCE NORTH 25°25' WEST 175.0 FEET ALONG THE EASTERLY UNE OF SAID HIGHWAY TO THE POINT OF BEGINNING. EXCEPTING THEREFROM THAT PORTION OF LAND THAT WAS DEED TO BRIAN R. KING AND ANDREA L. KING, AS JOINT TENANTS IN WARRANTY DEED RECORDED APRIL 12, 2000, AS ENTRY NO. 1586338, IN BOOK 2636, AT PAGE 1141 OF OFFICIAL RECORDS, AS DESCRIBED AS FOLLOWS:

BEGINNING ON A POINT ON THE EAST UNE OF HIGHWAY 91 NORTH 89° 27'20" WEST 1473.12 (1459.80} FEET; AND SOUTH 727.24 (740.74} FEET FROM THE NORTH QUARTER CORNER OF SECTION 28, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN us SURVEY; THENCE NORTH 25° 25'00" WEST 159.47 FEET ALONG THE EAST UNE OF HIGHWAY 91; THENCE NORTH 76°33'00" EAST 136.00 FEET; THENCE SOUTH 19°51'55" EAST 157.19 FEET; THENCE SOUTH 76° 39'00" WEST 120.50 FEET TO THE POINT OF BEGINNING.

0.61 acres

**EXHIBIT B**

**Parcel 11-061-0158 Description:**

BEGINNING ON A POINT ON THE EAST LINE OF HIGHWAY 91 NORTH  $89^{\circ} 27' 20''$  WEST 1473.12 (1459.80) FEET; AND SOUTH 727.24 (740.74) FEET FROM THE NORTH QUARTER CORNER OF SECTION 28, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN US SURVEY; THENCE NORTH  $25^{\circ} 25' 00''$  WEST 159.47 FEET ALONG THE EAST LINE OF HIGHWAY 91; THENCE NORTH  $76^{\circ} 33' 00''$  EAST 136.00 FEET; THENCE SOUTH  $19^{\circ} 51' 55''$  EAST 157.19 FEET; THENCE SOUTH  $76^{\circ} 39' 00''$  WEST 120.50 FEET TO THE POINT OF BEGINNING.

0.46 acres