

E 3534231 B 8284 P 207-217
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
6/27/2023 11:51 AM
FEE :00 Pgs: 11
DEP MEC REC'D FOR LAYTON
CITY CORP

When recorded, mail to:
Layton City Recorder
437 N. Wasatch Drive
Layton, UT 84041

Affects Parcel Numbers Noted Herein

**NOTICE OF DEVELOPMENT AGREEMENT
PERTAINING TO BROMSFIELD SUBDIVISION,
LAYTON CITY, DAVIS COUNTY, UTAH**

On December 18, 2003 the Layton City Council adopted Resolution 03-89 adopting and approving an agreement for the annexation and development of land between Layton City and V. Robert and P. Diane Miskin, Russell E. and Barbara S. Peterson, and Larry M. Moon. This Notice, recorded in the office of the Davis County Recorder, notifies all current and future property owners of said development agreement for all designated properties pertaining to development conditions and requirements.

11-579-0001 ALL OF LOT 1, BROMSFIELD SUBDIVISION, CONTAINS 0.300 ACRES

11-579-0002 ALL OF LOT 2, BROMSFIELD SUBDIVISION, CONTAINS 0.510 ACRES

11-702-0103 ALL OF LOT 103, BROMSFIELD SUBDIVISION AMEDMENT, CONTAINS
0.41700 ACRES

11-702-0104 ALL OF LOT 104, BROMSFIELD SUBDIVISION AMENDMENT, CONTAINS
0.41700 ACRES

11-579-0005 ALL OF LOT 5, BROMSFIELD SUBDIVISION, CONTAINS 0.590 ACRES

11-579-0006 ALL OF LOT 6, BROMSFIELD SUBDIVISION, CONTAINS 0.610 ACRES

11-579-0007 ALL OF LOT 7, BROMSFIELD SUBDIVISION, CONTAINS 1.140 ACRES

11-579-0008 ALL OF LOT 8, BROMSFIELD SUBDIVISION, CONTAINS 0.540 ACRES

11-579-0009 ALL OF LOT 9, BROMSFIELD SUBDIVISION, CONTAINS 0.530 ACRES

11-579-0010 ALL OF LOT 10, BROMSFIELD SUBDIVISION, CONTAINS 0.490 ACRES

11-579-0011 ALL OF LOT 11, BROMSFIELD SUBDIVISION, CONTAINS 0.470 ACRES

11-579-0012 ALL OF LOT 12, BROMSFIELD SUBDIVISION, CONTAINS 0.5800 ACRES

11-579-0013 ALL OF LOT 13, BROMSFIELD SUBDIVISION, CONTAINS 0.440 ACRES


⁰⁰³⁰
11-579-~~0014~~ ALL OF LOT 14, BROMSFIELD SUBDIVISION, CONTAINS 0.620 ACRES.
ALSO, ALL OF LOT 15, BROMSFIELD SUBDIVISION, CONT. 0.240. TOTAL ACREAGE
0.86 ACRES.

11-579-0016 ALL OF LOT 16, BROMSFIELD SUBDIVISION, CONTAINS 0.270 ACRES

Exhibit A: RESOLUTION 03-89


Exhibit B: AGREEMENT FOR THE ANNEXATION AND DEVELOPMENT OF LAND BETWEEN
LAYTON CITY AND V. ROBERT AND P. DIANE MISKIN, RUSSELL E. AND BARBARA S.
PETERSON, AND LARRY M. MOON

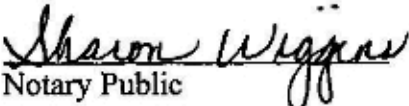
NOTICE FILED BY LAYTON CITY


Gary Crane
Layton City Attorney

STATE OF UTAH)
 :SSS
DAVIS COUNTY)

The foregoing instrument was acknowledged before me this 22nd day of June, 2023
by Gary Crane, Layton City Attorney.

 **SHARON WIGGINS**
Notary Public State of Utah
My Commission Expires on:
December 10, 2023
Comm. Number: 709247


Notary Public

My commission expires _____

RESOLUTION 03-89

ADOPTING AND APPROVING AN AGREEMENT FOR THE ANNEXATION AND DEVELOPMENT OF LAND WITH V. ROBERT AND P. DIANE MISKIN, RUSSELL E. AND BARBARA S. PETERSON, AND LARRY M. MOON.

WHEREAS, owners V. Robert and P. Diane Miskin, Russell E. and Barbara S. Peterson, and Larry M. Moon (hereafter "Owners") desire to annex and develop certain property located at approximately 50 South Highway 89 (hereafter "Subject Area") in Layton City; and

WHEREAS, Owner's proposal may necessitate certain zoning and subdivision approvals upon the Subject Area, and said proposal is consistent with the City's overall objectives and the intent of the General Plan; and

WHEREAS, Owners and Layton City desire to enter into an agreement setting forth the responsibilities of both parties relative to various aspects of the development of a subdivision on the Subject Property; and

WHEREAS, the City Council has determined it to be in the best interest of the citizens of Layton City to enter into this agreement to provide changes and improvements to ensure that the Subject Property will be developed according to the overall objectives and intent of the City's General Plan and in the best interests of the City.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF LAYTON, UTAH:

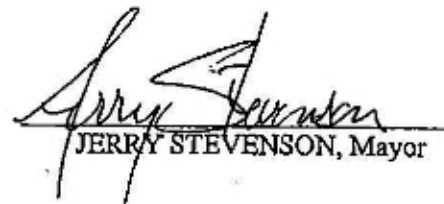
SECTION I: That the Agreement entitled "AGREEMENT FOR THE ANNEXATION AND DEVELOPMENT OF LAND BETWEEN LAYTON CITY AND V. ROBERT AND P. DIANE MISKIN, RUSSELL E. AND BARBARA S. PETERSON, AND LARRY M. MOON be approved and adopted.

SECTION II: That the Mayor is authorized to execute the Agreement, which is attached hereto and incorporated herein by this reference.

PASSED AND ADOPTED by the City Council of Layton, Utah, this 18th day of December, 2003.

ATTEST:




JERRY STEVENSON, Mayor


THIEDA WELLMAN, City Recorder

**AGREEMENT FOR THE ANNEXATION AND DEVELOPMENT OF LAND BETWEEN
LAYTON CITY AND V. ROBERT AND P. DIANE MISKIN, RUSSELL E. AND BARBARA S.
PETERSON, AND LARRY M. MOON**

(Approximately 50 South Highway 89, east side)

THIS AGREEMENT for the development of land (hereinafter referred to as this "Agreement") is made and entered into this 18 day of Dec., 2003, between LAYTON CITY, a municipal corporation of the State of Utah (hereinafter referred to as "City"), and V. ROBERT AND P. DIANE MISKIN, RUSSELL E. AND BARBARA S. PETERSON, AND LARRY M. MOON (hereinafter referred to as "Owner"). City and Owner collectively referred to as the "Parties" and separately as "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 and zone change therefore from the present zoning of A (Agriculture) to R-1-10 (Single Family Residential), of said property, located at approximately 50 South on the east side of Highway 89 in Layton City (hereinafter the "Subject Area"); and

WHEREAS, the total area proposed for annexation consists of approximately 10.90 acres, which is depicted on Exhibit "A" attached hereto (hereinafter "Exhibit A"); and

WHEREAS, Owner is the Owner of the above described property and has presented a proposal for development 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; and

WHEREAS, Parties desire to enter into this Agreement to provide for the annexation, and for the rezoning 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; and

WHEREAS, City is willing to annex, and to grant R-1-10 zoning approval for the Subject Area (as shown on Exhibit "A"), subject to Owner agreeing to certain limitations and undertakings described herein, which Agreement will provide protection to 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 V. ROBERT AND P. DIANE MISKIN, RUSSELL E. AND BARBARA S. PETERSON, AND LARRY M. MOON. 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.
- 1.7 "Exhibit A" shall have the meaning set forth in the Recitals hereto.

ARTICLE II CONDITIONS PRECEDENT

- 2.1 This Agreement shall not take effect until City has approved this Agreement pursuant to a resolution of the Layton City Council.
- 2.2 Owner agrees to restrict the uses permitted under a R-1-10 zoning designation, as set forth herein.

ARTICLE III CITY'S UNDERTAKINGS

3.1 Subject to the satisfaction of the conditions set forth in Section 2.2 and Article II, City shall approve the annexation of the Subject Area, and the rezone of the Subject Area from its present zoning of A to R-1-10, with an effective date of no sooner than the effective date and adoption of this Agreement by the City Council. Any annexation or zoning amendment shall occur upon a finding by the City Council that it is in the best interest of the health, safety and welfare of the citizens of Layton City to make such a change at this time.

3.2 The proposed zoning change is as reflected on Exhibit "A."

3.3 City agrees to enter into a payback agreement 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 Property. The amount of the payback to the developer shall be determined by the City Engineer after considering the improvements of facilities required or benefiting the development of the Subject Property, and those improvements that are specifically over sized to provide for future development.

ARTICLE IV OWNER'S UNDERTAKINGS

Conditioned upon City's performance of its undertakings set forth in Article III with regard to the annexation and to the zoning change of the Subject Property, and provided Owner has not terminated this Agreement pursuant to Section 7.8, Owner agrees to the following:

1) Zoning

Development of the property designated for R-1-10 zoning, once zoned R-1-10, shall comply with all applicable City rules, regulations and codes.

2) Sanitary Sewer

- a. The developer of the subject property shall be required to extend a sewer line west under U.S. Highway 89 and connect to the North Davis County Sewer District line on Mutton Hollow Road. This sewer connection would service both the subject property and the adjacent property to the south.
- b. The developer will be required to obtain written approval from UDOT for the sewer crossing on U.S. Highway 89.
- c. The developer will be required to obtain written approval from North Davis County Sewer District for the sewer connection on Mutton Hollow Road.

- d. The developer will be required to demonstrate adequate cover over the proposed sewer line with the conceptual plat.

3) Storm Drain

- a. The developer of the subject property will be required to receive permission from Davis County Flood Control to run storm drain south of the property into the Mutton Hollow Drainage. The developer shall provide documentation to the City from Davis County Flood Control indicating that they will allow this drainage connection to take place.
- b. Documentation, together with maintenance requirements from Davis County Flood Control will be required prior to the annexation being finalized.
- c. Utah Department of Transportation (UDOT) shall also provide assurance to the City that the use of the existing 48" storm drain culvert under U.S. Highway 89 for storm drainage servicing the subject property is appropriate.
- d. The developer of the subject property will be required to construct a single, regional detention pond that will service both the subject property and the parcel to the south that is included in Layton City's Annexation Policy Plan. This single pond will prevent the need to construct additional small ponds for the area in the future. This requirement is consistent with the Layton City Storm Water Master Plan recommendations. This regional detention pond will need to be constructed near the 48" storm drain culvert under U.S. Highway 89 or at an alternative location approved by the City Engineer.

4) Culinary Water

- a. Culinary water service to the subject property is limited. The developer will be required to upgrade the system to provide adequate storage capacity and fire flow to serve the subject property. The developer will be required to extend a 12" water line from the intersection of Oak Hills Drive and U.S. Highway 89 to the subject parcel.
- b. Based on elevation and contour information provided by the developer's engineer, the highest buildable area is located on the east end of the Subject Property at an elevation of 4,975. Based on the calculations and modeling of the Layton City culinary water system, the proposed 12" water line, as mentioned in Subsection 4.a of this Section, will provide a static water pressure to the Subject Area of approximately 50 psi. The residual water pressure under peak demand conditions will be 43 psi. The water model indicates that this 12" water line will deliver approximately 1,500 gpm at 20 psi for fire protection.
- c. The construction and installation of this 12" water line will be within the UDOT right-of-way for U.S. Highway 89. The developer must submit written approvals from UDOT regarding the installation and construction of this water line.

5) Highway 89 Issues

- a. The developer of the subject property will be required to improve the existing street connection to U.S. Highway 89. This connection affects the subject property and the property to the south. The developer will be required to obtain a letter from UDOT indicating the improvements that will be required along U.S. Highway 89 and the adjacent frontage road prior to conceptual approval for a subdivision on the subject property.

6) Street Slope Issues

- a. Layton City Development Standards require special approval from the Fire Department and Engineering Division for street slopes between 8% and 12%. Street slopes in the subdivision on the Subject Property shall only exceed 8% for a distance no greater than 200 feet. If the development cannot

meet the street design standards, conceptual subdivision approval shall not be granted, and the zoning shall revert to Agriculture.

- 7) These enumerations are not to be construed as approvals thereof, as any required approval process must be pursued independent hereof.
- 8) Owner agrees to limit development to the above uses upon all properties within the Subject Area, and if other uses are desired, Owner agrees to seek amendment of this Agreement before pursuing the development of those uses.
- 9) Any conflict between the provisions of this Agreement and the City's codified requirements shall be resolved in favor of the more strict 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 Subject Area 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 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 negligence or omissions of City, or its agents or employees, in connection with City's exercise 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; and

6.1.2 If the remedy of reversion is pursued, the defaulting Owner agrees not to contest the reversion of the zoning on undeveloped portions of the Subject Area, by the City Council to the previous zoning on the property, and hereby holds the City harmless for such reversion of the zoning from R-1-10 to A.

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 thirty (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 the Subject Area. Upon approval of any assignment by City, or in the event Owner assign 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 Owner:

V. ROBERT AND P. DIANE MISKIN
1586 N. Highway 89
Kaysville, Utah 84037
(801) 546-9150

RUSSELL E. AND BARBARA S. PETERSON
544 South Cherry Lane
Fruit Heights, Utah 84037
(801) 546-0580

LARRY M. MOON
13 North 3100 East
Layton, Utah 84040
(801) 544-0580

To City: LAYTON CITY CORPORATION
437 North Wasatch Drive
Layton, Utah 84041
Attn: Alex R. Jensen, City Manager
801/546-8500 801/546-8577 (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.

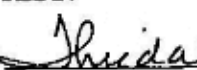
7.8.2 With regard to City's Undertakings, performance by City of City's Undertakings as set forth herein.

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. This Agreement will be recorded in the Davis County Recorder's Office.

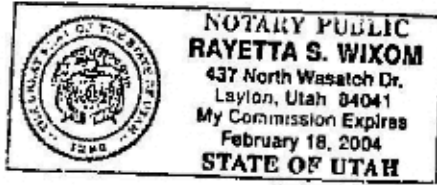
IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives effective as of the day and year first above written.

ATTEST:

By: 
THIEDA WELLMAN



LAYTON CITY CORPORATION,
By: 
JERKY STEVENSON, Mayor



Signed by *V. Robert Miskin*
V. ROBERT MISKIN

Signed by *P. Diane Miskin*
P. DIANE MISKIN

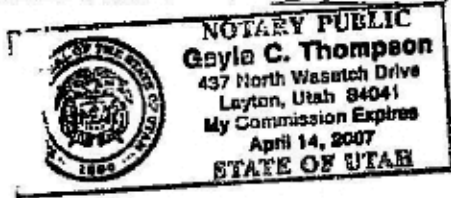
Subscribed and sworn to me this 8 day of January, 2004.

Rayetta S. Wixom
Notary

Signed by
RUSSELL E. PETERSON
Russell E. Peterson

Signed by
BARBARA S. PETERSON
Barbara S. Peterson

Subscribed and sworn to me this 20th day of January, 2004.



Gayle C. Thompson
Notary

Signed by
LARRY M. MOON
Larry M. Moon

Subscribed and sworn to me this 6th day of February, 2004.

Gayle C. Thompson
Notary

