

HIDEOUT CANYON
DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into this 20th day of November, 2009, by and between Mustang Development, LLC (hereinafter called "Developer"), and the Town of Hideout, Utah, a political subdivision of the State of Utah (hereinafter called the "Town"). Developer and the Town are, from time to time, hereinafter referred to individually as a "Party" and collectively as the "Parties." Unless otherwise expressly provided herein, this Agreement supersedes and replaces that certain agreement entered into between Developer and Wasatch County Recorded as Entry No. 283648 (recorded May 27, 2005) and 295336 (recorded January 17, 2006) in the Records of the Wasatch County Recorder, involving the Property (defined below).

RECITALS

A. The Town, acting pursuant to its authority under Utah Code Ann. Section 10-9a-101, *et. seq.*, in furtherance with the Town's land use policies, goals, objectives, ordinances, and regulations, has made certain determinations with respect to the development commonly known as "Hideout Canyon", and any other real property development within the Town boundaries owned by Developer or an affiliate of Developer, and therefore has elected to approve and enter into this Agreement in order to advance the policies, goals, and objectives of the Town, and the health, safety, and general welfare of the public. This Agreement is consistent with the Town's General Plan.

B. Developer has a legal interest in certain real property located in the Town as described in Exhibit A attached hereto (the "Lower Property"), and also in certain real property described in Exhibit B attached hereto (the "Upper Property"). With the approval of the Town, Developer shall have the right to supplement this Agreement with any other real property located in the Town boundaries and owned by Developer or an affiliate of Developer and subject such other real property to this Agreement. Any such additional real property owned by Developer (or an affiliate of Developer) and located in the Town boundaries and elected by Developer to be subjected to this Agreement is referred to herein as "Additional Property". The Lower Property, the Upper Property and any Additional Property shall be subject to this Agreement and shall be collectively referred to as the Property. The Lower Property and the Upper Property are currently zoned as Resort Specially Planned Area (RSPA).

C. Developer intends to develop the Lower Property and the Upper Property in accordance RSPA zoning requirements. The Lower Property is commonly known as Hideout Canyon. The Upper Property and any Additional Property may also be known as Hideout Canyon or such other name as determined by Developer.

D. Each Party acknowledges that it is entering into this Agreement voluntarily. Developer consents to all of the terms of the Agreement as valid conditions of development under all circumstances.

E. This Agreement supersedes and replaces any previously entered development agreements between Developer and any other county or municipality, including specifically, the Development Agreement entered into between Developer and Wasatch County, which is recorded as Entry No. 283648 and 295336 in the Wasatch County Recorder's Office.

NOW, THEREFORE, in consideration of the promises, covenants and provisions set forth herein, the receipt of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

Section 1. EFFECTIVE DATE AND TERM

1.1 Effective Date.

This Agreement shall become effective on the date it is executed and delivered by Developer and the Town (the "Effective Date"). The Effective Date shall be inserted in the introductory paragraph preceding the Recitals.

1.2 Term.

The term of this Agreement (the "Term") shall commence upon the Effective Date and continue for a period of twenty-five (25) years. Unless otherwise agreed between the Town and Developer, Developer's vested interests and rights contained in this Agreement shall expire at the end of the Term, or upon termination of this Agreement. Upon termination of this Agreement, the obligations of the Parties to each other hereunder shall terminate, but none of the licenses, building permits, or certificates of occupancy, or similar approvals, authorizations, permits, licenses or certifications granted prior to expiration of the Term or termination of this Agreement

shall terminate. This section shall not be construed or interpreted to limit or restrict the legislative discretion or administrative authority of the Town upon termination of this Agreement.

Section 2. DEFINITIONS

Unless the context requires a different meaning, any term or phrase used in this Agreement that has its first letter capitalized shall have that meaning given to it by this Agreement. Certain terms and phrases are referenced below; others are defined where they appear in the text of this Agreement, including its Exhibits.

“Applicable Law” shall have the meaning set forth in Section 4.2 of this Agreement.

“Governing Body” shall mean the Hideout Town Council.

“Changes in the Law” shall have that meaning set forth in Section 4.2 of this Agreement.

“Current Approvals” means all preliminary and final land use approvals previously granted for the Project, whether granted by the Town or by Wasatch County.

“Conditions to Current Approvals” shall have the meaning set forth in Section 3.1(b) of this Agreement.

“Town” shall mean the Town of Hideout, Utah and shall include, unless otherwise provided, any and all of the Town’s agencies, departments, officials, employees and agents.

“General Plan” shall mean the General Plan of the Town of Hideout.

“Developer” shall have that meaning set forth in the preamble, and shall also include Developer’s successors and/or assigns, including but not limited to any homeowner’s association which may succeed to control all or any portion of the Project (defined later).

“Director” shall mean the Director of the Hideout Planning Department, or his or her designee.

“Effective Date” shall have that meaning set forth in Section 1.1 of this Agreement.

“Notice of Compliance” shall have that meaning set forth in Section 8.1 of this Agreement.

“Open Space” shall mean land which is in an open and undeveloped condition that is suitable for any of the following: natural areas, wildlife or native plant habitat, wetlands or watershed lands, stream corridors, preserved historic sites, wildlife preserves or enhance active and passive recreation opportunities. Open Space shall include, but not be limited to, any homeowner association’s common area and any golf course property. Open Space percentage shall be calculated as follows:

$$\text{Open Space \%} = (O - R - B) \div (O - R) \times 100$$

O = Overall Property Area

R = Area of Dedicated Roadways within Property

B = Buildable Area within Property

“Planning Commission” shall mean the Hideout Planning Commission.

“Project” shall mean the Property and the development on the Property, which is the subject of this Agreement as well as any ancillary and additional improvements or endeavors incident thereto.

“Property” shall mean the Lower Property, the Upper Property and any Additional Property.

“Subsequent Approval” means a Town approval or permit, which is not otherwise provided for in this Agreement, and which is reasonably necessary for completion of the Project as reasonably determined by the Town.

Section 3. OBLIGATIONS OF DEVELOPER AND THE TOWN

3.1 Obligations of the Developer.

(a) **Generally.** The Parties acknowledge and agree that the Town’s agreement to perform and abide by the covenants and obligations of the Town set forth herein is

material consideration for Developer's agreement to perform and abide by the covenants and obligations of Developer set forth herein.

(b) Conditions to Current Approvals. Developer shall comply with all of the following "Conditions to Current Approvals":

- (1) **Payment of Fees:** Developer agrees to pay all fees generally established and imposed by the Town as a condition of developing the Property and Project, including all outside engineering and other outside consultant fees incurred by the Town directly related to the Project. All fees, costs and expenses paid by Developer on behalf of the Town shall be credited against established development and other fees payable to the Town by Developer, except impact fees to the extent prohibited by applicable law. Such fees, costs and expenses shall include, but not be limited to, fees, costs and expenses of the Town for publications, planning services, engineering services, attorneys' fees, recording fees, costs of materials and other general expenses. The Town and Developer shall work together in good faith to maintain a separate and continuing accounting of all fees, costs and expenses paid by Developer for which Developer is entitled to credit from the Town. Any fees, costs and expenses paid by Developer for which Developer is entitled credit shall be immediately due, owing and promptly paid by Town to Developer upon any request or petition for dissolution of the Town.
- (2) **Construction of Project Improvements:** Developer agrees to dedicate and/or construct Project improvements as reasonably directed by the Town, including, but not limited to, roads, landscaping, water, sewer, storm drains, and other utilities as shown on the approved final plans and in accordance with the Town's policies, procedures and standards.
- (3) **Easements:** Prior to recording a plat, Developer shall provide to the Town reasonable evidence of recorded easements granted to Developer, if any, by adjacent landowners for utilities and roads.
- (4) **Weed Control Plan:** Developer shall submit, and obtain Town approval of, a noxious weed control plan if reasonably requested by the Town.
- (5) **Open Space:** Developer shall reserve certain portions of the Project as dedicated Open Space, including a requirement that the Project shall reserve at least 25% as Open Space such that when the final phase of the Project is recorded the Open Space total will be at least 25%.

Developer is entitled, at its sole discretion, to reserve more than 25% of any Project as Open Space. It is anticipated that any Open Space requirements will be fulfilled by the golf course phase(s) of the Project either developed as a golf course (and restricted in use by the plats thereof or other appropriate recorded instrument) and/or left in its natural and/or other Open Space condition. As the exact boundaries of the Open Space are determined through the phasing and platting process, Developer covenants that it will record against the Open Space appropriate restrictions and/or agreements to assure that such property will be maintained as Open Space, and that, subject to the Developer's and its successors' right to engage in certain construction activities, the use of such property shall be limited to such activities as, without limitation, golf and any related golf structures as are consistent with maintaining the scenic and open space character of such land.

- (6) **Trails Plan:** Developer will submit, and obtain Town approval of, a trails map and plan. Developer will allow public access to certain portions of the trails of the Project, as reasonably determined by Developer.
- (7) **Private Storm Drains:** Developer, and its successors or assigns, including the Project's homeowners' association(s), Outlaw Golf Club or other designee, shall install, construct, maintain, and repair (or cause to be installed, constructed, maintained and repaired) the private storm drain system in the Project in good working order.
- (8) **Snow Removal:** Developer or the homeowners' association shall provide (or cause to be provided) snow removal on private roads.
- (9) **Warranty:** Developer shall warrant the quality of materials and the workmanship of all infra-structure improvements installed by Developer for a period of one (1) year from the time of substantial completion and acceptance by the Town. Notwithstanding the foregoing, existing infra-structure improvements installed by Developer prior to the date of this Agreement and accepted by the Town as herein provided shall not be subject to such warranty by Developer as such improvements were substantially completed more than one (1) year prior to the date of this Agreement.
- (10) **Bonding:** Developer shall, if required by Applicable Law, post bonds, or other security reasonably acceptable to the Town (e.g., real property), in amounts and types established by the Town in

accordance with Applicable Law related to the performance of Developer's construction obligations for the Project.

- (11) **Water:** Developer and Town agree that Developer shall not be obligated to reserve or incur any cost for water until the time of plat recordation (and then, only to the extent necessary to service the property being platted). At the time of plat recordation, Developer shall either provide required water rights or shares, or the Town or Town Water Company can acknowledge that it has adequate water or access to water to provide water service to the residential or commercial units included in the plat. The Parties agree that adequate water or access to water shall mean (i) not more than .45 acre feet for each 3,000 square feet of usable area in commercial, condominium, apartment and townhome developments (prorated accordingly for actual usable square footage), (ii) not more than .45 acre feet for single family residential lots under .20 acres, and (iii) not more than .76 acre feet for single family residential lots over .20 acres.

3.2 Obligations of the Town.

(a) **Generally:** The Parties acknowledge and agree that Developer's agreement to perform and abide by the covenants and obligations of Developer set forth herein is material consideration for the Town's agreement to perform and abide by the covenants and obligations of the Town set forth herein.

(b) **Approval of Land Use Plans:** Where Developer's submitted Land Use Applications are consistent with preliminary Current Approvals and City Ordinances, the Town shall grant approval to such Applications, and shall impose no conditions which are inconsistent with preliminary Current Approvals.

(c) **Conditions to Current Approvals:** The Town shall not impose any further Conditions to Current Approvals other than those detailed in this Agreement and on the Project plat(s), unless agreed to in writing by the Parties.

(d) **Acceptance of Improvements:** The Town agrees to accept all Project improvements constructed by Developer, or Developer's contractors, subcontractors, agents or employees, provided that (1) the Town of Hideout's Planning or Engineering Departments review and approve the plans for any Project improvements prior to construction; (2) Developer permits the Town of Hideout's engineering representatives to inspect, upon request, any and all of said Project improvements during the course of

construction; (3) the Project improvements have been inspected by a licensed engineer who certifies that the Project improvements have been constructed in accordance with the plans and specifications; (4) Developer has warranted the Project improvements for the period of one (1) year after substantial completion an acceptance by the Town as required by the Town; and (5) the Project improvements pass a final inspection by the Town. The Town hereby approves and accepts all Project improvements that are substantially complete as of the Effective Date and as set forth in Exhibit "C", attached hereto and incorporated herein by reference, and the Town acknowledges and agrees that such Project improvements are not subject to the one (1) year warranty by Developer as all such Project improvements were substantially completed at least one (1) year prior to the date of this Agreement. The Town further agrees that the existing 9-hole golf course located on the Lower Property fully satisfies the golf course component required in the General Plan, notwithstanding anything to the contrary contained in the General Plan or the RSPA zoning requirements.

(e) **Cost-Sharing for Improvements:** Developer shall be entitled to pursue cost reimbursement from landowners utilizing improvements installed by Developer. Town hereby agrees to enter into appropriate Reimbursement Agreements with Developer and to use good faith and its best efforts to obtain cost-sharing or use agreements with benefitted property owners.

(f) **Additional Obligations of the Town.** The Town agrees that it will not issue a building permit for construction of a residential building (or commercial building) unless the applicant for such building permit provides to the Town reasonable evidence (e.g. letter from committee, plans stamped by committee, etc.) that such building has been approved by Developer or the Design Review Committee (or similar committee) under the declaration of covenants conditions and restrictions for the Project.

(g) **Bonding.** The Town agrees that should Developer make a request to obtain bonding (or other public financing) for Project improvements, the Town shall to the extent permitted by applicable law work together with Developer in good faith and exercise its best efforts to obtain bonding (or other public financing) to assist Developer with the financing and payment for Project improvements. Nothing herein shall be construed as a waiver of the Town's legislative discretion.

(h) **Conservation Easement.** To preserve and protect the open space values of the Property, which is of great value to the Town and its residents and the people of the State of Utah, the Developer may, at its sole-discretion, grant to the Town a

conservation or other type of easement, acceptable in form to the Town, which shall not be unreasonably denied by the Town. For purposes of a conservation easement, the Town represents and warrants to Developer that it is a "qualified organization" under Section 170(h)(3) of the Internal Revenue Code for purposes of Developer receiving tax deductible contributions for the purpose of the preservation, protection, or enhancement of land in its scenic and /or open space.

(i) **Impact Fees for Water and Sewer.** Because the cost of some or all of the water, sewer and other utility facilities will be initially paid by Developer, the Town shall, to the extent permitted by applicable law, incorporate the costs paid by Developer for such facilities into its formulas and calculations for determining connection and/or impact fee structures. Upon the application for a building permit on the purchaser's lot, the obligation to pay such fees shall become due and payable to the Town through its connection and/or impact fee structure. The Town shall then pay to Developer a portion of such fee calculated to fully reimburse Developer its costs and expenses incurred (together with reasonable interest thereon), which amount shall be not less than \$14,500.00 for each unit connection.

(j) **Revenue Sharing.** In light of the size of the Project and the potentially substantial benefits that are likely to accrue to the Town therefrom, including tax and fee revenues from the commercial components thereof, the Town agrees to the extent legally possible to enter into tax and revenue sharing agreements with Developer for commercial components of the Project which are similar, in scope and/or potential revenue creation, to commercial developments in other similarly situated municipalities.

Section 4. VESTED RIGHTS AND APPLICABLE LAW

4.1 Vested Rights.

(a) **Generally:** As of the Effective Date of this Agreement Developer shall have the vested right to develop the Property in accordance with this Agreement and Applicable Law. The foregoing shall not affect or limit in any way existing rights vested in Developer or the Property in connection with approvals previously granted by applicable governmental authorities. Neither the Town nor any agency of the Town shall impose upon the Project any ordinance, resolution, rule, regulation, standard, directive, condition or other measure that reduces such existing development rights or the development rights provided by this Agreement, existing zoning or entitlements,

except where a change in the applicable law or regulations is necessary to protect public health and safety and is supported by a compelling, countervailing public interest.

(b) **Reserved Legislative Powers:** Nothing in this Agreement shall limit the future exercise of the police power by the Town in enacting zoning, subdivision, development, transportation, environmental, open space, and related land use plans, policies, ordinances and regulations after the date of this Agreement. Notwithstanding the retained power of the Town to enact such legislation under its police power, such legislation shall not modify Developer's vested rights as set forth herein unless facts and circumstances are present which meet the exceptions to the vested rights doctrine as set forth in U.C.A. § 10-9a-509, or its successor section or applicable common law.

4.2 **Applicable Law.**

(a) **Applicable Law.** The rules, regulations, official policies, standards and specifications applicable to the development of the Property (the "Applicable Law") shall be in accordance with those set forth in the Conditions to Current Approvals set forth in this Agreement, and those rules, regulations, official policies, standards and specifications, including town ordinances and resolutions, in force and effect on the date the Town Council (or its predecessor-in-interest, Wasatch County) granted preliminary approval to Developer.

(b) **State and Federal Law.** Notwithstanding any other provision of this Agreement, this Agreement shall not preclude the application of changes in laws, regulations, plans or policies, to the extent that such changes are specifically mandated and required by changes in state or federal laws or regulations ("Changes in the Law") applicable to the Property. In the event the Changes in the Law prevent or preclude compliance with one or more provisions of this Agreement, such provisions of the Agreement shall be modified or suspended, or performance thereof delayed, as may be necessary, to comply with the Changes in the Law.

Section 5. AMENDMENT.

Unless otherwise stated in this Agreement, the Parties may amend this Agreement from time to time, in whole or in part, by mutual written consent. No amendment or modification to this Agreement shall require the consent or approval of any person or entity having an equitable or security interest in any specific lot, unit or other portion of the Project. Each person or entity (other than the Town and Developer) that holds any beneficial, equitable, or other interests or encumbrances in all or any

portion of the Project at any time hereby automatically, and without the need for any further documentation or consent, subjects and subordinates such interests and encumbrances to this Agreement and all amendments thereof that otherwise comply with this Section 5. Each such person or entity agrees to provide written evidence of that subjection and subordination within 15 days following a written request for the same from, and in a form reasonably satisfactory to, the Town and/or the Developer.

Section 6. COOPERATION-IMPLEMENTATION

6.1 Processing of Subsequent Approvals.

(a) Upon submission by Developer of all appropriate applications and processing fees for any Subsequent Approval to be granted by the Town, the Town shall as expeditiously as possible commence and diligently and expeditiously pursue and complete all steps necessary to act on the Subsequent Approval application including, without limitation, the notice and holding of all required public hearings. reasonably prompt decisions on all land use applications, including the grant of land use approvals for those applications that comply with the terms of this Agreement and applicable Ordinances, rules and regulations. Town acknowledges and agrees that Developer shall have the right and flexibility to allocate (and re-allocate) density within the various phases of the Project as reasonably determined by Developer.

(b) The Town's obligations under Section 6.1 (a) of this Agreement are conditioned on Developer's provision to the Town, in a timely manner, of all documents, applications, plans, and other information necessary for the Town to meet such obligations. It is the express intent of Developer and the Town to cooperate and work expeditiously, diligently and in good faith to obtain any and all Subsequent Approvals.

(c) The Town may deny an application for a Subsequent Approval by Developer only if (i) such application does not comply with Applicable Law, (ii) such application is inconsistent with the Conditions to Current Approvals, or (iii) the Town is unable to make all findings related to the Subsequent Approval required by state law or town ordinance. The Town may approve an application for such a Subsequent Approval subject to any conditions necessary to bring the Subsequent Approval into compliance with state law or town ordinance or to make the Subsequent Approval consistent with the Conditions to Current Approvals, so long as such conditions comply with Section 4.1 (b) of this Agreement.

(d) If the Town denies any application for a Subsequent Approval, the Town must specify in writing the reasons for the denial with specificity sufficient to allow re-submittal with a reasonable expectation of approval. Any submitted modifications must be consistent with Applicable Law (including Section 4.1 (b) of this Agreement). The Town shall approve the application if subsequently resubmitted for the Town's review and the application complies with the Applicable Law.

6.2 Other Governmental Permits.

(a) Developer shall apply for such other permits and approvals as may be required by other governmental or quasi-governmental agencies (such as, for example, but not by way of limitation, public utilities or utility districts and agencies) in connection with the development of, or the provision of services to the Project.

(b) The Town shall use its best efforts to cooperate with Developer in its efforts to obtain such permits and approvals, and to the extent necessary, join with Developer in the execution of such permits, applications and agreements as may be required to be entered into with any such other agency, so long as the action of that nature will not require the Town to be exposed to any unreimbursed cost, liability or expense. Permits and approvals required from other agencies may necessitate amendments to this Agreement and/or to one or more of the approvals or other approvals granted by the Town. Town shall not unreasonably withhold approval of any amendment mandated by conditions of approval imposed by any other governmental agency.

(c) The Town acknowledges and agrees that in some situations services and improvements from other governmental or quasi-governmental agencies may be obtained at lower rates if contracted for by the Town separately or together with Developer (e.g., the completion of electrical power facilities in Phase II of the Project). The Parties agree to work together in good faith in such situations to obtain such services and complete such improvements at the lowest possible rate.

Section 7. DEFAULT; TERMINATION; ANNUAL REVIEW

7.1 General Provisions.

(a) **Defaults.** Any failure by either Party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other Party, unless such period is

extended by written mutual consent, shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured within such 30 day period, the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 30-day period. Upon the occurrence of an uncured default under this Agreement, the non-defaulting Party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material default, terminate this Agreement. If the default is cured, then no default shall exist and the noticing Party shall take no further action.

(b) Termination. If the Town elects to consider terminating this Agreement due to a material default of Developer, then the Town shall give to Developer a written notice of intent to terminate this Agreement and the matter shall be scheduled for consideration and review by the Governing Body at a duly noticed public meeting. Developer shall have the right to offer written and oral evidence prior to or at the time of said public meeting. If the Governing Body determines that a material default has occurred and is continuing and elects to terminate this Agreement, the Governing Body shall send written notice of termination of the Agreement to Developer by certified mail and this Agreement shall thereby be terminated sixty (60) days thereafter if not cured. By presenting evidence at such hearing, Developer does not waive any remedies available to Developer at law or in equity. If this Agreement is terminated for any reason, all amounts owing or to be paid by the Town to Developer pursuant to this Agreement shall be immediately due and payable.

7.2 Review by Town

(a) Generally. If the Town reasonably determines that Developer may be out of compliance with the terms and conditions of this Agreement it may so notify Developer in writing which notice shall include a detailed outline of the terms or conditions the Town believes to be out of compliance and the steps the Town expects to be taken to cure such non-compliance. Developer shall provide any and all information reasonably requested by the Town within sixty (60) days of the request, or at a later date as agreed between the Parties.

(b) Determination of Non-Compliance. If the Governing Body finds and determines that Developer has not complied with the terms of this Agreement, and noncompliance may amount to a material default if not cured, then the Town may deliver a Default Notice pursuant to Section 7.1(a) of this Agreement. If the default is

not cured timely by Developer, the Town shall have all rights and remedies as provided in Section 7.1(b) of this Agreement.

7.3 Default by the Town.

In the event the Town defaults under the terms of this Agreement, Developer shall have all rights and remedies provided in Section 7.1 of this Agreement and provided under Applicable Law.

7.4 Enforced Delay; Extension of Time of Performance.

Notwithstanding anything to the contrary contained herein, neither Party shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, strikes or other labor disturbances, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environmental regulations, or similar basis for excused performance which is not within the reasonable control of the Party to be excused. Upon the request of either Party hereto, an extension of time for such cause shall be granted in writing of the period of the enforced delay, or longer as may be mutually agreed upon.

7.5 Limitation on Liability.

No owner, director or officer of the Developer, when acting in his or her capacity as such, shall have any personal recourse, or deficiency liability associated with this Agreement, except to the extent that liability arises out of fraud or criminal acts of that owner, director, or officer.

Section 8. NOTICE OF COMPLIANCE

8.1 Timing and Content.

Within fifteen (15) days following any written request which Developer may make from time to time, the Town shall execute and deliver to Developer a written "Notice of Compliance, " in recordable form, duly executed and acknowledged by the Town, certifying that: (i) this Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modification; (ii) there are no current

uncured defaults under this Agreement or specifying the dates and nature of any such default; and (iii) any other reasonable information requested by Developer. Developer shall be permitted to record the Notice of Compliance.

8.2 Failure to Deliver.

Failure to deliver a Notice of Compliance within the time set forth in Section 8.1 shall constitute a presumption that as of fifteen (15) days from the date of Developer's written request (i) this Agreement was in full force and effect without modification except as may be represented by Developer; and (ii) there were no uncured defaults in the performance of Developer. Nothing in this Section, however, shall preclude the Town from conducting a review under Section 7.2 or issuing a notice of default, notice of intent to terminate or notice of termination under Section 7.1 of this Agreement for defaults which commenced prior to the presumption created under this Section, and which have continued uncured.

Section 9. CHANGE IN DEVELOPER, ASSIGNMENT, TRANSFER AND NOTICE.

The rights of the Developer under this Agreement may be transferred or assigned, in whole or in part. Developer shall give notice to the Town of any assignment at least fourteen (14) days prior to the effective date of the assignment.

Section 10. MISCELLANEOUS

10.1 Incorporation of Recitals and Introductory Paragraph. The Recitals contained in this Agreement, and the introductory paragraph preceding the Recitals, are hereby incorporated into this Agreement as if fully set forth herein.

10.2 Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the Parties. Notwithstanding the foregoing, if any material provision of this Agreement, or the application of such provision to a particular situation, is held to be invalid, void or unenforceable by the final order of a court of competent jurisdiction, either Party to this Agreement may, in its sole and absolute discretion, terminate this Agreement by providing written notice of such termination to the other Party.

10.3 Other Necessary Acts. Each Party shall execute and deliver to the other any further instruments and documents as may be reasonably necessary to carry out the objectives and intent of this Agreement, the Conditions to Current Approvals, and Subsequent Approvals and to provide and secure to the other Party the full and complete enjoyment of its rights and privileges hereunder.

10.4 Construction Each reference in this Agreement to any of the Conditions to Current Approvals or Subsequent Approvals shall be deemed to refer to the Condition to Current Approval or Subsequent Approval as it may be amended from time to time refers to such possible amendment. This Agreement has been reviewed and revised by legal counsel for both the Town and Developer, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

10.5 Other Miscellaneous Terms. The singular shall include the plural; the masculine gender shall include the feminine; "shall" is mandatory; "may" is permissive.

10.6 Covenants Running with the Land and Manner of Enforcement.

The provisions of this Agreement shall constitute real covenants, contract and property rights and equitable servitudes, which shall run with all of the land subject to this Agreement. The burdens and benefits of this Agreement shall bind and inure to the benefit of each of the Parties, and to their respective officers, agents, employees, successors and assigns, including, without limitation, upon any city or other governmental agency or agencies that assumes jurisdiction over the Property should the Town cease to exist or no longer have jurisdiction over the Property. Notwithstanding anything in this Agreement to the contrary, the owners of individual units or lots in the Project shall (1) only be subject to the burdens of this Agreement to the extent applicable to their particular unit or lot; and (2) have no right to bring any action under this Agreement as a third-party beneficiary or otherwise.

The Town may look to Developer, its successors and/or assigns, an owners' association governing any portion of the Project, or other like association, or individual lot or unit owners in the Project for performance of the provision of this Agreement relative to the portions of the Project owned or controlled by such party.

10.7 Waiver. No action taken by any Party shall be deemed to constitute a waiver of compliance by such Party with respect to any representation, warranty, or condition contained in this Agreement. Any waiver by any Party of a breach of any provision of this Agreement shall not operate or be construed as a waiver by such Party of any subsequent breach.

10.8 Remedies Either Party may, in addition to any other rights or remedies, institute legal or equitable action to cure, correct, or remedy an default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, enforce by specific performance the obligations and rights of the Parties hereto, or to obtain any remedies consistent with the foregoing and the purpose of this Agreement. In no event shall either Party be entitled to recover from the other Party either directly or indirectly, legal costs or attorneys' fees in any legal or equitable action instituted to enforce the terms of this Agreement.

10.9 Utah Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Utah.

10.10 Other Public Agencies. The Town shall not unreasonably withhold, condition, or delay its determination to enter into any agreement with another public agency concerning the subject matter and provisions of this Agreement if necessary for the development of the Project and if such agreement is consistent with this Agreement and Applicable Law. Nothing in this Agreement shall require that the Town take any legal action concerning other public agencies and their provision of services or facilities other than with regard to compliance by any such other public agency with any agreement between such public agency and the Town concerning subject matter and provision of this Agreement.

10.11 Attorneys' Fees. In the event of any litigation or arbitration between the Parties regarding an alleged breach of this Agreement, neither Party shall be entitled to any award of attorneys' fees.

10.12 Covenant of Good Faith and Fair Dealing. Each Party shall use its best efforts and take and employ all necessary actions in good faith consistent with this Agreement and Applicable Law to ensure that the rights secured by the other Party through this Agreement can be enjoyed.

10.13 Representations. Each Party hereby represents and warrants to each other Party that the following statements are true, complete and not misleading as regards the representing and warranting Party:

(a) Such Party is duly organized, validly existing and in good standing under the laws of the state of its organization.

(b) Such Party has full authority to enter into this Agreement and to perform all of its obligations hereunder. The individual (s) executing this Agreement on behalf of such Party do so with the full authority of the Party that those individual(s) represent.

(c) This Agreement constitutes the legal, valid and binding obligation of such Party enforceable in accordance with its terms, subject to the rules of bankruptcy, moratorium and equitable principles.

10.14 No Third-Party Beneficiaries. This Agreement is between the Town and Developer. No other party shall be deemed a third-party beneficiary or have any rights under this Agreement.

Section 11. NOTICES

Any notice or communication required hereunder between the Town and Developer must be in writing, and may be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. Any Party may at any time, by giving ten (10) days written notice to the other Party, designate any other address to which notices or communications shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to the Town:

Mayor Richard Sprung
Town of Hideout
10837 North Hideout Trail
Hideout, Utah 84036

If to Developer:

Mustang Development, LLC
c/o Robert J. Martino
1741 Sidewinder Dr., Suite 100
P.O. Box 2080
Park City, Utah 84060

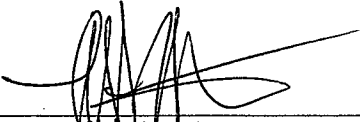
Section 12. ENTIRE AGREEMENT, COUNTERPARTS AND EXHIBITS

Unless otherwise noted herein, this Agreement, including its Exhibits, is the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate authorities of the Town and Developer.

Section 13. RECORDATION OF DEVELOPMENT AGREEMENT

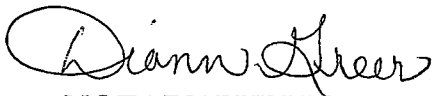
No later than ten (10) days after the Town enters into this Agreement, the Town Recorder shall cause to be recorded, at Developer's expense, an executed copy of this Agreement in the Official Records of the County of Wasatch.

MUSTANG DEVELOPMENT, LLC,
a Utah limited liability company

By: 
Its: MUSTANG

STATE OF UTAH)
 ss:
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this 17th day
of November, 2009, by Robert Martins, who executed the
foregoing instrument in his capacity as the Managing Member of Mustang
Development, LLC.


NOTARY PUBLIC



[ATTACH APPROPRIATE EXHIBITS]

EXHIBIT A – LEGAL DESCRIPTION OF LOWER PROPERTY

EXHIBIT B – LEGAL DESCRIPTION OF UPPER PROPERTY

EXHIBIT C – SCHEDULE OF COMPLETED PROJECT IMPROVEMENTS

Exhibit A
Hideout Canyon Development Agreement
Legal Description of Upper Property

The following described real property located in Wasatch County, State of Utah, together with all rights appurtenant thereto:

Tract No. 1:

Those portions of Government lots 5 and 6; the West one-half of the Southeast quarter; and the East one-half of the Southwest quarter of Section 17, Township 2 South, Range 5 East, Salt Lake Base and Meridian; lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said East one-half of the Southwest quarter and the Southwest quarter of the Southeast quarter of Section 17, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 88 degrees 32 minutes 14 seconds West 1589.7 feet along said Section line; thence North 00 degrees 28 minutes 53 seconds East 2666.2 feet along the West line of said East half of the Southwest quarter of Section 17; thence North 89 degrees 17 minutes 52 seconds East 500.00 feet along the North property line; thence South 22 degrees 04 minutes 00 seconds East 2839.7 feet to the point of beginning.

Tract No. 2:

Those portions of the Northeast quarter of Section 20, Township 2 South, Range 5 East, Salt Lake Base and Meridian lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

EXCEPTING THEREFROM the following described Parcel:

A Parcel of land in said West one-half of the Northeast quarter of Section 20, more particularly described as follows:

Point of beginning lies South 88 degrees 32 minutes 14 seconds West 2400.00 feet along the Section line from the Northeast corner of Section 20, Township 2 South, Range 5 East, said point

has U.S.C. and G.S. plane grid coordinates North 839,790.42 feet and East 2,026,661.29 feet; thence South 22 degrees 04 minutes 00 seconds East 2813.20 feet; thence South 88 degrees 45 minutes 02 seconds West 1290.20 feet along the South line of the Northeast quarter of said Section 20; thence North 00 degrees 44 minutes 35 seconds West 2628.70 feet along the West line of the Northeast quarter of Section 20; thence North 88 degrees 32 minutes 14 seconds East 267.20 feet along said Section line to the point of beginning.

Tract No. 3:

Those portions of Government lot 2 and the Southeast quarter of the Northwest quarter of Section 21, Township 2 South, Range 5 East, Salt Lake Base and Meridian, lying Southerly and Westerly of the Southwesterly right of way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

EXCEPTING THEREFROM any portions lying within I.X.L. No. 3 Patented Lode Mining Claim M.S. 5554.

Exhibit B
Hideout Canyon Development Agreement
Legal Description of Upper Property

The following described real property located in Summit and Wasatch Counties State of Utah, together with all rights appurtenant thereto:

Tract No. 1:

The South one-half of Section 9, Township 2 South, Range 5 East, Salt Lake Base and Meridian, excepting therefrom the Northeast quarter of the Southwest quarter of said Section 9.

Tract No. 2:

All of Section 16, Township 2 South, Range 5 East, Salt Lake Base and Meridian, lying Northerly and Easterly of the East Right of Way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61(3).

Tract No. 3:

Those portions of Government Lots 4, 5, and 6, Section 17, Township 2 South, Range 5 East, Salt Lake Base and Meridian, lying Northerly and Easterly of the Right of Way line of the New State Highway 189, as set forth on the Right of Way Plans of the Utah Department of Transportation, Project No. NF-61 (3).

Tract No. 4:

An easement for ingress and egress over, along and across that portion of the Northwest quarter of the Northeast quarter of Section 21, Township 2 South, Range 5 East, Salt Lake Base and Meridian, Wasatch County, Utah being a 66 foot wide easement, the centerline of which is described as follows:

Beginning at the Southwest corner of said Northwest quarter of the Northeast quarter,
THENCE North 43 degrees 20 minutes 06 seconds East 243.35 feet;
THENCE North 21 degrees 38 minutes 17 seconds East 130.17 feet;
THENCE North 08 degrees 11 minutes 27 seconds East 133.36 feet;
THENCE North 07 degrees 35 minutes 41 seconds West 121.06 feet;
THENCE North 37 degrees 15 minutes 35 seconds West 147.00 feet;
THENCE North 34 degrees 26 minutes 20 seconds West 169.75 feet;
THENCE North 35 degrees 53 minutes 09 seconds East 267.84 feet;
THENCE North 60 degrees 52 minutes 03 seconds East 429.31 feet;
THENCE North 42 degrees 11 minutes 04 seconds East 86.37 feet;

THENCE North 10 degrees 00 minutes 29 seconds East 48.70 feet to the North line of said Northwest quarter.

The side lines of said 66 foot wide easement are to be shortened or extended as necessary to terminate in the boundaries of said Northeast quarter.

Together with an additional 66 foot wide right-of-way, the exact location of which is to be determined by Grantors and Grantees, across Grantor's property located within a 100 foot radius circular segment, the radius point of which is located at the Southwest corner of the Northwest quarter of the Northeast quarter of Section 21, Township 2 South, Range 5 East, Salt Lake Base and Meridian, together with the Easterly 66 feet of those portions of the Southeast Quarter of the Northwest Quarter of Section 21, Township 2 South, Range 5 East, Salt Lake Base and Meridian lying North of the New State Highway 189, as set forth on the Right-of-Way plans of the Utah Department of Transportation Project No. NF-61(3).

| | | |
|------------|------------|------------|
| OWC-0081-0 | OHK-1005-0 | OHK-10T1 |
| OWC-0087-0 | OHK-1006-0 | OHK-10T2 |
| OWC-0099-1 | OHK-1007-0 | OHK-10T3 |
| OWC-3243-0 | OHK-1008-0 | OHK-10T4 |
| | OHK-1009-0 | OHK-10T5 |
| OHI-0002-0 | OHK-1010-0 | OHK-10T6 |
| OHI-0003-0 | OHK-1011-0 | OHK-10T7 |
| OHI-0020-0 | OHK-1012-0 | OHK-10T8 |
| OHI-0020-1 | OHK-1013-0 | |
| OHI-0021-0 | OHK-1014-0 | OHK-2002-0 |
| OHI-0023-0 | OHK-1015-0 | OHK-2003-0 |
| OHI-0023-1 | OHK-1016-0 | OHK-2004-0 |
| OHI-0024-0 | OHK-1017-0 | OHK-2005-0 |
| OHI-0025-0 | OHK-1018-0 | OHK-2009-0 |
| OHI-0028-0 | OHK-1019-0 | OHK-2010-0 |
| OHI-0029-0 | OHK-1020-0 | OHK-2011-0 |
| OHI-0030-0 | OHK-1021-0 | OHK-2012-0 |
| OHI-0032-0 | OHK-1022-0 | OHK-2013-0 |
| OHI-0033-0 | OHK-1023-0 | OHK-2014-0 |
| OHI-0036-0 | OHK-1024-0 | OHK-2015-0 |
| OHI-0039-0 | OHK-1025-0 | OHK-2023-0 |
| OHI-0042-0 | OHK-1026-0 | OHK-2024-0 |
| OHI-0043-0 | OHK-1027-0 | OHK-2025-0 |
| | OHK-1028-0 | OHK-2026-0 |
| OHK-00C1-0 | OHK-1029-0 | OHK-2027-0 |
| OHK-00C2-0 | OHK-1030-0 | OHK-2028-0 |
| OHK-00C3-0 | OHK-1031-0 | OHK-2029-0 |
| OHK-00C4-0 | OHK-1032-0 | OHK-2030-0 |
| OHK-00C5-0 | OHK-1033-0 | OHK-2031-0 |
| | OHK-1034-0 | OHK-2032-0 |
| OHK-1001-0 | OHK-1035-0 | OHK-2033-0 |
| OHK-1002-0 | OHK-1036-0 | OHK-2034-0 |
| OHK-1003-0 | OHK-1037-0 | OHK-2035-0 |
| OHK-1004-0 | OHK-1038-0 | OHK-2036-0 |
| | OHK-1039-0 | OHK-2037-0 |

| | | |
|-------------|------------|------------|
| OHK-2038-0 | OHK-4R10-0 | OHK-8001-0 |
| OHK-2039-0 | OHK-4R11-0 | OHK-8002-0 |
| OHK-2040-0 | OHK-4R12-0 | OHK-8003-0 |
| OHK-2041-0 | OHK-4R13-0 | OHK-8004-0 |
| OHK-2042-0 | OHK-4R14-0 | OHK-8005-0 |
| OHK-2043-0 | OHK-4R15-0 | OHK-8006-0 |
| OHK-2044-0 | OHK-4R16-0 | OHK-8007-0 |
| OHK-2045-0 | OHK-4R17-0 | OHK-8008-0 |
| OHK-2046-0 | OHK-4R18-0 | OHK-8009-0 |
| OHK-2047-0 | | OHK-80R1-0 |
| OHK-2048-0 | OHK-5050-0 | OHK-80R2-0 |
| OHK-2049-0 | OHK-5051-0 | OHK-80R3-0 |
| OHK-20P1-0 | OHK-5052-0 | OHK-80R4-0 |
| OHK-20P2-0 | OHK-5053-0 | OHK-80R5-0 |
| OHK-20P3-A | OHK-5054-0 | OHK-80R6-0 |
| OHK-20P3-B | OHK-5055-0 | OHK-80PN-0 |
| OHK-20P3-C | OHK-5056-0 | |
| | OHK-5057-0 | |
| OHK-2A050-0 | OHK-5058-0 | |
| OHK-2A051-0 | OHK-5059-0 | |
| OHK-2A052-0 | OHK-5060-0 | |
| OHK-2A053-0 | OHK-5061-0 | |
| OHK-2AR19-0 | OHK-5062-0 | |
| OHK-2AR20-0 | OHK-5063-0 | |
| OHK-2AR21-0 | OHK-5064-0 | |
| | OHK-5065-0 | |
| OHK-4R01-0 | OHK-5066-0 | |
| OHK-4R02-0 | OHK-5067-0 | |
| OHK-4R03-0 | OHK-5068-0 | |
| OHK-4R04-0 | OHK-5069-0 | |
| OHK-4R05-0 | OHK-5070-0 | |
| OHK-4R06-0 | OHK-5071-0 | |
| OHK-4R07-0 | OHK-5072-0 | |
| OHK-4R08-0 | OHK-5073-0 | |
| OHK-4R09-0 | OHK-5074-0 | |
| | OHK-5075-0 | |

Exhibit "C"
Related to Phases 1, 2 & 4

Sitework

| | |
|--|-----------------------------------|
| | Revegetation Chipping & Spreading |
|--|-----------------------------------|

Culinary Water Improvements

| | |
|--|------------------------------------|
| | Ductile Iron Water Line Pipe |
| | Service Lateral to Commercial pads |
| | PRV Station |
| | Fire Hydrant Assembly |
| | Washout with Drainline |
| | Air-Vac Valve |
| | Connections |

Sanitary Sewer Improvements

| | |
|--|-----------------------------|
| | Sewer Pipe |
| | HDPE Sanitary Sewer Lateral |
| | Sewer Manhole |

Storm Drain Improvements

| | |
|--|----------------------|
| | Pipe |
| | Storm Drain Manholes |
| | Frame & Grate |
| | Precast Inlet Box |

Roadway-Improvements

| | |
|--|--------------------------------------|
| | Sidewalk |
| | Curb and |
| | Reseeding of Disturbed Areas |
| | Stamped Colored Concrete |
| | Roadside Drainage Channels (Ditches) |
| | Guardrail |

Detention Basins**All Detention Basins**

| | |
|--|---------------------|
| | Rock Rip Rap |
| | Concrete Outlet Box |
| | Frame and Grate |
| | Steel Grate |
| | RCP |
| | Flared End Section |
| | Storm Drain Manhole |
| | Retaining Wall |
| | Pipe Storm Drain |

Utilities

| | |
|--|-----------------|
| | Gas Trenching |
| | Power Trenching |

| | |
|--|---------------|
| | Gas Conduit |
| | Power Conduit |

Retaining Walls

Miscellaneous Items

| | |
|--|---|
| | Handicap Ramps |
| | Street Lights (at hydrants & intersections) |
| | Road Signs |

Entrance (UDOT)