



RESOLUTION 2014-04

A RESOLUTION OF THE MIDWAY CITY COUNCIL APPROVING AN AMENDED DEVELOPMENT AGREEMENT FOR THE DUTCH FIELDS P.U.D.

WHEREAS, the Midway City Council is granted authority under Utah law to make agreements in the public interest and to further the business of Midway City; and

WHEREAS, the City Council deems it appropriate to adopt an Amended Development Agreement for the Dutch Fields Planned Unit Development, in order to update the current status of the matters covered in the original agreement.

NOW THEREFORE, be it hereby RESOLVED by the City Council of Midway City, Utah, as follows:

Section 1: The attached Amended Development Agreement for the Dutch Fields P.U.D. is hereby approved and adopted.

Section 2: The Mayor is authorized to sign the document on behalf of Midway City.

PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah this 12th day of February, 2014.

APPROVED:


Colleen Bonner, Mayor

ATTEST:


Brad Wilson, City Recorder



**FIFTH AMENDMENT TO THE DEVELOPMENT AGREEMENT
DUTCH FIELDS P.U.D.**

This Fifth Amendment to the Development Agreement (“Amendment”) is made this 1 day of APRIL, 2014, by and between Watts Dutch Fields, L.L.C., a Utah limited liability company (“Developer”) and the City of Midway, a political subdivision of the State of Utah (the “City”). The parties have entered into the Dutch Fields P.U.D. Development Agreement dated July 22, 2002, as recorded in Wasatch County on October 4, 2022 as Entry No. 249388 in Book 0580 on pages 0657-0696 (the “Development Agreement”). This Amendment amends the Development Agreement in certain respects.

Whereas, the Development Agreement concerns a certain residential project called “Dutch Fields P.U.D.” located within the geographic limits of the City (the “Project”); and

Whereas, the Developer and the City have reached a final agreement to fully and completely resolve all issues of water service to the Project; and

Whereas, the parties desire to amend the Development Agreement to reflect the arrangements and agreements pertaining to water service that the City and Developer have reached since the time the original Development Agreement was executed.

Now, therefore, Section 3.1(b)(3) of the Development Agreement is deleted in its entirety and replaced with the following text:

(6) **Water Service.** In order to assure an adequate and perpetual supply of primary (culinary) and secondary (irrigation) water to the Project, Developer and City agree to the following terms:

a. Developer has satisfied all requirements to provide sufficient water rights for secondary use for all 169 equivalent residential units (ERUs) and all common areas in the Project by entering into an agreement with Midway Irrigation Company for use of water from the Milk House Spring, which agreement will remain in effect.

b. Developer has satisfied all requirements to provide sufficient water rights for culinary use for all 169 equivalent residential units (ERUs) in the Project by tendering to the City all rights under Utah Water Right Number 55-12481 and by assisting in processing

Permanent Change Application Number 55-12481 (a37202) for said water right with the Utah Division of Water Rights. The City warrants to Developer that the City will not require Developer to tender any additional water rights to the City for the Project. Developer agrees that it will cooperate with the City as necessary in any future applications, submissions or changes that the City may need or desire to process regarding Water Right Number 55-12481 (a37202) or any other water rights used in the Project.

c. Developer will satisfy all of the original Development Agreement's requirements to provide a culinary water source and storage facilities (including but not necessarily limited to a well and tank) for all 169 equivalent residential units (ERUs) in the Project by paying 20.74 percent of the City's actual development costs for developing the City's Alpenhof Weber Quartzite Well ("Alpenhof Weber Well"). The 20.74 percent has been calculated by the parties based on the Project's estimated need of 106 gallons per minute divided by the 511 gallons per minute that the City has determined that it will produce from the Alpenhof Weber Well. Nevertheless, the 20.74 percent of actual development costs that Developer is obligated to pay the City will apply regardless of the amount of water that the Project actually uses or that the City ultimately produces from the Alpenhof Weber Well. The City's final actual development costs for the Alpenhof Weber Well will be determined by the City Engineer and communicated to Developer. Developer will pay its required 20.74 percent of the actual development costs as follows: Developer will make three payments of \$40,000.00 each to the City on July 1, 2014, October 1, 2014 and January 1, 2015, for a total of \$120,000.00. Developer will then pay to the City the remaining amounts of its share of the actual development costs in a final payment on April 1, 2015 (minus the credit to be granted to Developer of \$11,933.00 as described in the next paragraph).

d. The City and Developer have agreed that the City acknowledges Developer as having paid all required lease payments for the use of water shares in the Project since the time of the Project's inception, inasmuch as Developer

paid \$249,933.00 toward the costs of water facilities intended to be used in the Project. In addition, Developer made an additional payment to the City towards its lease obligations in the amount of \$34,000.00 in October 2013. This brings the total paid by Developer to \$283,933.00. Because the total amount outstanding under the water leases was \$272,000.00, Developer is entitled to a credit of \$11,933.00, which will be applied to reduce Developer's final payment on April 1, 2015 for its share of the actual development costs of the Alpenhof Weber Well.

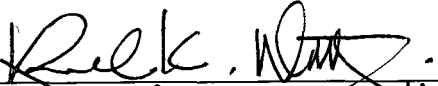
e. This amendment replaces and supersedes all of Developer's and City's rights and obligations under Section 3.1(b)(3) of the original Development Agreement. Furthermore, this amendment replaces and supersedes all of Developer's and City's rights and obligations under any amendments to the original Development Agreement previously agreed to or executed by Developer and City, insofar as those amendments concern, address or modify the terms of Section 3.1(b)(3) of the original Development Agreement or affect the Project's water service requirements in any way, regardless of whether or not the terms of those amendments conflict with the terms of this amendment.

f. This amendment is the result of the settlement of disputed claims that have previously been advanced by the City and Developer and represents the full and final settlement of the parties with regard to the matters contained herein.

AGREED TO AND EXECUTED BY:

DEVELOPER:

WATTS DUTCH FIELDS, L.L.C., a Utah
limited liability company

By: 
Name: RUSSELL K. WATTS
Its: MAN.

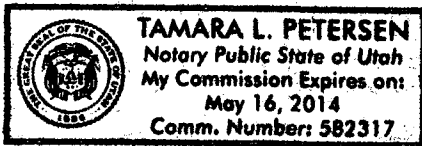
CITY:

CITY OF MIDWAY, a political subdivision of the State of Utah

By: Colleen Bonner
Name: Colleen Bonner
Its: Mayor

STATE OF UTAH)
COUNTY OF Salt Lake) : ss.

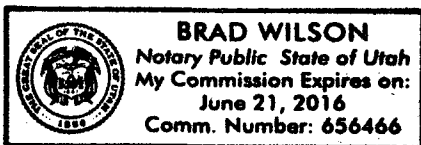
On this 1 day of April, 2014, personally appeared before me Russell Watts, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn, did say that he/she is the Manager of Watts Dutch Fields, L.L.C., a Utah limited liability company, and that said document was signed by him/her in behalf of said company, and that said company executed the same.



Tamara L. Petersen
Notary Public

STATE OF UTAH)
COUNTY OF Wasatch) : ss.

On this 7 day of April, 2014, personally appeared before me Colleen Bonner, whose identity is personally known to me (or proved to me on the basis of satisfactory evidence) and who by me duly sworn, did say that he/she is the Mayor of Midway City, a political subdivision of the State of Utah, and that said document was signed by him/her in behalf of said entity, and acknowledged to me that said entity executed the same.



Brad Wilson
Notary Public

Boundary Description
for
Dutch Fields P.U.D.

BEGINNING at the North Quarter Corner of Section 26, Township 3 South, Range 4 East of the Salt Lake Base and Meridian:

| | | |
|--|---------------|---|
| Thence | N 89°41'16" E | 2662.32 feet; |
| Thence | S 27°58'31" E | 883.60 feet; |
| Thence | S 26°59'58" W | 295.54 feet; |
| Thence | S 41°34'03" W | 725.22 feet; |
| Thence | S 39°40'34" W | 854.48 feet; |
| Thence along the arc of a 1075.93 foot radius curve to the left 939.01 feet (curve has a central angle of 39°59'43" and a chord bearing S 64°40'43" W, 909.50 feet); | | |
| Thence | S 89°40'51" W | 544.45 feet; |
| Thence | S 88°12'03" W | 548.82 feet; |
| Thence | N 00°05'24" W | 2634.62 feet to the point of beginning. |

Containing 150.61 acres.

Basis of Bearing is N 89°41'16" E between the Wasatch County Surveyor's monument for the North Quarter Corner of Section 26, Township 3 South, Range 4 East, Salt Lake Base and Meridian and the Wasatch County Surveyor's monument for the Northeast Corner of said section.

DUTCH FIELDS PHASE I PLAT A
 LOTS 1-28
 DUTCH FIELDS PHASE II PLAT A
 LOTS 29-57
 DUTCH FIELDS PHASE III PLAT A
 LOTS 68-90
 DUTCH FIELDS PHASE 4
 LOTS 58-67
 DUTCH FIELDS PHASE 5
 LOTS 91-116
 DUTCH FIELDS PHASE 6
 LOTS 117-128
 DUTCH FIELDS PHASE 7
 LOTS 129-167

| | | | |
|----------|----------|----------|----------|
| ODF-1001 | ODF-1026 | ODF-1051 | ODF-1076 |
| ODF-1002 | ODF-1027 | ODF-1052 | ODF-1077 |
| ODF-1003 | ODF-1028 | ODF-1053 | ODF-1078 |
| ODF-1004 | ODF-1029 | ODF-1054 | ODF-1079 |
| ODF-1005 | ODF-1030 | ODF-1055 | ODF-1080 |
| ODF-1006 | ODF-1031 | ODF-1056 | ODF-1081 |
| ODF-1007 | ODF-1032 | ODF-1057 | ODF-1082 |
| ODF-1008 | ODF-1033 | ODF-1058 | ODF-1083 |
| ODF-1009 | ODF-1034 | ODF-1059 | ODF-1084 |
| ODF-1010 | ODF-1035 | ODF-1060 | ODF-1085 |
| ODF-1011 | ODF-1036 | ODF-1061 | ODF-1086 |
| ODF-1012 | ODF-1037 | ODF-1062 | ODF-1087 |
| ODF-1013 | ODF-1038 | ODF-1063 | ODF-1088 |
| ODF-1014 | ODF-1039 | ODF-1064 | ODF-1089 |
| ODF-1015 | ODF-1040 | ODF-1065 | ODF-1090 |
| ODF-1016 | ODF-1041 | ODF-1066 | |
| ODF-1017 | ODF-1042 | ODF-1067 | |
| ODF-1018 | ODF-1043 | ODF-1068 | |
| ODF-1019 | ODF-1044 | ODF-1069 | |
| ODF-1020 | ODF-1045 | ODF-1070 | |
| ODF-1021 | ODF-1046 | ODF-1071 | |
| ODF-1022 | ODF-1047 | ODF-1072 | |
| ODF-1023 | ODF-1048 | ODF-1073 | |
| ODF-1024 | ODF-1049 | ODF-1074 | |
| ODF-1025 | ODF-1050 | ODF-1075 | |

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| ODF-4058 | ODF-6117 | |
| ODF-4059 | ODF-6118 | |
| ODF-4060 | ODF-6119 | |
| ODF-4061 | ODF-6120 | |
| ODF-4062 | ODF-6121 | |
| ODF-4063 | ODF-6122 | |
| ODF-4064 | ODF-6123 | |
| ODF-4065 | ODF-6124 | |
| ODF-4066 | ODF-6125 | |
| ODF-4067 | ODF-6126 | |
| | ODF-6127 | |
| | ODF-6128 | |
| ODF-5091 | | |
| ODF-5092 | | |
| ODF-5093 | | |
| ODF-5094 | ODF-7129 | ODF-7159 |
| ODF-5095 | ODF-7130 | ODF-7160 |
| ODF-5096 | ODF-7131 | ODF-7161 |
| ODF-5097 | ODF-7132 | ODF-7162 |
| ODF-5098 | ODF-7133 | ODF-7163 |
| ODF-5099 | ODF-7134 | ODF-7164 |
| ODF-5100 | ODF-7135 | ODF-7165 |
| ODF-5101 | ODF-7136 | ODF-7166 |
| ODF-5102 | ODF-7137 | ODF-7167 |
| ODF-5103 | ODF-7138 | |
| ODF-5104 | ODF-7139 | |
| ODF-5105 | ODF-7140 | |
| ODF-5106 | ODF-7141 | |
| ODF-5107 | ODF-7142 | |
| ODF-5108 | ODF-7143 | |
| ODF-5109 | ODF-7144 | |
| ODF-5110 | ODF-7145 | |
| ODF-5111 | ODF-7146 | |
| ODF-5112 | ODF-7147 | |
| ODF-5113 | ODF-7148 | |
| ODF-5114 | ODF-7149 | |
| ODF-5115 | ODF-7150 | |
| ODF-5116 | ODF-7151 | |
| | ODF-7152 | |
| | ODF-7153 | |
| | ODF-7154 | |
| | ODF-7155 | |
| | ODF-7156 | |
| | ODF-7157 | |
| | ODF-7158 | |