SALT LAKE COUNTY
CONTRACTS & PROCUREMENT

CONTRACT COVER PAGE

Contract Number: 0000001789 Version: 1 Desc: ORD Parking Structure w/in CDA
Supplier Name: COTTONWOOD HEIGHTS - Community Development a Renewal Agency
Comments: ORD-Interlocal- County to transfer $6,000,000.00 of County Transportation Funds to Cottonwood Heights Community Development and Renewal Agency to be used by the Agency to acquire a perpetual public parking easement on a parking structure to be constructed within the Canyon Centre Community Development Project Area in accordance with allowable uses for County Transportation Funds described in Subsection 72-2-121(4)(c) of the Transportation Code. Term to 06/30/2020, if funds haven't been expended by then, all unexpended funds will be returned to the County.
Contract Amount: $6,000,000.00
Agency Name: Rgnl Trans, Housng & Econ Dev
Period Performance from 3/2/2018 to 6/30/2020
Procurement Type: EXI Exempt Interlocal **Reason Code:**
Buyer: TMarquez

SALT LAKE COUNTY

COUNTY COUNCIL

Aimee Winder Newton, Chair
District #3

Jenny Wilson
At-Large A

Richard Snelgrove
At-Large B

Jim Bradley
At-Large C

Arlyn Bradshaw
District #1

Michael H. Jensen
District #2

Sam Granato
District #4

Steven L. DeBry
District #5

Max Burdick
District #6

February 27, 2018

Ms. Antigone Carlson
Contracts Administrator
Contracts & Procurement Division
Rm. N4-600, Government Center
Salt Lake City, Utah

Dear Ms. Carlson:

The Salt Lake County Council, at its meeting held this day, approved the attached RESOLUTION NO. 5326 authorizing execution of an INTERLOCAL AGREEMENT between Salt Lake County for its Office of Regional Transportation, Housing & Economic Development and **Cottonwood Heights Canyon Centre CDA** – Transfer of $6 million for a Parking Structure.

Salt Lake County will transfer $6 million from its Transportation Funds to the Cottonwood Heights Canyon Centre CDA to be used to acquire a perpetual public parking easement on a parking structure to be constructed within the CDA.

The agreement will take effect immediately upon completion of all necessary paperwork and terminate on or before June 30, 2020. If the Agency has not expended all funds, then all such unexpended funds shall be returned to the County.

Pursuant to the above action, you are hereby authorized to effect the same.

Respectfully yours,

SALT LAKE COUNTY COUNCIL

SHERRIE SWENSEN, COUNTY CLERK

By Linda Duffy
Deputy Clerk

gg

pc: Darrin Casper/Mayor's Office
Carlton Christensen/Regional Planning, Housing & Economic Development Department

Salt Lake County Government Center
2001 South State Street, Suite N2-200 | PO Box 144575 | Salt Lake City, UT 84114-4575
Tel: 385.468.7500 | Fax: 385.468.7501 | www.slco.org

COTTONWOOD HEIGHTS
COMMUNITY DEVELOPMENT AND RENEWAL AGENCY

RESOLUTION NO. 2018-04

A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT WITH SALT LAKE COUNTY FOR TRANSPORTATION FUNDING

WHEREAS, the Community Development and Renewal Agency (the "*Agency*") of the city of Cottonwood Heights (the "*City*"') was created to transact the business and exercise all of the powers provided for in the Limited Purpose Local Government Entities - Community Development and Renewal Agencies act (Title 17C, Chapters 1 through 4, UTAH CODE ANNOTATED (1953 as amended) and any prior, subsequent, replacement or amended law or act (the "*CDRA Act*"); and

WHEREAS, the Agency and Salt Lake County (the "*County*") are public agencies for purposes of the Interlocal Cooperation Act, UTAH CODE ANN. §11-13-101 *et. seq.* (the "*Interlocal Cooperation Act*"), which provides that any two or more public agencies may enter into agreements with one another for joint or cooperative action following the adoption of an appropriate resolution by the governing body of each participating public agency; and

WHEREAS, during the 2015 General Session, the Utah State Legislature amended UTAH CODE ANN. §72-2-121 to provide for the transfer of certain funds from the County of the First Class Highway Projects Fund to the County's legislative body to be used for certain transportation purposes ("*County Transportation Funds*"); and

WHEREAS, the County desires to use County Transportation Funds to further regional development within the County by financing all or a portion of the costs of certain transportation projects throughout the County in accordance with UTAH CODE ANN. §72-2-121 and all other applicable federal, state and local laws, rules and regulations; and

WHEREAS, the Agency and the County desire to enter into the interlocal cooperation agreement attached as an exhibit hereto (the "*Agreement*") providing for the transfer of $6,000,000 of County Transportation Funds to the Agency to be used by the Agency to acquire a perpetual public parking easement on a parking structure to be constructed within the Canyon Centre Community Development Project Area (the "*Parking Structure*"), together with related access easements and other rights across the Parking Structure and such project area (collectively, the "*Public Easements*"); and

WHEREAS, in consideration of the valuable assistance the County has provided to the Agency, the Agency agrees to convey, or cause to be conveyed, to the County co-ownership with the Agency of the Public Easements and to agree to make, or cause to be made, annual payments to the County as set forth in the Agreement; and

WHEREAS, the Agency's governing board (the "*Board*") met on 10 April 2018 to consider, among other things, approving the Agency's entry into the Agreement with the County; and

WHEREAS, the Board has reviewed the form of the Agreement and, after careful consideration, the Board has determined that it is in the best interests of the Agency to approve the

Agency's entry into the Agreement as proposed;

NOW, THEREFORE, BE IT RESOLVED by the governing board of the Cottonwood Heights Community Development and Renewal Agency that the attached Agreement with the County be, and hereby is, approved, and that the Agency's chairman and secretary are authorized to execute and deliver the Agreement on behalf of the Agency on such timetable as the Agency's chairman and chief executive officer, in consultation with the Agency's legal counsel, deem appropriate; and

BE IT FURTHER RESOLVED by the governing board of the Cottonwood Heights Community Development and Renewal Agency that the Agreement is so approved with such additions, modifications, deletions or other changes as hereafter may be deemed necessary or advisable by the Agency's chairman and chief executive officer in consultation with the Agency's legal counsel and agreed to by the County; and

BE IT FURTHER RESOLVED by the governing board of the Cottonwood Heights Community Development and Renewal Agency that the Agency shall provide such other notice(s), make such filing(s) and perform such other acts as may be required by any applicable law in connection with approval and adoption of the Agreement.

This Resolution, assigned no. 2018-04, and the Agreement shall take effect following the Agency's provision of notice of the Agreement, as provided in 17C-4-202(3) of the CDRA Act.

PASSED AND APPROVED effective 10 April 2018.

ATTEST:

By: _____
Paula Melgar, Secretary

COTTONWOOD HEIGHTS COMMUNITY DEVELOPMENT AND RENEWAL AGENCY

By: _____
Michael J. Peterson, Chairman

VOTING:

Michael J. Peterson	Yea ✓	Nay ___
Michael L. Shelton	Yea ✓	Nay ___
J. Scott Bracken	Yea ✓	Nay ___
Tali C. Bruce	Yea ✓	Nay ___
Christine Watson Mikell	Yea ✓	Nay ___

DEPOSITED in the office of the Secretary of the Cottonwood Heights Community Development and Renewal Agency this 10th day of April 2018.

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Mayor's Office: Council Agenda Item Request Form

This form and supporting documents (if applicable) are due the Wednesday before the COW meeting by noon.

	Date Received (office use)	

Date of Request	2/21/18
Requesting Staff Member	Carlton Christensen
Requested Council Date	2/27/18
Topic/Discussion Title	Cottonwood Heights Canyon Centre Community Development Area ("CDA")
Description	The County Council set a public hearing for the Cottonwood Heights Canyon Centre CDA on February 13th for February 27th.
Requested Action[1]	Requesting approval of Project Area Plan, Budget, and Interlocal Agreement after public hearing.
Presenter(s)	Stuart Clason and Blake Thomas, Office of Regional Transportation, Housing & Economic Development Stephen Barnes, District Attorney's office John Park, Cottonwood Heights
Time Needed[2]	5 minutes
Time Sensitive[3]	No
Specific Time(s)[4]	Not applicable
Contact Name & Phone	Stuart Clason at 385-228-6034 or SClason@slco.org or Blake Thomas at 385-214-0203 or BlThomas@slco.org
Please attach the supporting documentation you plan to provide for the packets to this form. While not ideal, if supporting documents are not yet ready, you can still submit them by 10 am the Friday morning prior to the COW agenda. Items without documentation may be taken off for consideration at that COW meeting.	

Mayor or Designee approval: Erin Litvack

[1] What you will ask the Council to do (e.g., discussion only, appropriate money, adopt policy/ordinance) – in specific terms.
[2] Assumed to be 10 minutes unless otherwise specified.
[3] Urgency that the topic to scheduled on the requested date.
[4] If important to schedule at a specific time, list a few preferred times.

RESOLUTION NO. 5326 February 27, 2018

A RESOLUTION OF THE SALT LAKE COUNTY COUNCIL APPROVING EXECUTION OF AN INTERLOCAL COOPERATION AGREEMENT WITH COTTONWOOD HEIGHTS COMMUNITY DEVELOPMENT AND RENEWAL AGENCY PROVIDING FOR THE TRANSFER $6,000,000 OF COUNTY TRANSPORTATION FUNDS TO THE AGENCY TO BE USED BY THE AGENCY TO ACQUIRE A PERPETUAL PUBLIC PARKING EASEMENT ON A PARKING STRUCTURE TO BE CONSTRUCTED WITHIN THE CANYON CENTRE COMMUNITY DEVELOPMENT PROJECT AREA

W I T N E S S E T H

WHEREAS, Salt Lake County (the "County") and Cottonwood Heights Community Development and Renewal Agency (the "Agency") are "public agencies" as defined by the Utah Interlocal Cooperation Act, Utah Code Ann. §§ 11-13-101 *et seq.* (the "Cooperation Act"), and, as such, are authorized by the Cooperation Act to enter into an interlocal cooperation agreement to act jointly and cooperatively on the basis of mutual advantage;

WHEREAS, during the 2015 General Session, the State legislature amended Section 72-2-121, UTAH CODE ANN., to provide for the transfer of certain funds from the County of the First Class Highway Projects Fund to the legislative body of Salt Lake County to be used for certain transportation purposes (hereinafter "County Transportation Funds"); and

WHEREAS, the County desires to use County Transportation Funds to further regional development within Salt Lake County by financing all or a portion of the costs of certain transportation projects throughout the County in accordance with Section 72-2-121 of the Utah Transportation Code and all other applicable federal, state and local laws, rules and regulations; and

WHEREAS, the County and the Agency desire to enter into the interlocal cooperation agreement attached hereto as **ATTACHMENT A** (the "Interlocal Agreement") providing for the transfer of Six Million Dollars ($6,000,000) of County Transportation Funds to the Agency to be used by the Agency to acquire a perpetual public parking easement on a parking structure to be constructed within the Canyon Centre Community Development Project Area (the "Parking Structure"), together with related access easements across the Parking Structure and such project area (collectively, the "Public Easements"); and

WHEREAS, in consideration of the valuable assistance the County has provided to the Agency, the Agency agrees to convey, or cause to be conveyed, to the County co-ownership with the Agency of the Public Easements and to agree to make, or cause to be made, annual payments to the County as set forth in the Interlocal Agreement;

RESOLUTION

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the County Council of Salt Lake County:

1. That the Interlocal Agreement between Salt Lake County and Cottonwood Heights Community Development and Renewal Agency is approved, in substantially the form attached hereto as **ATTACHMENT A**, and that the Salt Lake County Mayor is authorized to execute the same.

2. That the Interlocal Agreement will become effective as stated in the Interlocal Agreement.

[The balance of this page was intentionally left blank – Signature page follows]

APPROVED AND ADOPTED in Salt Lake City, Salt Lake County, Utah, this 27th day of February, 2018.

Aimee Winder-Newton, Chairperson

ATTEST:

Sherrie Swensen
Salt Lake County Clerk

Voting:

Council Member Bradley	"Aye"
Council Member Bradshaw	"Aye"
Council Member Burdick	"Aye"
Council Member DeBry	"Aye"
Council Member Granato	Absent
Council Member Jensen	"Aye"
Council Member Newton	"Aye"
Council Member Snelgrove	"Aye"
Council Member Wilson	"Aye"

APPROVED AS TO FORM:

Digitally signed by Stephen Barnes
Date: 2018.02.26 10:24:19 -07'00'

Deputy District Attorney

ATTACHMENT A

Interlocal Cooperation Agreement between Salt Lake County and Cottonwood Heights Community Development and Renewal Agency

County Contract No. 0000001789
D.A. Log No. 15-02854

INTERLOCAL COOPERATION AGREEMENT

between

SALT LAKE COUNTY

and

COTTONWOOD HEIGHTS COMMUNITY DEVELOPMENT AND RENEWAL AGENCY

THIS INTERLOCAL COOPERATION AGREEMENT (this "Agreement") is dated the 31st day of March, 2018 and entered into by and between **SALT LAKE COUNTY**, a body corporate and politic of the State of Utah (the "County"); and **COTTONWOOD HEIGHTS COMMUNITY DEVELOPMENT AND RENEWAL AGENCY**, a Utah community development and renewal agency (the "Agency"). The County and the Agency are sometimes referred to collectively as the "Parties" and either may be referred to individually as a "Party," all as governed by the context in which such words are used.

W I T N E S S E T H :

WHEREAS, the County and the Agency are "public agencies" as defined by the Utah Interlocal Cooperation Act, Utah Code Ann. §§ 11-13-101 *et seq.* (the "Interlocal Act"), and, as such, are authorized by the Interlocal Act to enter into this Agreement to act jointly and cooperatively in a manner that will enable them to make the most efficient use of their resources and powers; and

WHEREAS, Section 11-13-215 of the Interlocal Act authorizes a county, city, town, or other local political subdivision to share its tax and other revenues with other counties, cities, towns, local political subdivisions, or the state; and

WHEREAS, during the 2015 General Session, the State Legislature amended Section 72-2-121 of the Utah Transportation Code, Utah Code Ann. §§ 72-1-101 *et seq.*, to provide for the transfer of $25,000,000 from the County of the First Class Highway Projects Fund to the legislative body of the County to be used for certain transportation purposes (hereinafter "County Transportation Funds"); and

WHEREAS, the County desires to use County Transportation Funds to further regional development within Salt Lake County by financing all or a portion of the costs of certain transportation projects throughout the County in accordance with Section 72-2-121 of the Utah Transportation Code and all other applicable federal, state and local laws, rules and regulations; and

WHEREAS, the County and the Agency desire to enter into this Agreement providing for the transfer of Six Million Dollars ($6,000,000) of County Transportation Funds to the Agency to be used by the Agency to acquire a perpetual public parking easement on a parking structure to be constructed within the Canyon Centre Community Development Project Area, as described in

Section 2 below (the "Parking Structure"), together with related access easements across the Parking Structure and such project area (collectively, the "Public Easements"); and

WHEREAS, in consideration of the valuable assistance the County has provided to the Agency, the Agency agrees to convey, or cause to be conveyed, to the County co-ownership with the Agency of the Public Easements and to agree to make, or cause to be made, annual payments to the County as set forth in this Agreement;

AGREEMENT:

NOW, THEREFORE, in reliance on the stated recitals, which are incorporated herein by reference, and for and in consideration of the mutual covenants and agreements hereafter set forth, the mutual benefits to the Parties to be derived herefrom, and for other valuable consideration, the receipt and sufficiency of which the Parties acknowledge, it is hereby agreed as follows:

1. Transportation Funds – Use.

(a) Within ninety (90) days after full execution and delivery of this Agreement and satisfaction of the conditions listed under Subsection 1(a)(i), below, the County shall transfer Six Million Dollars ($6,000,000) of County Transportation Funds (hereinafter referred to as the "Transportation Funds") to the Agency. The Agency shall use the Transportation Funds solely to acquire the Public Easements for and on behalf of the Agency, the County and the public, to the extent such use of the Transportation Funds is allowable under Utah Code Ann. § 72-2-121(4)(c) and is in accordance with all applicable federal, state and local laws, rules and regulations.

(i) Notwithstanding Subsection 1(a), above, the County shall have no obligation to transfer the Transportation Funds described under Subsection 1(a) to the Agency unless and until the following conditions have been satisfied:

(1) Amendment No. 1 to the Interlocal Cooperation Agreement ("Amendment No. 1") between the County and the Agency dated November 9, 2011, in substantially the form attached hereto as **EXHIBIT A**, has been fully executed and delivered to the County;

(2) the Development Agreement (as defined in Subsection 3(c), below) has been fully executed and a copy delivered to the County; and

(3) each taxing entity listed in Subsection 6(d), except for the South Salt Lake Valley Mosquito Abatement District (South SLV Mosquito) and the Central Utah Water Conservancy District (Central Utah Water), has entered into or amended its tax increment contribution agreement with the Agency in a manner similar to Amendment No. 1 that requires the taxing entity to contribute its tax increment from the Project Area to the Agency for at least the period of time and at the participation rate than indicated in the table under Subsection 6(d), below.

(b) The Agency warrants that it shall use the Transportation Funds transferred to the Agency by the County under subparagraph 1(a) above, only for purposes described in Subsection (1)(a), above, and in accordance with all applicable federal, state and local laws, rules and regulations. The Agency shall expend the Transportation Funds by June 30, 2020. Any portion of the Transportation Funds that has not been expended by the Agency prior to June 30, 2020 shall immediately thereafter be returned to the County.

(c) The County has not opined on, and will not at any point be deemed to have opined on, whether any particular use of the Transportation Funds is an allowable use under Utah Code Ann. § 72-2-121 or in accordance with applicable federal, state and local laws, rules and regulations. The Agency agrees to be liable for and to indemnify the County from any improper use of the Transportation Funds, as indicated in Subsection 7(b) below.

2. The Parking Structure. The Parties agree that the Parking Structure identified in Subsection 1(a), above, shall be located within the Canyon Centre Community Development Project Area (the "Project Area"); shall serve as a podium for a hotel, office building, and various retail and restaurant buildings; and shall have at least four hundred fifteen (415) parking stalls, eighty (80) of which shall be available for general public use (i.e., a use that is not related or dedicated to Canyon Centre development use) at all times (365 days per year, 7 days per week, and 24 hours per day), and at least an additional 202 of which shall be available for general public use as follows:

(a) 137 of the parking stalls located on Parking Level 1 of the Parking Structure shall be available for Public Use (as defined in the Public Parking Easement Agreement described in Section 3 below) from 6:00 p.m. to midnight on business days and from 6:00 a.m. to midnight on weekends and federal or state holidays (excluding Columbus Day and Veterans Day); and

(b) An additional 65 of the Parking Stalls located on Parking Level 2 of the Parking Structure shall be available for Public Use on weekends and federal or state holidays (excluding Columbus Day and Veterans Day), with 40 of those stalls designated for Public Use from 6:00 a.m. to midnight, and the remaining 25 of those stalls designated for Public Use from 6:00 a.m. to 6:00 p.m.

3. Public Parking Easement Agreement, Master Parking Agreement and Development Agreement.

(a) Public Parking Easement Agreement. Following execution of this Agreement and immediately upon the Agency's purchase of the Public Easements, the Agency and County shall, as grantees, enter into a public parking easement agreement with the grantor of the Public Easements. The public parking easement agreement shall be: (i) acceptable to the Mayor of Salt Lake County, (ii) in substantially the form attached hereto as **EXHIBIT B** (the "Public Parking Easement Agreement"); and (iii)

recorded in the office of the Salt Lake County Recorder as indicated in the Public Parking Easement Agreement. In the event the Public Parking Easement Agreement is not executed by all contemplated parties and recorded on or before June 30, 2020, the Agency shall immediately return the Transportation Funds or reimburse the Transportation Funds to the County.

(b) Master Parking Agreement. Additionally, following execution of this Agreement, the Agency shall cause a master parking agreement, in substantially the form attached hereto as **EXHIBIT C** (the "Master Parking Agreement"), to be executed by the grantor of the Public Easements and recorded in the office of the Salt Lake County Recorder. In the event the Master Parking Agreement is not executed and recorded on or before June 30, 2020, the Agency shall immediately return the Transportation Funds or reimburse the Transportation Funds to the County.

(c) Development Agreement. Additionally, following execution of this Agreement, the Agency shall cause a development agreement, in substantially the form attached hereto as **EXHIBIT D** (the "Development Agreement"), to be executed between the Agency and the developer of the Parking Structure and recorded in the office of the Salt Lake County Recorder. In the event the Development Agreement is not executed and recorded on or before January 1, 2019, the Agency shall immediately return the Transportation Funds or reimburse the Transportation Funds to the County.

4. Cost Breakdown. Upon its expenditure of the Transportation Funds, the Agency shall provide a cost breakdown report to the County accounting for such expenditures.

5. Unexpended Transportation Funds. If the Agency is unable to use any portion of the Transportation Funds for the purposes described in Subsection 1(a), above, prior to June 30, 2020, then the Agency shall return any such unexpended Transportation Funds to the County.

6. Annual Payments.

(a) Subject to the Cumulative Payments Cap specified in Subsection 6(b) below and subject to Subsections 6(d) and 6(e) below, for a period of twenty-five (25) years commencing with the first year that the Agency collects tax increment from the Canyon Centre Community Development Project Area (the "Project Area") under Amendment No. 1—which, according to Subsections 6(b) and (d), below shall not be before or after tax year 2021—the Agency shall make an annual payment to the County equal to:

(i) 100% of all tax increment that the Agency receives from the Project Area during the preceding twelve-month period that is attributable to Salt Lake County's and the Salt Lake County Library's tax levies; plus

(ii) (A) for the first five years of the 25-year period, 25% of all tax increment that the Agency receives from the Project Area during the preceding twelve-month period that is attributable to all other taxing entities' tax levies, less allowable administrative costs of the Agency (up to 5%); and (B) for the last twenty

years of the 25-year period, 60% of all tax increment that the Agency receives from the Project Area during the preceding twelve-month period that is attributable to all other taxing entities' tax levies, less allowable administrative costs of the Agency (up to 5%).

(b) The first annual payment under this Section shall be made on or before July 1 of the year in which the Agency receives its first payment of tax increment from the Salt Lake County Treasurer with respect to the Project Area, which shall not be before tax year 2021. Subsequent annual payments shall be due on July 1st each year thereafter until the earlier of (i) the date that a total of 25 annual payments have been made to the County under this Agreement; or (ii) the date that a total of $7 million (excluding any interest factor) has been paid to the County under this Agreement (the "Cumulative Payments Cap").

(c) As used in this Section, the term "tax increment" and the phrase "administrative costs of the Agency" shall have the meaning set forth in the interlocal agreement between the Agency and the County dated November 8, 2011 (as amended), and in the interlocal agreements between the Agency and all other taxing entities that have agreed to contribute tax increment to the Agency from the Project Area.

(d) Agency may, at its option, refuse to accept County's tender of any of the Transportation Funds until such time, if any, as all of the taxing entities listed below enter into the agreements described in Subsections 6(d)(i)-(ii), below, and Agency freely may terminate this Agreement without liability until such time, if any, as it has accepted delivery of Transportation Funds from County. Subject to the foregoing, the Parties agree that the amount of its annual payment to the County under Subsection (6)(a) will be calculated as if each taxing entity listed in the table below, except for the South Salt Lake Valley Mosquito Abatement District (South SLV Mosquito) and the Central Utah Water Conservancy District (Central Utah Water), is contributing its tax increment from the Project Area to the Agency starting with the 2021 tax year, and for the period of time and at the participation rate indicated in the table below, if the Agency ever:

(i) fails to enter into an agreement with any of the following taxing entities (see table below) that requires the taxing entity to contribute its tax increment from the Project Area to the Agency (A) starting with any tax year after the 2021 tax year or (B) for a shorter period of time or at a lower participation rate than indicated in the table below; or

(ii) enters into an agreement with any of the following taxing entities, or modifies an existing agreement with any of the following taxing entities, that permits the taxing entity to contribute its tax increment from the Project Area to the Agency (A) starting with any tax year after the 2021 tax year or (B) for a shorter period of time or at a lower participation rate than indicated in the table below.

Entity	Years	Percentage
Canyons School District	20	70%
Canyons School District Basic	20	70%
Cottonwood Heights City	25	75%
South SLV Mosquito	25	75%
CH Parks & Recreation	25	75%
Central Utah Water	25	75%
Canyons Equal Cap Outlay	20	70%

(e) Furthermore, if the Parking Structure is not complete and the city of Cottonwood Heights has not issued a Certificate of Occupancy for the Parking Structure on or before June 30, 2020, then the Agency agrees that the amount of its annual payment to the County under Subsection (6)(a) each year will be, starting with the 2021 tax year and for the remainder of each taxing entities' contribution period, equal to 100% of all tax increment that the Agency receives from the Project Area during the preceding twelve-month period that is attributable to all taxing entities' tax levies.

7. Liability and Indemnification.

(a) Liability. Both Parties are governmental entities under the Governmental Immunity Act of Utah, Utah Code Ann. §§ 63G-7-101 et seq. (the "Immunity Act"). Neither Party waives any defenses or limits of liability available under the Immunity Act and other applicable law. Both Parties maintain all privileges, immunities, and other rights granted by the Immunity Act and all other applicable law.

(b) Indemnification. The Agency agrees to indemnify, hold harmless, and defend the County, its officers, agents, and employees from and against any and all actual or threatened claims, losses, damages, injuries, debts, and liabilities of, to, or by third parties, including demands for repayment or penalties, however allegedly caused, resulting directly or indirectly from, or arising out of: (i) the Agency's breach of this Agreement, (ii) any acts or omissions of or by the Agency, its agents, representatives, officers, employees, or subcontractors in connection with the performance of this Agreement, or (iii) the Agency's improper use of the Transportation Funds as provided in Subsection 1(c) above. The Agency agrees that its duty to defend and indemnify the County under this Agreement includes all attorney's fees, litigation and court costs, expert witness fees, and any sums expended by or assessed against the County for the defense of any claim or to satisfy any settlement, arbitration award, debt, penalty, or verdict paid or incurred on behalf of the County. The Agency further agrees that the Agency's indemnification obligations in this Subsection 7(b) will survive the expiration or termination of this Agreement.

8. Interlocal Cooperation Act Requirements. In satisfaction of the requirements of the Interlocal Act, and in connection with this Agreement, the Parties agree as follows:

(a) This Agreement shall be approved by each Party pursuant to Section 11-13-202.5 of the Interlocal Act;

(b) This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each Party, pursuant to Section 11-13-202.5 of the Interlocal Act;

(c) A duly executed original counterpart of this Agreement shall be filed with keeper of records of each Party, pursuant to Section 11-13-209 of the Interlocal Act;

(d) Except as otherwise specifically provided herein, each Party shall be responsible for its own costs of any action taken pursuant to this Agreement, and for any financing of such costs; and

(e) No separate legal entity is created by the terms of this Agreement. Pursuant to Section 11-13-207 of the Interlocal Act, to the extent that this Agreement requires administration other than as set forth herein, the Mayor of the County and the Chief Administrative Officer of the Agency are hereby designated as the joint administrative board for all purposes of the Interlocal Act.

9. Term of Agreement. This Agreement shall take effect immediately upon the completion of the following: (a) the approval of the Agreement by the governing bodies of the County and the Agency, including the adoption of any necessary resolutions or ordinances by the County and the Agency authorizing the execution of this Agreement by the appropriate person or persons for the County and the Agency, respectively, (b) the execution of this Agreement by a duly authorized official of each of the Parties, (c) the submission of this Agreement to an attorney for each Party that is authorized to represent said Party for review as to proper form and compliance with applicable law, pursuant to Section 11-13-202.5 of the Interlocal Act, and the approval of each respective attorney, and (d) the filing of a copy of this Agreement with the keeper of records of each Party. If on or before June 30, 2020, the Agency has not expended all the Transportation Funds in accordance with Subsection 1(a), then all such unexpended Transportation Funds shall be returned to the County.

10. Non-Funding Clause.

(a) The County has requested or intends to request an appropriation of the Transportation Funds to be paid to the Agency for the purposes set forth in this Agreement. If the Transportation Funds are not appropriated and made available beyond December 31 of the county fiscal year in which this Agreement becomes effective, the County's obligation to contribute the Transportation Funds to the Agency under this Agreement beyond that date will be null and void. This Agreement places no obligation on the County to Contribute the Transportation Funds to the Agency in succeeding fiscal years. The County's obligation to contribute the Transportation Funds to the Agency under this Agreement will terminate and become null and void on the last day of the county fiscal year for which funds were budgeted and appropriated, except as to those portions of payments agreed upon for which funds are budgeted and appropriated. The Parties agree that such termination of the County's obligation under this Paragraph will not be construed as a breach of this Agreement or as an event of default under this Agreement, and that such termination of the County's obligation under this Paragraph will be without penalty and

that no right of action for damages or other relief will accrue to the benefit of the Agency, its successors, or its assigns as to this Agreement, or any portion thereof, which may terminate and become null and void.

(b) If the Transportation Funds are not appropriated and made available to fund performance by the County under this Agreement, the County shall promptly notify the Agency of such non-funding and the termination of this Agreement. However, in no event, shall the County notify the Agency of such non-funding later than thirty (30) days following the expiration of the county fiscal year for which the Transportation Funds were last appropriated for contribution to the Agency under this Agreement.

11. Assignment and Transfer of Transportation Funds. The Agency shall not assign or transfer its obligations under this Agreement nor its rights to the Transportation Funds under this Agreement without prior written consent from the County. The Agency shall use the Transportation Funds provided pursuant to this Agreement exclusively and solely for the purposes set forth in the Agreement.

12. Notices. Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing, and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof, or (b) within three days after such notice is deposited in the United States mail, postage pre-paid, and certified and addressed as follows:

If to Salt Lake County:	County Mayor 2001 South State, N2-100 Salt Lake City, Utah 84190
With a copy to:	Salt Lake County District Attorney 2001 South State, S3-600 Salt Lake City, Utah 84190
If to the Agency:	Cottonwood Heights Community Development and Renewal Agency 2277 East Bengal Blvd. Cottonwood Heights, Utah 84121
With a copy to:	Wm. Shane Topham Jones Waldo Holbrook & McDonough, P.C. 170 South Main Street, Suite 1500 Salt Lake City, Utah 84101

13. Ethical Standards. The Agency represents that it has not: (a) provided an illegal gift or payoff to any County officer or employee, or former County officer or employee, or to any relative or business entity of a County officer or employee, or relative or business entity of a former County officer or employee; (b) retained any person to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing

business; (c) breached any of the ethical standards set forth in State statutes or Salt Lake County's Ethics Code, Chapter 2.07, Salt Lake County Code of Ordinances, 2001; or (d) knowingly influenced, and hereby promises that it will not knowingly influence, any County officer or employee or former County officer or employee to breach any of the ethical standards set forth in State statutes or Salt Lake County ordinances.

14. Entire Agreement. This Agreement and the documents referenced herein, if any, constitute the entire Agreement between the Parties with respect to the subject matter hereof, and no statements, promises, or inducements made by either Party, or agents for either Party, that are not contained in this written Agreement shall be binding or valid; and this Agreement may not be enlarged, modified or altered, except in writing, signed by the Parties.

15. Amendment. This Agreement may be amended, changed, modified or altered only by an instrument in writing signed by both parties. If the amendment, change, or modification is material, the instrument shall be: (a) approved by the governing bodies of the County and the Agency, including the adoption of any necessary resolutions or ordinances by the County and the Agency authorizing the execution of any amendment, change, modification or alteration of this Agreement by the appropriate person or persons for the County and the Agency, respectively, (b) executed by a duly authorized official of each of the Parties, (c) submitted to an attorney for each Party that is authorized to represent said Party for review as to proper form and compliance with applicable law, pursuant to Section 11-13-202.5 of the Interlocal Act, and the execution by each respective attorney, and (d) filed with the keeper of the records of each Party.

16. Event of Default.

(c) Event of Default. The occurrence of any one or more of the following shall constitute an "Event of Default" as such term is used herein:

(1) Failure of a Party to comply with any of the material terms, conditions, covenants, or provisions of this Agreement that is not fully cured by such Party on or before the expiration of a sixty (60) day period (or, if the other Party approves in writing—which approval shall not be unreasonably withheld, conditioned or delayed—such longer period as may be reasonably required to cure a matter which, due to its nature, cannot reasonably be cured within 60 days) commencing upon the non-defaulting Party's written notice to the defaulting Party of the occurrence thereof.

(b) Remedies in the Event of Default. Upon the occurrence of any Event of Default, the non-defaulting Party may, in its sole discretion, and in addition to all other remedies conferred upon the defaulting Party by law or equity or other provisions of this Agreement, pursue any one or more of the following remedies concurrently or successively, it being the intent hereof that none of such remedies shall be to the exclusion of any other:

(1) If the Agency is the defaulting Party, the County may seek full or partial repayment of any Transportation Funds transferred to the Agency under this

Agreement; and/or

(2) Seek specific performance; and/or

(3) Terminate this Agreement; and/or

(4) Pursue any other remedy available at law or in equity.

17. Governing Law and Venue. The laws of the State of Utah govern all matters arising out of this Agreement. Venue for any and all legal actions arising hereunder will lie in the District Court in and for the County of Salt Lake, State of Utah.

18. No Obligations to Third Parties. The Parties agree that the Agency's obligations under this Agreement are solely to the County and that the County's obligations under this Agreement are solely to the Agency. The Parties do not intend to confer any rights to third parties unless otherwise expressly provided for under this Agreement.

19. Agency. No officer, employee, or agent of the Agency or the County is intended to be an officer, employee, or agent of the other Party. None of the benefits provided by each Party to its employees including, but not limited to, workers' compensation insurance, health insurance and unemployment insurance, are available to the officers, employees, or agents of the other Party. The Agency and the County will each be solely and entirely responsible for its acts and for the acts of its officers, employees, or agents during the performance of this Agreement.

20. No Waiver. The failure of either Party at any time to require performance of any provision or to resort to any remedy provided under this Agreement will in no way affect the right of that Party to require performance or to resort to a remedy at any time thereafter. Additionally, the waiver of any breach of this Agreement by either Party will not constitute a waiver as to any future breach.

21. Severability. If any provision of this Agreement is found to be illegal or unenforceable in a judicial proceeding, such provision will be deemed inoperative and severable, and, provided that the fundamental terms and conditions of this Agreement remain legal and enforceable, the remainder of this Agreement shall remain operative and binding on the Parties.

22. Counterparts. This Agreement may be executed in counterparts and all so executed will constitute one agreement binding on all the Parties, it being understood that all Parties need not sign the same counterpart. Further, executed copies of this Agreement delivered by facsimile or email will be deemed an original signed copy of this Agreement.

IN WITNESS WHEREOF, each Party hereby signs this Agreement on the date written by each Party on the signature pages attached hereto.

[The balance of this page was left blank intentionally – Signature pages follow]

INTERLOCAL AGREEMENT -- SIGNATURE PAGE FOR COUNTY

SALT LAKE COUNTY:

By _____
Mayor Ben McAdams or Designee

Dated: 3/8, 2018

Approved by:

DEPARTMENT OF REGIONAL TRANSPORTATION,
HOUSING, & ECONOMIC DEVELOPMENT

By _____

Name: Carlton J. Christensen

Title: Department Director

Dated: February 26, 20 18

Approved as to Form and Legality:

SALT LAKE COUNTY DISTRICT ATTORNEY

By _____ Digitally signed by Stephen Barnes Date: 2018.02.26 10:24:41 -07'00'
Stephen Barnes
Deputy District Attorney

Date _____

[Signatures continue on next page.]

INTERLOCAL AGREEMENT -- SIGNATURE PAGE FOR AGENCY

COTTONWOOD HEIGHTS COMMUNITY DEVELOPMENT AND RENEWAL AGENCY:

By _____
Name: John Park
Title: Chief Executive Officer
Dated: April 30, 2018

By _____
Name: Paula Melgar
Title: Secretary
Dated: April 30, 2018

COTTONWOOD HEIGHTS, UTAH 2005 CORPORATE SEAL

Approved as to Form and Legality:

ATTORNEY FOR AGENCY

By _____
Wm. Shane Topham
Attorney for Agency
Dated: 4/30/18, 20___

EXHIBIT A
Amendment No. 1 to the Interlocal Cooperation Agreement
between County and Agency dated November 8, 2011

EXHIBIT A
Amendment No. 1 to the Interlocal Cooperation Agreement
between County and Agency dated November 8, 2011

County Contract No. BJ11903C
D.A. No. 14-01642

AMENDMENT NO. 1

to the

INTERLOCAL COOPERATION AGREEMENT

between

SALT LAKE COUNTY

and

COTTONWOOD HEIGHTS COMMUNITY DEVELOPMENT AND RENEWAL AGENCY
(originally entered into November 8, 2011)

THIS AMENDMENT NO. 1 to the above-listed Interlocal Cooperation Agreement ("**Amendment**") is dated the 31st day of March, 2018 and is entered into by and between **SALT LAKE COUNTY** (the "**County**") and the **COTTONWOOD HEIGHTS COMMUNITY DEVELOPMENT AND RENEWAL AGENCY** (the "**Agency**").

RECITALS:

WHEREAS, the County and the Agency are public agencies as defined by the Interlocal Cooperation Act, UTAH CODE ANN. §§ 11-13-101 to -315 (2014) (the "**Interlocal Act**"). Section 11-13-202 of the Interlocal Act provides that any two or more public agencies may enter into an agreement with one another for joint or cooperative action; and

WHEREAS, the County and the Agency entered into that certain Interlocal Cooperation Agreement dated November 8, 2011 (the "**Agreement**") to provide funds to carry out the Canyon Centre Community Development Project Area Plan; and

WHEREAS, the County consented that the Agency receive certain tax increment from the project area attributable to the County's tax levy in accordance with the terms of the Agreement; and

WHEREAS, the Parties now desire to amend the terms of the Agreement as more particularly set forth below.

AMENDMENT:

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree to amend that certain Agreement, referenced above, as follows:

1. Amendment of Exhibits.

(a) **EXHIBIT A** attached to the Agreement, entitled "Amended Project Area Plan," is hereby amended and replaced in its entirety by **EXHIBIT A**, entitled "2nd Amended Project Area Plan," attached to this Amendment and incorporated for all purposes.

(b) **EXHIBIT B** attached to the Agreement, entitled "Project Area Budget," is hereby amended and replaced in its entirety by **EXHIBIT B**, entitled "Amended Project Area Budget," attached to this Amendment and incorporated for all purposes.

(c) **EXHIBIT C** attached to this Amendment, entitled "Easement Agreement," is hereby added to the Agreement as **EXHIBIT C** to the Agreement and is hereby incorporated into the Agreement for all purposes.

2. Amendment to Section 1. Section 1 of the Agreement, entitled "Base Year and Base Taxable Value; Payment of Tax Increment to Agency by Salt Lake County," is hereby amended and restated in its entirety as follows:

"1. Base Year and Base Taxable Value. The Parties agree that for purposes of calculating the amount of tax increment from the Project Area to be paid by the Salt Lake County Treasurer to the Agency pursuant to this Agreement, the base tax year shall be the 2016 tax year and the base taxable value shall be the assessed taxable value of all real and personal property within the Project Area for the 2016 tax year, which, after review of Salt Lake County and Utah State Tax Commission records, is Three Million Eight Hundred and Forty-Two Thousand Four Hundred Dollars ($3,842,400.00) (the **"Base Taxable Value"**). The increase in the property tax revenues attributable to the County's and Library's tax levies on both real and personal property within the Project Area, over and above the property tax revenues attributable to the County's and Library's tax levies on the Base Taxable Value, or in other words the tax increment attributable to the County's and Library's tax levies (the "**Tax Increment**"), shall be paid by the Salt Lake County Treasurer to the Agency, in accordance with Section 17C-4-203(2) of the Development Act, for the period of time and as provided and set forth in Section 2 below."

3. Amendment to Section 2. Section 2 of the Agreement, entitled "County's Consent," is hereby amended and restated in its entirety as follows:

"2. County's Consent. Subject to Subsections 2(b) and 2(c) below, the Parties, pursuant to Section 17C-4-201 of the Development Act and Section 11-13-215 of the Interlocal Act, hereby agree and consent to the following:

(a) The Parties agree that for eighteen (18) consecutive tax years beginning with any tax year from the 2017 tax year to the 2021 tax year (as determined by the Agency and evidenced by a written notice from the Agency to the County and to the Salt Lake County Auditor on or before November 1st of the year prior), the Agency shall receive 100% of the Tax Increment attributable to the County's and Library's tax levy on both real and personal property within the Project Area pursuant to the Agency's 2nd Amended Project Area Plan and Amended Project Area Budget, attached to this Amendment as **EXHIBITS A** and **B**, for the purpose of providing funds to the Agency to carry out the Project Area Plan; PROVIDED, HOWEVER, that the Agency may not be paid any portion of the County's and Library's taxes resulting from an increase in the County's and/or Library's tax rate that occurs after the County approves this

Agreement, unless the County specifically so consents in writing pursuant to an amendment to this Agreement or in a separate agreement. Tax increment attributable to the County's and Library's tax levy for tax years beyond the eighteen (18)-year collection period shall be paid to the County. None of the County's contribution shall be used to pay administrative costs of the Agency.

(b) Conditioned on the County's performance of its obligations under, and referred to in, the County-Agency Interlocal Agreement (defined below), the Parties agree that the Agency shall acquire a perpetual public parking easement, and related access easements, on a parking structure within the Project Area (the "**Parking Structure**") for and on behalf of the Agency, the County and the public (the "**Public Easements**") on or before June 30, 2020. To that end, at the time of the Agency's acquisition of the Public Easements the Agency and the County shall execute and record a public parking easement agreement that is: (i) acceptable to the Mayor of Salt Lake County, and (ii) in substantially the form attached hereto as **EXHIBIT C** (the "**Public Parking Easement Agreement**"). If the Agency ever fails to meet any of the requirements of this subsection (b), the County may, in addition to all remedies conferred upon the County by law or equity (including specific performance), and following at least 60 days' prior written notice and opportunity to cure to the Agency, discontinue its contribution of Tax Increment to the Agency under this Agreement starting with the tax year following the tax year in which the Agency's breach of this subsection (b) occurred.

(c) The Parties agree that, if the Agency ever fails to make an annual payment to the County under the Interlocal Cooperation Agreement between the County and the Agency dated the 31st day of March, 2018 (the "**County-Agency Interlocal Agreement**") in the time, manner, and amount specified in such County-Agency Interlocal Agreement, the County will have no obligation to continue to contribute Tax Increment to the Agency under this Agreement starting with the tax year following the tax year in which the Agency's default occurred and continuing until such default is fully cured. However, the Parties agree that the Agency's default under this provision or any other provision will not affect the Agency's obligation to purchase the Public Parking Easement and in subsection 2(b) above.

(d) The Parties agree that 100% of the County's Tax Increment shall be used by the Agency solely to make the annual payment to the County required under the County-Agency Interlocal Agreement.

(e) The Parties further agree that the total amount of Tax Increment that will be contributed to the Agency under this Agreement from the County's and Library's tax levies shall not exceed three million dollars ($3,000,000), and that if this amount of Tax Increment is ever paid to the Agency in aggregate prior to the expiration of the eighteen (18)-year collection period, the County's obligation to contribute additional Tax Increment to the Agency under this

Agreement shall immediately cease and thereafter any Tax Increment generated from the Project Area over and above three million dollars ($3,000,000) shall be paid to the County. However, if upon expiration of the eighteen (18)-year collection period the total amount of Tax Increment contributed to the Agency under this Agreement does not exceed three million dollars ($3,000,000), then the County shall have no obligation to contribute additional Tax Increment to the Agency under this Agreement even though the three million dollar ($3,000,000) cap was never reached. The County's Tax Increment contribution cap of three million dollars ($3,000,000) is based on a final assessed value of the Project Area development of forty-eight million eight hundred twenty-two thousand and ninety-seven dollars ($48,822,097).

(f) The Parties further agree that the Agency shall, in accordance with Section 5 of Salt Lake Countywide Policy 1155, prepare and provide an annual disclosure report to the County for each calendar year during the eighteen (18)-year collection period. The Agency agrees to provide the annual progress report for each calendar year to the County on or before the deadline specified in Salt Lake Countywide Policy 1155.

(g) The Parties acknowledge and agree that the County's contribution will be in the form of property tax increment only and that no sales tax increment will be contributed by the County to the Project."

4. Addition of Section 13. Section 13, entitled "Termination," is hereby added to the end of the Agreement to read as follows:

"13. Termination. The Agreement will terminate on the earlier of the following: (i) the date the Agency's right to collect the County's Tax Increment expires either due to the lapse of time or the achievement of the tax increment cap specified in Section (2)(e) above; (ii) the date the County no longer has an obligation to contribute Tax Increment under this Agreement due to the Agency's failure to meet a condition specified in Sections 2(b) or 2(c) of this Agreement, subject to the Agency's cure right in said Section 2(c); or (ii) November 2, 2020 if the Agency has not provided written notice to the County and to the Salt Lake County Auditor on or before November 1, 2020 to trigger collection of Tax Increment from the Project Area as provided in Subsection 2(a)."

5. Addition of Section 14. Section 14, entitled "County Acknowledgement," is hereby added to the end of the Agreement to read as follows:

"14. County Acknowledgement. The County acknowledges that (a) with the exception of Cottonwood Improvement District, all participating taxing entities that receive property tax generated within the Project Area will share at least a portion of their tax increment with the Agency; (b) all participating taxing entities, except the County, the County Library, and the Canyons School District ("CSD"), will contribute 75% of their respective tax increment from the Project Area over 25 years, provided that such participation will be less than 25 years for any taxing

entities that do not agree to amend the "trigger date" under their respective interlocal agreement with the Agency; (c) the County and the County Library will contribute 100% of their tax increment from the Project Area over 18 years, but that 100% of the County's tax increment will be remitted back to the County by the agency each year over those 18 years pursuant to the County-Agency Interlocal Agreement; and (d) CSD will contribute 100% of its tax increment from the Project Area over 20 years, but 30% of CSD's tax increment will be remitted back to CSD by the Agency each year over those 20 years. The County consents to the foregoing in its capacity as a participating taxing entity in the Project Area."

6. Entire Amendment and Defined Terms. This Amendment embodies the entire agreement between the County and the Agency with respect to the amendment of the Agreement. In the event of any conflict or inconsistency between the provisions of the Agreement and this Amendment, the provisions of this Amendment shall control and govern. Except as provided in this Amendment, all terms used in this Amendment that are not otherwise defined shall have the respective meanings ascribed to such terms in the Agreement.

7. All Other Terms Remain In Effect. Except as specifically modified and amended herein, all of the terms, provisions, requirements and specifications contained in the Agreement remain in full force and effect. Except as otherwise expressly provided herein, the parties do not intend to, and the execution of this Amendment shall not, in any manner impair the Agreement—the purpose of this Amendment being simply to amend and ratify the Agreement, as hereby amended and ratified, and to confirm and carry forward the Agreement, as hereby amended, in full force and effect.

8. Publication of Notice. Immediately after execution of this Amendment by the Parties, each of the Parties shall cause to be published a notice regarding this Amendment and the Party's resolution authorizing this Amendment, as provided and allowed pursuant to Section 11-13-219 of the Cooperation Act. The County agrees that the Agency may cause such publication of notice to be made on the County's behalf and at the Agency's expense, in a joint publication.

9. Effective Date of Amendment. This Amendment shall take effect immediately upon the completion of the following: (a) the approval of the Agreement by the governing bodies of the County and the Agency, including the adoption of any necessary resolutions or ordinances by the County and the Agency authorizing the execution of this Agreement by the appropriate person or persons for the County and the Agency, respectively, (b) the execution of this Agreement by a duly authorized official of each of the Parties, (c) the submission of this Agreement to an attorney for each Party that is authorized to represent said Party for review as to proper form and compliance with applicable law, pursuant to Section 11-13-202.5 of the Interlocal Act, and the approval of each respective attorney, (d) the filing of a copy of this Agreement with the keeper of records of each Party, and (e) the publication of the notice described in Paragraph 8 above.

10. Counterparts. This Amendment may be executed in several counterparts and all so executed shall constitute one Amendment to the Agreement binding on all the Parties, notwithstanding that each of the Parties are not signatory to the original or the same counterpart.

Further, executed copies of this Amendment delivered by facsimile or email shall be deemed an original signed copy of this Amendment.

IN WITNESS WHEREOF, each Party hereby signs this Agreement on the date written by each Party on the signature pages attached hereto.

[The balance of this page was left blank intentionally – Signature pages follow]

INTERLOCAL AGREEMENT -- SIGNATURE PAGE FOR COUNTY

SALT LAKE COUNTY:

By _____
Mayor Ben McAdams or Designee

Dated: _____, 20____

Approved by:

DEPARTMENT OF REGIONAL TRANSPORTATION, HOUSING AND ECONOMIC DEVELOPMENT

By _____

Name: _____

Title: _____

Dated: _____, 20_____

Approved as to Form and Legality:

SALT LAKE COUNTY DISTRICT ATTORNEY

By_____
Stephen M. Barnes
Deputy District Attorney

[Signatures continue on next page.]

INTERLOCAL AGREEMENT -- SIGNATURE PAGE FOR AGENCY

COTTONWOOD HEIGHTS COMMUNITY DEVELOPMENT AND RENEWAL AGENCY:

By _____

Name: John Park

Title: Executive Director

Dated: _____, 20_____

By _____

Name: Paula Melgar

Title: Secretary

Dated: _____, 20_____

Approved as to Form and Legality:

ATTORNEY FOR AGENCY

By_____

Name: Wm. Shane Topham

Title: Attorney for Agency

Dated: _____, 20____

LIST OF EXHIBITS

EXHIBIT A	2nd Amended Project Area Plan
EXHIBIT B	Amended Project Area Budget
EXHIBIT C	Parking and Easement Agreement

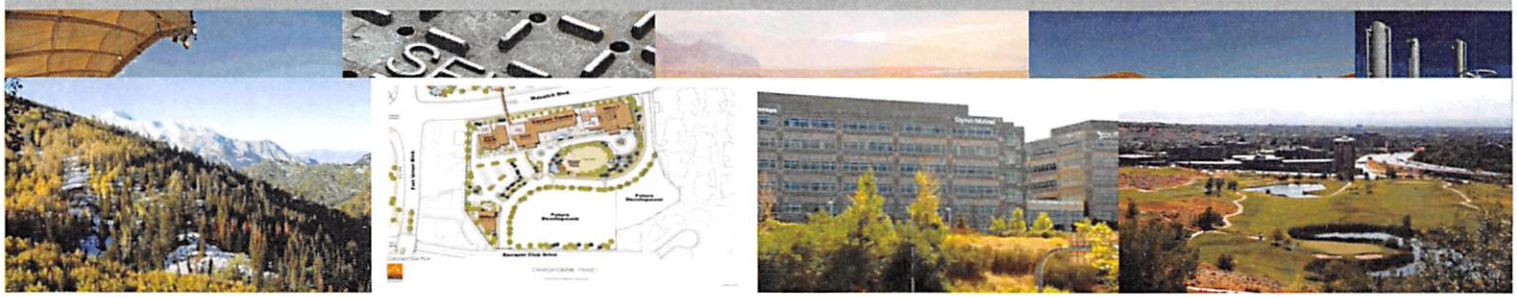
EXHIBIT A
2nd Amended Project Area Plan

EXHIBIT A
2nd Amended Project Area Plan

2ND AMENDED PROJECT AREA PLAN
CANYONS CENTRE COMMUNITY DEVELOPMENT AREA (CDA)

PREPARED FOR:

COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF COTTONWOOD HEIGHTS, UTAH



Cottonwood Heights
City between the canyons

ADOPTED: _____, 2018

LEWIS YOUNG
ROBERTSON & BURNINGHAM, INC.
GATEWAY PLAZA BUILDING - 41 N. RIO GRANDE, STE 101 - SALT LAKE CITY, UT 84101
(P) 801-596-0700 - (TF) 800-581-1100 - (F) 801-596-2800 - WWW.LEWISYOUNG.COM

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Definitions

As used in this Community Development Project Area Plan, as amended, the term:

"**Act**" shall mean and include the Limited Purpose Local Government Entities – Community Reinvestment Agency Act in Title 17C, Chapters 1 through 5, Utah Code Annotated 1953, as amended, or such other amendments as shall from time to time be enacted or any successor or replacement law or act.

"Agency" shall mean the Community Development and Renewal Agency of Cottonwood Heights, which is a separate body corporate and politic created by the City of Cottonwood Heights pursuant to the Act.

"**Base taxable value**" shall mean the agreed value specified in a resolution or interlocal agreement under Subsection 17C-4-201(2) from which tax increment will be collected. For purposes of this Project Area Plan, the base taxable value is assumed to be the assessed taxable value of the Project Area on the County's tax rolls as of January 1, 2016.

"**Base taxable year**" shall mean the Tax Year during which the Project Area Budget, as amended is approved pursuant to Subsection 17C-1-102 (6), which shall be January 1, 2016.

"City" or "Community" shall mean the City of Cottonwood Heights.

"Legislative body" shall mean the City Council of Cottonwood Heights which is the legislative body of the Community.

"Plan Hearing" shall mean the public hearing on the 2nd Amended Draft Project Area Plan required under Subsection 17C-4-102.

"Project Area" shall mean the geographic area described in this Project Area Plan or draft Project Area Plan, as amended, where the community development will take place or is proposed to take place (Exhibit A & B).

"Project Area Budget" or "Amended Project Area Budget" shall mean the multi-year projection of annual or cumulative revenues, other expenses and other fiscal matters pertaining to the Project Area that includes:

- the base taxable value of property in the Project Area;
- the projected tax increment expected to be generated within the Project Area;
- the amount of tax increment expected to be shared with other taxing entities;
- the amount of tax increment expected to be used to implement the Project Area plan;

- the tax increment expected to be used to cover the cost of administering the Project Area Plan;
- if the area from which tax increment is to be collected is less than the entire Project Area:
  - the tax identification number of the parcels from which tax increment will be collected; or
  - a legal description of the portion of the Project Area from which tax increment will be collected; and
- for property that the Agency owns and expects to sell, the expected total cost of the property to the Agency and the expected selling price.

"Project Area Plan" shall mean the written plan that, after its effective date, guides and controls the community development activities within the Project Area. Project Area Plan refers to this document, as amended from time to time, and all of the attachments to this document, which attachments are incorporated by this reference.

"Taxes" includes all levies on an ad valorem basis upon land, real property, personal property, or any other property, tangible or intangible.

"Taxing Entity" shall mean any public entity that levies a tax on any property within the Project Area.

"Tax Increment" shall mean the difference between the amount of property tax revenues generated each tax year by all taxing entities from the Project Area using the current assessed value of the property and the amount of property tax revenues that would be generated from the same area using the base taxable value of the property.

"Tax Increment Period" shall mean the period of time in which the taxing entities from the Project Area consent that a portion of their tax increment from the Project Area be used to fund the objectives outlined in this Project Area Plan.

"Tax Year" shall mean the 12 month period between sequential tax roll equalizations (November 1st-October 31st) of the following year, e.g., the November 1, 2017-October 31, 2018 tax year.

Introduction

The Community Development and Renewal Agency of Cottonwood Heights, Utah ("Agency"), following a thorough consideration of the needs and desires of the City of Cottonwood Height (the "City") and its residents, as well as the City's capacity for new development, has carefully crafted this 2nd Amended Project Area Plan (the "Plan") for the Canyons Centre Community Development Project Area (the "Project Area"). This Plan is the end result of a comprehensive evaluation of the types of appropriate land-uses and economic development for the land encompassed by the Project Area which lies just south of the southwest corner of the intersection of Fort Union Boulevard and Wasatch Boulevard. The Plan is intended to define the method and means of development for the Project Area from its current state to a higher and better use.

The City has determined it is in the best interest of its citizens to assist in the development of the Project Area. It is the purpose of this Plan to clearly set forth the aims and objectives of development, scope, financing mechanism, and value to the residents of the City and other taxing districts.

The Project Area is being undertaken as a community development project area pursuant to certain provisions of Chapters 1 and 4 of the Utah Limited Purpose Local Governmental Entities -- Community Reinvestment Agency Act (the "Act", Utah Code Annotated ("UCA") Title 17C). The requirements of the Act, including notice and hearing obligations, have been observed at all times throughout the establishment of the Project Area.

Utah Code §17C-4-102

Recitals of Prerequisites for Adopting a Community Development Project Area Plan

In order to adopt a community development project area plan, the agency shall;

- Pursuant to the provisions of §17C-4-102(2)(a) and (b) of the Act, the City has a planning commission and general plan as required by law; and
- Pursuant to the provisions of §17C-4-102 of the Act, the Agency has conducted or will conduct one or more public hearings for the purpose of informing the public about the Project Area, and allowing public input into the Agency's deliberations and considerations regarding the Project Area; and
- Pursuant to the provisions of §17C-4-102 of the Act, the Agency has allowed opportunity for input on the draft Project Area Plan and has made a draft Project Area Plan available to the public at the Agency's offices during normal business hours, provided notice of the plan hearing, sent copies of the draft Project Area Plan to all required entities prior to the

hearing, and provided opportunities for affected entities to provide feedback.

UTAH CODE §17C-4-103(1)

Description of the Boundaries of the Proposed Project Area

A legal description of the Project Area along with a detailed map of the Project Area is attached respectively as **Exhibit A** and **Exhibit B** and incorporated herein. The Project Area is located on the eastern side of the City just south of the southwest corner of the intersection of Fort Union Boulevard and Wasatch Boulevard. There are no agricultural, forest or mining uses in the Project Area. The Project Area is comprised of approximately 2 parcels, equaling 10.90 acres of property.

Table 1: Property Description

Owner	Parcel ID	Acres
CANYONS CENTRE CAPITAL LLC	22-25-176-017	5.64
CANYONS CENTRE CAPITAL LLC	22-25-176-018	5.26
Total		**10.90**

As delineated in the office of the Salt Lake County Recorder, the Project Area encompasses all of the parcels detailed in **Table 1: Property Description**

UTAH CODE §17C-4-103(2)

General Statement of Land Uses, Layout of Principal Streets, Population Densities, Building Intensities and How They Will be Affected by the Community Development Area

General Land Uses

A significant amount of property within the Project Area consists of vacant and underutilized property not generating full beneficial tax base to the City or other taxing entities.

The mixed use zoning ordinance (Chapter 19.36 of the City Code) allows the contemplated uses which include retail, office building, residential, and hotel/condo (conditional use). This Project Area Plan is consistent with the General Plan of the City and promotes economic activity by virtue of the land uses contemplated. Any zoning change, amendment or conditional use permit necessary to the successful development contemplated by this Project Area Plan shall be undertaken in accordance with the requirements of the City's Code and all other applicable laws including all goals and objectives in the City's General Plan.

Layout of Principal Streets

There are currently no City-owned roadways within the Project Area. Several roadways stub at or near the boundaries of the Project Area but do not substantially extend within the Project Area. There is one main roadway that dissects the Project Area and will provide the main access in and out of the project. This roadway comes off of Ft. Union Blvd. extends through the project and comes out onto Wasatch Blvd. The Project Area map, provided in **Exhibit A,** shows the principal streets in the area. The Agency anticipates that the development will require several new access roadways (private and/or public) and improvements to provide access through the Project Area. As these roadways are constructed access throughout the Project Area will promote better traffic circulation and mitigate several health and safety issues that currently exist.

Population Densities

The Project Area was laid out in order to create the least amount of disruption to existing commercial and residential structures. It is anticipated that as the Project Area develops that approximately 101 condominium units and 18 single family homes will be constructed within the Project Area. It is unlikely that this development will increase the day-time/total population of the City by more than an average daily population of 150-200 people.

Building Densities

The current contemplated Project site plan is found in **Exhibit C** and is estimated to include an 80,000 Sq. Ft. hotel (125 Rooms), 79,000 Sq. Ft. of office space, 16,000 Sq. Ft. of restaurant/retail, 101 unit condominium, 18 luxury single family homes, a multi-level parking structure, and an open space park element. The development is contemplated to be absorbed over a three to six year period.

UTAH CODE §17C-4-103(3)

Standards Guiding the Community Development

In order to provide maximum flexibility in the development and economic promotion of the Project Area, and to encourage and obtain the highest quality in development and design, specific development controls for the uses identified above are not set forth herein. Each development proposal in the Project Area will be subject to appropriate elements of the City's proposed General Plan; the Zoning Ordinance of the City, including adopted Design Guidelines pertaining to the area; institutional controls, deed restrictions if the property is acquired and resold by the RDA, other applicable building codes and ordinances of the City; and, as required by ordinance or agreement, review and recommendation of the Planning Commission and approval by the Agency.

Each development proposal by an owner, tenant, participant or a developer shall be accompanied by site plans, development data and other appropriate material that

clearly describes the extent of proposed development, including land coverage, setbacks, height and massing of buildings, off-street parking and loading, use of public transportation, and any other data determined to be necessary or requested by the Agency or the City.

UTAH CODE §17C-4-103(4)

How the Purposes of this Title Will Be Attained By Community Development

It is the intent of the Agency, with the assistance and participation of private developers and property owners, to facilitate new quality development and improve existing private and public structures and spaces. This enhancement to the overall living environment and the restoration of economic vitality to the Project Area will benefit the community, the City, the County, other Taxing Entities and the State.

UTAH CODE §17C-4-103(5)

Conformance of the Proposed Development to the Community's General Plan

This Project Area Plan and the development contemplated are consistent with the City's proposed General Plan and land use regulations.

UTAH CODE §17C-4-103(6)

Describe any Specific Project or Projects that are the object of the Proposed Community Development

As described above, the development within the Project Area will consist of retail, office, lodging, and residential development. The contemplated development will ensure the highest and best use of the land from the perspective of the City and Agency officials. The current contemplated development site plan can be found in **Exhibit C**.

UTAH CODE §17C-4-103(7)

Method of Selection of Private Developers to undertake the Community Development and Identification of Developers Currently Involved in the Process

The City and Agency will select or approve such development as solicited or presented to the Agency and City that meets the development objectives set forth in

this Plan. The City and Agency retain the right to approve or reject any such development plan(s) that in their judgment do not meet the development intent for the Project Area. The City and Agency may choose to solicit development through an RFP or RFQ process, through targeted solicitation to specific industries, from inquiries to the City, EDC Utah, and/or from other such references.

The City and Agency will ensure that all development conforms to this Plan and is approved by the City. All potential developers will need to provide a detailed development plan including sufficient financial information to provide the City and Agency with confidence in the sustainability of the development and the developer. Such a review may include a series of studies and reviews including reviews of the Developers financial statements, third-party verification of benefit of the development to the City, appraisal reports, etc.

Any participation between the Agency and developers and property owners shall be by an approved agreement.

UTAH CODE §17C-4-103(8)

Reason for Selection of the Project Area

The Agency selected the Project Area primarily as a result of two factors: **first**, the high potential for development of this undeveloped and underutilized area near the mouth of the Canyon compelled the City and Agency to guide future development through both the planning process and through a financial process through the use of tax increment; **second,** the Project Area affords an immediate opportunity to strengthen the economic base of the City and taxing entities within the County, broaden and diversify the tax base, and promote the development of job growth and goods and services to residents of the City, County, State, and tourists.

The specific boundaries of the Project Area were set after a review of the area by members of the Agency and their staff. The contemplated plan will not only result in a welcome, attractive, and conducive addition to the City, but will stimulate economic development in the area and in promoting a sustainable development.

UTAH CODE §17C-4-103(9)

Description of Physical, Social and Economic Conditions Existing in the Project Area

Physical Conditions

The Project Area consists of approximately 11 acres of relatively flat, privately owned land as shown on the Project Area map. There is presently no development within

the Project Area although several commercial and residential developments lay adjacent to the Project Area.

The Project Area lies on the Wasatch Fault which runs north/south through the middle of the Project Area. In addition to certain seismic building requirements, the proposed development will not construct any major structures on the fault line. Open space, trails, roadways, and the amphitheater will be the only development contemplated on the fault line. The current property owner has contracted with an engineering geologist to perform a fault study. The development plan was overlaid on the fault study in order to appropriately reduce the risk of seismic structural damage. In addition, should the City implement any additional zoning or land use requirements related to property located along the fault, all future development will conform to those standards.

Social Conditions

The Project Area experiences a lack of social connectivity and vitality. There are no residential units. There are currently no parks, libraries, or other social gathering places in the Project Area. There is nominal human activity in the Project Area outside of business hours.

Economic Conditions

The area has suffered from a lack of reinvestment related to: 1) the need for additional and adequate infrastructure in the area; 2) lack of cohesiveness; and 3) lack of economic density and land utilization.

UTAH CODE §17C-4-103(10)

Description of any Tax Incentives Offered Private Entities for Facilities Located in the Project Area

Tax Increment arising from the development within the Project Area shall be used for public infrastructure improvements, Agency requested improvements and upgrades, desirable Project Area improvements, and other items as approved by the Agency. Subject to provisions of the Act, the Agency may agree to pay for eligible costs and other items from taxes during the tax increment period which the Agency deems to be appropriate under the circumstances.

In general, tax incentives may be offered to achieve the community development goals and objectives of this Plan, specifically to:

- Foster and accelerate economic development;
- Stimulate job development;
- Promote the use of transit and the walkability of the area;
- Make needed infrastructure improvements to roads, parking, street lighting, water, storm water, sewer, and parks and open space;

- Assist with property acquisition and/or land assembly; and
- Provide attractive development for high-quality commercial/industrial tenants.

The Project Area Budget will include specific participation percentages and timeframes for each taxing entity. Furthermore, a resolution and interlocal agreement will formally establish the participation percentage and tax increment period for each taxing entity.

UTAH CODE §17C-4-103(11)

Anticipated Public Benefit to be Derived from the Community Development

UTAH CODE §17C-4-103(11)(a)

The Beneficial Influences upon the Tax Base of the Community

The beneficial influences upon the tax base of the City and the other taxing entities will include increased property tax revenues and job growth. The increased revenues will come from the property values associated with new construction in the area, as well as increased land values that may occur, over time, in the area generally. Property values include land, buildings and personal property (machines, equipment, etc.).

Job growth in the Project Area will result in increased wages, increasing local purchases and benefiting existing businesses in the area. Job growth will also result in increased income taxes paid. Additionally, business growth will generate corporate income taxes.

There will also be a beneficial impact on the community through increased construction activity within the Project Area. Positive impacts will be felt through construction wages paid, as well as construction supplies purchased locally.

UTAH CODE §17C-4-103(11)(b)

The Associated Business and Economic Activity Likely to be Stimulated

Other business and economic activity likely to be stimulated includes increased spending by new and existing residents within the City and employees in the Project Area and in surrounding areas. This includes both direct and indirect purchases that are stimulated by the spending of the additional employees in the area.

Business will likely make purchases that may eventually result in increased employment opportunities in areas such as the following: office equipment, furniture and furnishings, office supplies, computer equipment, communication, security, transportation and delivery services, maintenance, repair and janitorial services, packaging supplies, and office and printing services.

Employees may make some purchases in the local area, such as convenience shopping for personal services (haircuts, banking, dry cleaning, etc.). The employees will not make all of their convenience or personal services purchases near their workplace and each employee's purchasing patterns will be different. However, it is reasonable to assume that a percentage of these annual purchases will occur within close proximity of the workplace (assuming the services are available).

EXHIBIT A: Legal Description of Canyons Centre CDA

The following described real property is located in Salt Lake County, Utah:

Beginning on the east line of Racquet Club Drive at a point South 89°59'07" East along the Quarter Section line 1199.11 feet and North 109.58 feet from the West Quarter corner of Section 25, Township 2 South, Range 1 East, Salt Lake Base and Meridian (As surveyed section tie - Beginning on the east line of Racquet Club Drive at a point East 1198.53 feet and North 108.09 feet from the West Quarter corner of Section 25, Township 2 South, Range 1 East, Salt Lake Base and Meridian, Basis of Bearing being South 00°03'19" East - 2672.45 feet between the West Quarter corner and the Southwest corner of said Section 25) and running thence North along said east line 490.42 feet; thence North 57°34'49" East 210.68 feet; thence South 87°44'40" East 406.36 feet to the west line of Wasatch Boulevard; thence along the west line of Wasatch Boulevard for two (2) courses as follows; along the arc of a 1482.69 foot radius curve to the left 136.953 feet (the chord bears South 8°53'50" East 136.904 feet); thence South 11°31'30" East 596.71 feet to the north line of the Canyon Racquet Club Condominiums; thence along the north line of said Canyon Racquet Club Condominiums four (4) courses as follows: South 86°30' West 251.63 feet; thence South 70°30' West 142.96 feet; thence South 47°30' West 90.00 feet; thence North 86°00' West 46.20 feet; thence North 35°00' West 82.40 feet; thence North 34°16'39" West 102.62 feet; thence North 20°20'26" West 107.65 feet; thence West 83.44 feet to the POINT OF BEGINNING.

Containing 474,587 Sq. Ft. or 10.895 acres more or less

Right of way Easement

Together with a perpetual easement and right of way for ingress and egress and for public and private utilities and for the construction, operation and continued maintenance and repair of a roadway on, in, over, across, through, or under the surface of a strip of land described in mesne documents of record and more particularly described in that certain Quit Claim deed dated August 7, 1978 by and between Victor S. Merrill and Marian Y. Merrill, his wife, and Mountain Four, Ltd., a Utah limited partnership, as Grantors and G.H. Bagley, Inc., a Utah corporation, as Grantee, recorded August 11, 1978 as Entry No. 3151481 in Book 4721 at Page 165 of Salt Lake County Recorder's office; which easement and right of way shall be for the benefit of and appurtenant to and shall pass with title to the tract of land described above which is commonly known and referred to as the Canyon Racquet Club property.

Property Address: 3700 East 7000 South, Cottonwood Heights, Utah 84121

EXHIBIT B: Project Area Map

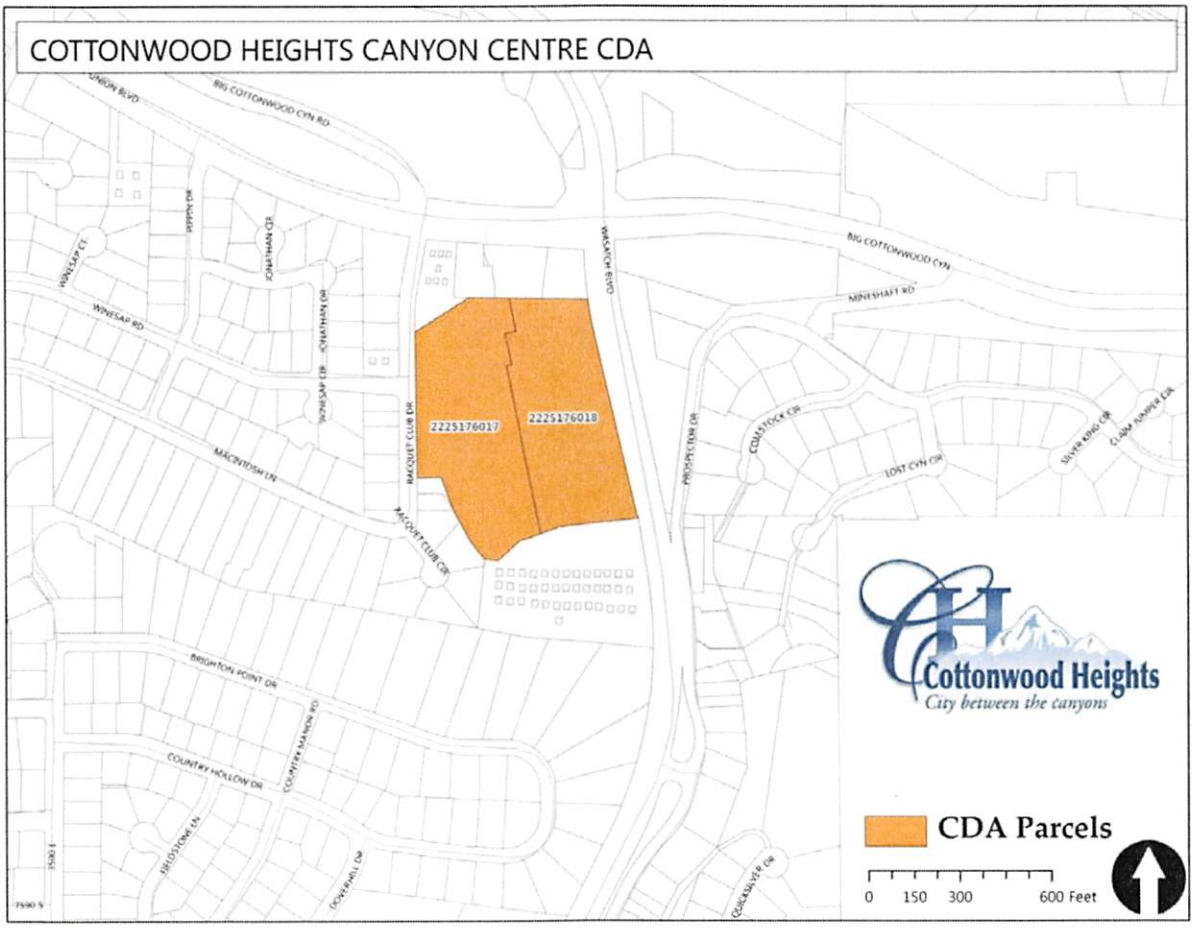
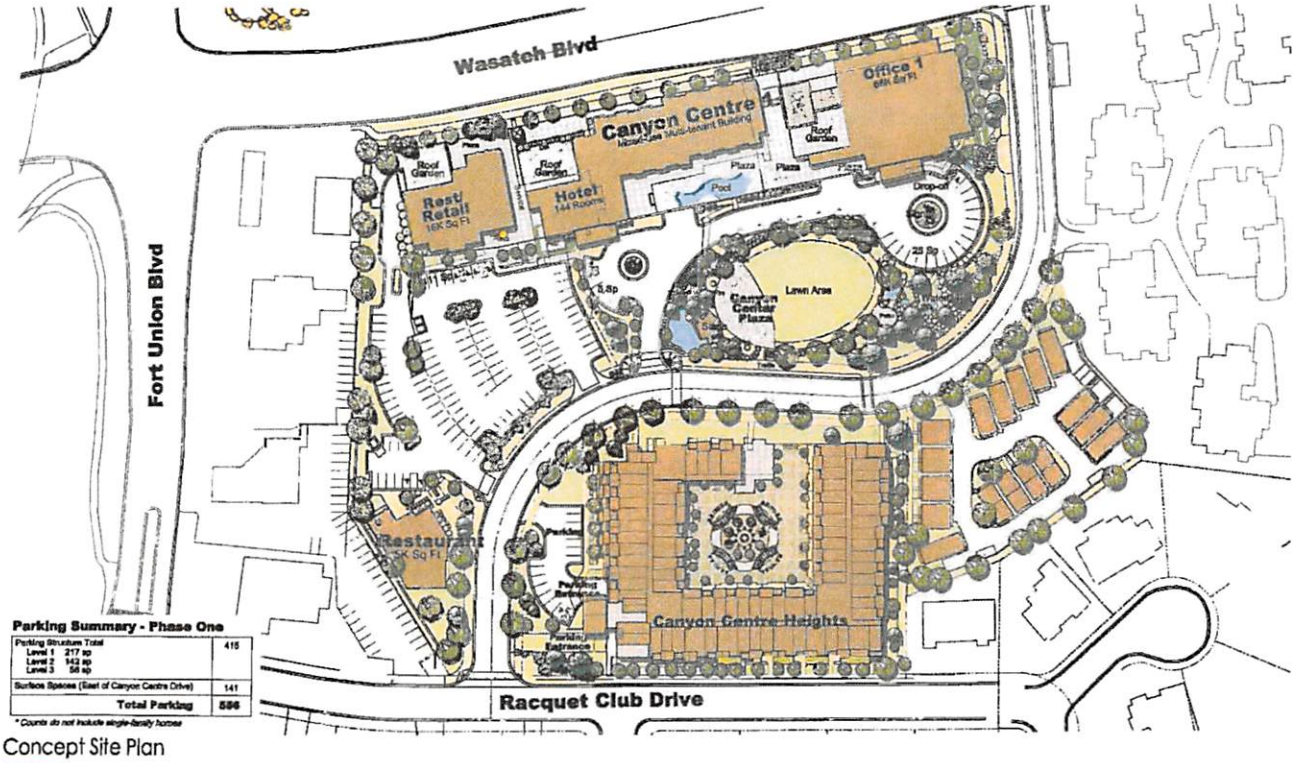


EXHIBIT C: Site Plan



Concept Site Plan

Architecture

CANYON CENTRE - SITE PLAN

COTTONWOOD HEIGHTS, UTAH 84124

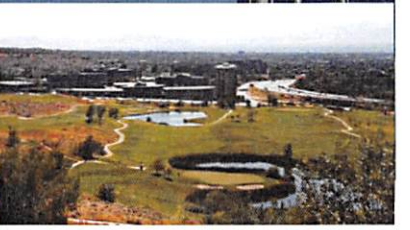
May 25, 2016

AMENDED PROJECT AREA BUDGET

CANYONS CENTRE COMMUNITY DEVELOPMENT AREA (CDA)

PREPARED FOR:

COMMUNITY DEVELOPMENT AND RENEWAL AGENCY OF COTTONWOOD HEIGHTS, UTAH



Cottonwood Heights
City between the canyons

ADOPTED: _____, 2018

LEWIS YOUNG
ROBERTSON & BURNINGHAM, INC.

GATEWAY PLAZA BUILDING - 41 N. RIO GRANDE, STE 101 - SALT LAKE CITY, UT 84101
(P) 801-596-0700 - (TF) 800-581-1100 - (F) 801-596-2800 - WWW.LEWISYOUNG.COM

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Section 1: Introduction

The Community Development and Renewal Agency of Cottonwood Heights (the "Agency"), following thorough consideration of the needs and desires of the City of Cottonwood Heights (the "City") and its residents, as well as understanding the City's capacity for new development, has carefully crafted the Project Area Plan (the "Plan"), as amended, for the Canyons Centre Community Development Project Area (the "Project Area"). The Plan is the end result of a comprehensive evaluation of the types of appropriate land-uses and economic development opportunities for the land encompassed by the Project Area which lies just south of the southwest corner of the intersection of Fort Union Boulevard and Wasatch Boulevard.

The Plan is envisioned to define the method and means of development for the Project Area from its current state to a higher and better use. The City has determined it is in the best interest of its citizens to assist in the development of the Project Area. This **Project Area Budget** document (the "Budget") is predicated upon certain elements, objectives and conditions outlined in the Plan and intended to be used as a financing tool to assist the Agency in meeting Plan objectives discussed herein and more specifically referenced and identified in the Plan.

The creation of the Project Area is being undertaken as a community development project pursuant to certain provisions of Chapters 1 and 4 of the Utah Community Development and Renewal Agencies Act (the "Act", Utah Code Annotated ("UCA") Title 17C). The requirements of the Act, including notice and hearing obligations, have been observed at all times throughout the establishment of the Project Area.

Section 2: Description of Community Development Project Area

The Project Area lies entirely within the boundaries of the City and is located on the eastern side of the City just south of the southwest corner of the intersection of Fort Union Boulevard and Wasatch Boulevard. This area in particular serves as a gateway to Big Cottonwood Canyon and receives significant vehicle traffic on a daily basis which creates both opportunity and increased service demand. The property encompasses approximately 10.90 acres of land.

TABLE 2.1: PROPERTY DESCRIPTION

Owner	Parcel ID	Acres
Canyons Centre Capital LLC	22-25-176-017	5.64
Canyons Centre Capital LLC	22-25-176-018	5.26
Total		**10.90**

The Project Area encompasses all of the parcels detailed in **TABLE 2.1: PROPERTY DESCRIPTION**.

A map and legal description of the Project Area are attached hereto in **APPENDIX A**.

Section 3: General Overview of Project Area Budget

The purpose of the Project Area Budget is to provide the financial framework necessary to implement the Project Area Plan. The following information will detail the sources and uses of tax increment and other necessary details needed for public officials, interested parties, and the public in general to understand the mechanics of the Project Area Budget. The Project Area Budget also describes the percentage and length of time over which Tax Increment will be remitted to the Agency in order to implement the Project Area Plan.

Base Year Value and Base Taxes

The Agency has determined that the base year property tax value for the Project Area will be the total taxable value for the 2016 tax year which is estimated to be Three Million Eight Hundred and Forty-Two Thousand and Four Hundred Dollars (**$3,842,400**).

Using the 2016 tax rates established within the Project Area the base year property taxes levied equate to $50,228 annually. Accordingly, this amount will continue to flow through to each taxing entity proportional to the amount of the tax rate being levied.

Payment Trigger

This Budget will have a twenty-five year (25) duration from the date of the first tax increment receipt. The collection of tax increment will be triggered at the discretion of the Agency prior to March 1 of the tax year in which they intend to begin the collection of increment. The following year in which this increment will be remitted to the Agency will be Year 1, e.g., if requested prior to March 1, 2018, Year 1 of increment will be 2019. The Agency anticipates it will trigger the tax increment by March 1, 2019 but in no case will the Agency trigger increment collection after March 1, 2021.

Projected Tax Increment Revenue – Total Generation

Development within the Project Area will commence upon favorable market conditions which will include both horizontal and vertical infrastructure and development. New development began in the Project Area in 2017. The contemplated development will generate significant additional property tax revenue as well as incremental sales and use tax above what is currently generated within the Project Area.

Property Tax Increment will begin to be generated in the tax year (ending Dec 1st) following construction completion and Tax Increment will actually be paid to the Agency in March or April after collection. It is projected that property Tax Increment generation within the Project Area could begin as early as 2019 or as late as 2021. It is currently estimated that during the 25-year life of the Project Area Budget, property Tax Increment could be generated within the Project Area in the approximate amount of **$15.92 million** or at a net present value (NPV)[1] of **$14.28 million**. This amount is over and above the $1.26 million of base taxes that the property would generate over 25 years at the $50,228 annual amount it currently generates as shown in Table 4.1 below.

[1] Net Present Value of future cash flows assumes a 0.85% discount rate, which was the PTIF rate during this analysis period. The same 0.85% discount rate is used in all remaining property tax increment NPV calculations. This total is prior to accounting for the flow-through of tax increment to the respective taxing entities.

Section 4: Property Tax Increment

Base Year Property Tax Revenue (Base Taxes)

The taxing entities are currently receiving - and will continue to receive - property tax revenue from the current assessed value of the property within the Project Area ("Base Taxes"). The current assessed taxable value is estimated to be Three Million Eight Hundred and Forty-Two Thousand and Four Hundred Dollars (**$3,842,400**). Based upon the 2016 tax rates in the Project Area, the collective taxing entities are receiving $50,228 in property tax annually from this Project Area. This equates to approximately $1,255,696 over the twenty-five year life of the Project Area.

TABLE 4.1: TOTAL BASE YEAR TO TAXING ENTITIES (OVER LIFE OF PROJECT AREA)

Entity	Total	NPV at 0.85%
Salt Lake County	$227,758	$204,407
Salt Lake County Library	61,382	55,089
Canyons School District	620,836	557,184
Cottonwood Heights City	198,268	177,940
South Salt Lake Valley Mosquito Abatement District	1,729	1,552
Central Utah Water Conservancy District	38,424	34,485
Cottonwood Heights Park & Recreation Service Area	107,299	96,298
Total Revenue	**$1,255,696**	**$1,126,955**

Property Tax Increment Shared with RDA

All taxing entities that receive property tax generated within the Project Area, as detailed above, will share at least a portion of that increment generation with the Agency. All taxing entities, except Salt Lake County & Library and the Canyons School District will contribute 75% of their respective Tax Increment for 25 years. Salt Lake County & Library will contribute 100% of their respective Tax Increment for 18 years. The Canyons School District will contribute 100% over 20 years, but 30% of their increment will be remitted back to them each year by the Agency over those 20 years. Table 4.2 shows the amount of Tax Increment shared with the Agency assuming the participation levels discussed above.

TABLE 4.2: SOURCES OF TAX INCREMENT FUNDS

Entity	Percentage	Length	Total	NPV at 0.85%
Salt Lake County	100%	18 Years	$2,076,563	$1,917,494
Salt Lake County Library	100%	18 Years	559,647	516,777
Canyons School District	100%	20 Years	4,404,038[2]	4,033,310
Cottonwood Heights City	75%	25 Years	1,884,802	1,691,172
South Salt Lake Valley Mosquito Abatement District	75%	25 Years	16,437	14,748
Central Utah Water Conservancy District	75%	25 Years	365,272	327,738
Cottonwood Heights Park & Recreation Service Area	75%	25 Years	1,020,021	915,208
Total Sources of Tax Increment Funds			**$10,326,780**	**$9,416,401**

[2] Amount omits 30% of increment remitted back to Canyons School District

Uses of Tax Increment

The majority of the Tax Increment collected by the Agency will go towards the construction of the parking structure within the Project Area. The Agency will use a portion of the Tax Increment for park improvements, and 5% of the Tax Increment will be used for Project Area administration (no portion of County Tax Increment will be used for Project Area administration).

TABLE 4.3: USES OF TAX INCREMENT

Uses	Total	NPV at 0.85%
Developer Loan Repayment (Parking Structure)	$2,297,115	$1,600,007[3]
County Loan Repayment (Parking Structure)	6,440,697	5,849,546
Park Improvements	771,527	752,023
Project Area Administration	384,528	349,106
Parking Structure O&M	432,902	404,115
Total Uses of Tax Increment Funds	**$10,326,780**	**$8,954,797**

A multi-year projection and forecast of Tax Increment, along with participation percentages, uses of Tax Increment and other description of sources and uses of funds is included in **APPENDIX B**.

Total Annual Property Tax Revenue for Taxing Entities at Conclusion of Project

As described above, the collective taxing entities are currently receiving approximately $50,228 in property taxes annually from this Project Area. At the end of the life of the project area, the taxing entities will receive all of their respective tax increment thereafter. At the end of 25 years an additional $638,202 in property taxes annually is anticipated, totaling approximately $688,430 in property taxes annually for the area. But for the assistance provided by the RDA through tax increment revenues, this increase of approximately 1,271 percent in property taxes generated for the taxing entities would not be possible.

TABLE 4.4: TOTAL BASE YEAR AND END OF PROJECT LIFE ANNUAL PROPERTY TAXES

Entity	Annual Base Year Property Taxes	Annual Property Tax Increment at Conclusion of Project	Total Annual Property Taxes
Salt Lake County	$9,110	$115,757	$124,868
Salt Lake County Library	2,455	31,197	33,653
Canyons School District	24,833	315,537	340,371
Cottonwood Heights City	7,931	100,769	108,700
South Salt Lake Valley Mosquito Abatement District	69	879	948
Central Utah Water Conservancy District	1,537	19,529	21,066
Cottonwood Heights Park & Recreation Service Area	4,292	54,534	58,826
Total Revenue	**$50,228**	**$638,202**	**$688,430**

[3] This represents a NPV rate of 3.0%.

Section 5: Cost/Benefit Analysis

Additional Revenues

Other Tax Revenues

The development within the Project Area will also generate sales tax, transient room tax, energy sales and use taxes for natural gas and electric, as well as telecom taxes.

Table 5.1 shows the total projected revenues generated by the Project Area. This total includes the anticipated property tax increment, sales tax, and energy sales and use tax.

TABLE 5.1: TOTAL ENTITY REVENUES

	Property Tax Increment	Sales Tax	Transient Room Tax	Franchise Tax	Total
Salt Lake County (Library)	$3,664,893	$1,020,950	$5,650,488	-	$10,336,331
Canyons School District	7,869,169	-	-	-	7,869,169
Cottonwood Heights City	2,513,069	504,173	1,189,577	774,158	4,980,977
South Salt Lake Valley Mosquito Abatement District	21,916	-	-	-	21,916
Central Utah Water Conservancy District	487,029	-	-	-	487,029
Cottonwood Heights Park & Recreation Service Area	1,360,028	-	-	-	1,360,028
Total Revenue	**$15,916,103**	**$1,525,123**	**$6,840,065**	**$774,158**	**$25,055,450**

Additional Costs

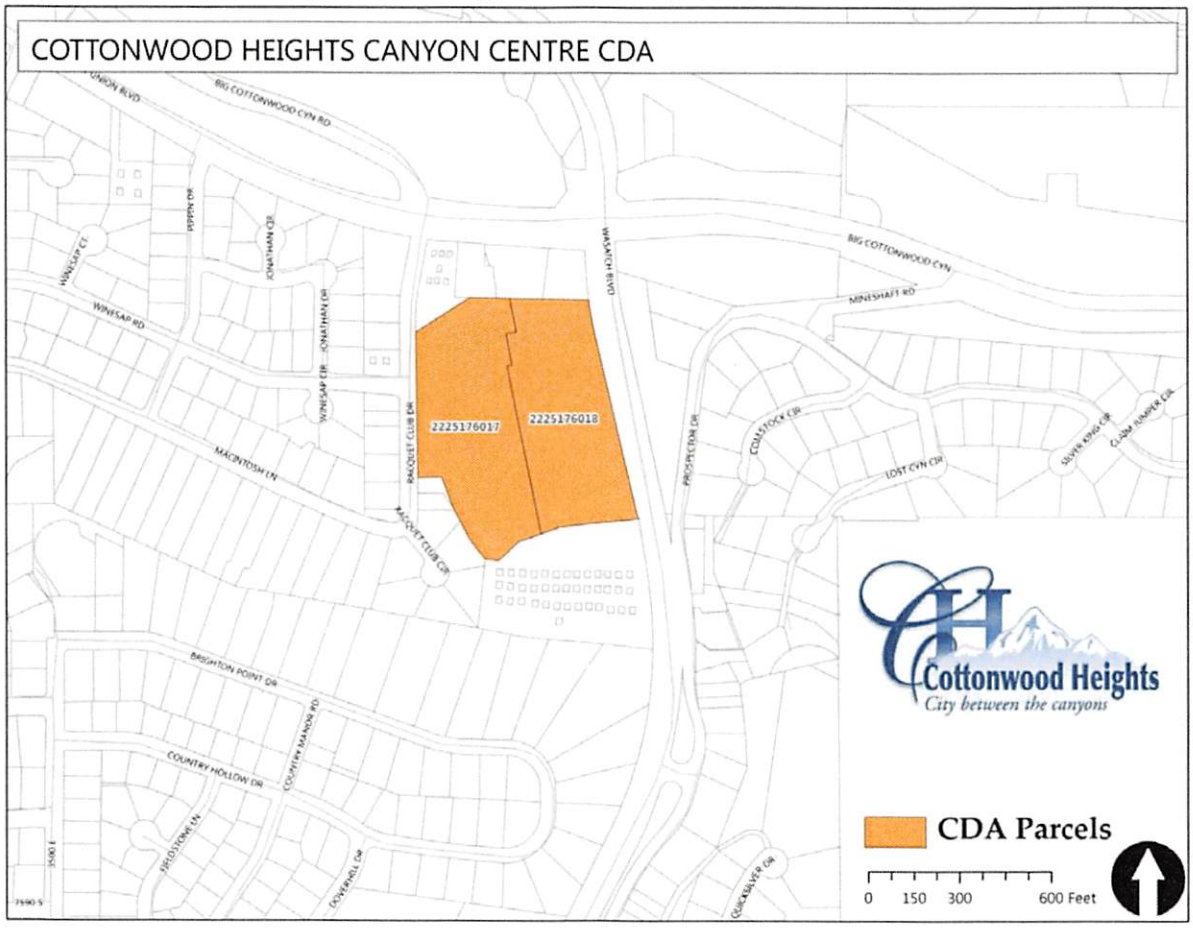
The development anticipated within the Project Area will also likely result in additional general government, public works, and public safety costs. These costs, along with the estimated budget to implement the Project Area Plan are identified below.

TABLE 5.2: TOTAL ENTITY EXPENDITURES

	Estimated CDA Budget	General Government	Public Works	Public Safety	Total
Salt Lake County (Library)	$2,636,211	$189,660	-	-	$2,825,871
Canyons School District	4,404,038	$398,320	-	-	4,825,871
Cottonwood Heights City	1,884,802	$155,973	$179,368	$640,507	2,860,650
South Salt Lake Valley Mosquito Abatement District	16,437	$1,179	-	-	17,616
Central Utah Water Conservancy District	365,272	$6,038	-	-	371,310
Cottonwood Heights Park & Recreation Service Area	1,020,021	$17,051	-	-	1,037,072
Total Expenditures	**$10,326,780**	**$786,041**	**$179,368**	**$640,507**	**$11,914,876**

The total net benefit to the taxing entities of implementing the Project Area is approximately **$13,140,574,** with the City's net benefit being **$2,120,327**.

Appendix A: Map and Legal Description



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Containing 474,587 Sq. Ft. or 10.895 acres more or less

Right of way Easement

Together with a perpetual easement and right of way for ingress and egress and for public and private utilities and for the construction, operation and continued maintenance and repair of a roadway on, in, over, across, through, or under the surface of a strip of land described in mesne documents of record and more particularly described in that certain Quit Claim deed dated August 7, 1978 by and between Victor S. Merrill and Marian Y. Merrill, his wife, and Mountain Four, Ltd., a Utah limited partnership, as Grantors and G.H. Bagley, Inc., a Utah corporation, as Grantee, recorded August 11, 1978 as Entry No. 3151481 in Book 4721 at Page 165 of Salt Lake County Recorder's office; which easement and right of way shall be for the benefit of and appurtenant to and shall pass with title to the tract of land described above which is commonly known and referred to as the Canyon Racquet Club property.

Property Address: 3700 East 7000 South, Cottonwood Heights, Utah 84121

Appendix B: Multi-Year Budget

EXHIBIT B
Amended Project Area Budget

EXHIBIT B
Amended Project Area Budget

COTTONWOOD HEIGHTS COMMUNITY DEVELOPMENT AND RENEWAL AGENCY

Canyons Centre CDA

Years 1-5: 75% CDRA 25% County
Years 6-25: 40% CDRA 60% County

25 Yr. Tax Increment Budget

Scenario 3: 2016 Base Year Value and Updated Assessed Values

	Payment Year	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044		
INCREMENTAL PROPERTY TAX ANALYSIS:	Tax Year																											
Cumulative Taxable Value	Year	*Year 1*	*Year 2*	*Year 3*	*Year 4*	*Year 5*	*Year 6*	*Year 7*	*Year 8*	*Year 9*	*Year 10*	*Year 11*	*Year 12*	*Year 13*	*Year 14*	*Year 15*	*Year 16*	*Year 17*	*Year 18*	*Year 19*	*Year 20*	*Year 21*	*Year 22*	*Year 23*	*Year 24*	*Year 25*		
Phase I																												
Hotel #1 (125 Units)		13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404	13,637,404		
Office I (77,503 Sq. Ft.)		16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719	16,175,719		
Restaurant I (14,000 Sq. Ft.)		3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589	3,315,589		
Parking Structure (443 Stalls)		11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000	11,500,000		
Restaurant II (11,000 Sq. Ft.)		2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853	2,553,853		
Retail (5,000 Sq. Ft.)		969,542	969,542	969,542	969,542	969,542	969,542	969,542	969,542	969,542	969,542	969,542	969,542	969,542	969,542	969,542	969,542	969,542	969,542	969,542	969,542	969,542	969,542	969,542	969,542		
Phase II																												
Condominium (112 Units)		10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896	10,051,896		
Single Family Homes (18 Units)		2,960,247	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495	5,960,495		
Total Assessed Value		61,184,249	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497	64,184,497		
LESS BASE YEAR VALUE (2016)		(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)	(3,842,400)		
LESS CONSTRUCTION COST OF PARKING STRUCTURE		(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)	(11,500,000)		
TOTAL INCREMENTAL VALUE:		**45,841,849**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**	**48,822,097**		
CDA PROJECT AREA BUDGET	**Payment Year**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**	**2028**	**2029**	**2030**	**2031**	**2032**	**2033**	**2034**	**2035**	**2036**	**2037**	**2038**	**2039**	**2040**	**2041**	**2042**	**2043**	**2044**		
Sources of Funds:	**Tax Year**																											
INCREMENTAL TAX RATE & ANALYSIS																											TOTALS	NPV
Salt Lake County	0.002371	108,691	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	2,866,864	2,589,220
Canyons School District	0.006463	296,276	315,537	315,537	315,537	315,537	315,537	315,537	315,537	315,537	315,537	315,537	315,537	315,537	315,537	315,537	315,537	315,537	315,537	315,537	315,537	315,537	315,537	315,537	315,537	315,537	7,869,169	7,060,563
Cottonwood Heights City	0.002064	94,618	100,769	100,769	100,769	100,769	100,769	100,769	100,769	100,769	100,769	100,769	100,769	100,769	100,769	100,769	100,769	100,769	100,769	100,769	100,769	100,769	100,769	100,769	100,769	100,769	2,513,069	2,254,835
South Salt Lake Valley Mosquito Abatement District	0.000018	826	879	879	879	879	879	879	879	879	879	879	879	879	879	879	879	879	879	879	879	879	879	879	879	879	21,916	19,664
Central Utah Water Conservancy District	0.000400	18,337	19,529	19,529	19,529	19,529	19,529	19,529	19,529	19,529	19,529	19,529	19,529	19,529	19,529	19,529	19,529	19,529	19,529	19,529	19,529	19,529	19,529	19,529	19,529	19,529	487,029	436,964
Cottonwood Heights Parks & Rec Service Area	0.001117	51,205	54,534	54,534	54,534	54,534	54,534	54,534	54,534	54,534	54,534	54,534	54,534	54,534	54,534	54,534	54,534	54,534	54,534	54,534	54,534	54,534	54,534	54,534	54,534	54,534	1,360,028	1,220,277
Salt Lake County Library	0.000639	29,293	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	778,029	698,081
Totals	0.013072	599,245	638,202	638,202	638,202	638,202	638,202	638,202	638,202	638,202	638,202	638,202	638,202	638,202	638,202	638,202	638,202	638,202	638,202	638,202	638,202	638,202	638,202	638,202	638,202	638,202	15,916,103	14,280,624
Property Tax Participation Rate for Budget																												
Salt Lake County		100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	0%	0%	0%	0%	0%	0%	0%		
Canyons School District		70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	70%	0%	0%	0%	0%	0%		
Cottonwood Heights City		75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%		
South Salt Lake Valley Mosquito Abatement District		75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%		
Central Utah Water Conservancy District		75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%		
Cottonwood Heights Parks & Rec Service Area		75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%	75%		
Salt Lake County Library		100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	0%	0%	0%	0%	0%	0%	0%		
Property Tax Increment for Budget																											TOTALS	NPV
Salt Lake County		108,691	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	115,757	-	-	-	-	-	-	-	2,076,563	1,917,494
Canyons School District		207,393	220,876	220,876	220,876	220,876	220,876	220,876	220,876	220,876	220,876	220,876	220,876	220,876	220,876	220,876	220,876	220,876	220,876	220,876	-	-	-	-	-	-	4,404,038	4,033,310
Cottonwood Heights City		70,963	75,577	75,577	75,577	75,577	75,577	75,577	75,577	75,577	75,577	75,577	75,577	75,577	75,577	75,577	75,577	75,577	75,577	75,577	75,577	75,577	75,577	75,577	75,577	75,577	1,884,802	1,691,127
South Salt Lake Valley Mosquito Abatement District		619	659	659	659	659	659	659	659	659	659	659	659	659	659	659	659	659	659	659	659	659	659	659	659	659	16,437	14,748
Central Utah Water Conservancy District		13,753	14,647	14,647	14,647	14,647	14,647	14,647	14,647	14,647	14,647	14,647	14,647	14,647	14,647	14,647	14,647	14,647	14,647	14,647	14,647	14,647	14,647	14,647	14,647	14,647	365,272	327,738
Cottonwood Heights Parks & Rec Service Area		38,404	40,901	40,901	40,901	40,901	40,901	40,901	40,901	40,901	40,901	40,901	40,901	40,901	40,901	40,901	40,901	40,901	40,901	40,901	40,901	40,901	40,901	40,901	40,901	40,901	1,020,021	915,206
Salt Lake County Library		29,293	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	31,197	-	-	-	-	-	-	559,647	516,777
Total Property Tax Increment for Budget		469,116	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	352,659	352,659	131,783	131,783	131,783	131,783	131,783	10,326,780	9,416,401
Non County Tax Increment		*331,132*	*352,659*	*352,659*	*352,659*	*352,659*	*352,659*	*352,659*	*352,659*	*352,659*	*352,659*	*352,659*	*352,659*	*352,659*	*352,659*	*352,659*	*352,659*	*352,659*	*352,659*									
Sources of Funds:	**Sources & Uses**	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	TOTALS	NPV
Tax Increment		469,116	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	352,659	352,659	131,783	131,783	131,783	131,783	131,783	10,326,780	9,416,401
SLCo RDA Transfer to CH CDRA	1,900,000	*(Up front contribution to Parking Structure)*	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Developer Financing (Assessment Bonds)	1,500,000	*(Developer Loan/Grant)*	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
SLCo Loan for Parking Structure	6,000,000	*(SLCo Loan for Parking Structure)*	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Park Improvements	771,527	*(Pay-as-you-go when excess Tax Increment is Available)*																										
Total Funds	10,271,527	469,116	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	499,614	352,659	352,659	131,783	131,783	131,783	131,783	131,783	10,326,780	9,416,401
Uses of Funds:	**Sources & Uses**	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	TOTALS	NPV
CDA Administration @ 5%	5%	16,557	17,633	17,633	17,633	17,633	17,633	17,633	17,633	17,633	17,633	17,633	17,633	17,633	17,633	17,633	17,633	17,633	17,633	17,633	17,633	6,589	6,589	6,589	6,589	6,589	364,528	349,106
Developer Loan Repayment		91,885	91,885	91,885	91,885	91,885	91,885	91,885	91,885	91,885	91,885	91,885	91,885	91,885	91,885	91,885	91,885	91,885	91,885	91,885	91,885	91,885	91,885	91,885	91,885	91,885	2,297,125	1,600,007
Land for Park (Developer)	600,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Parking Structure Improvements	6,900,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Park Improvements (CH CDRA)	771,527	143,996	156,883	156,883	156,883	156,883	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	771,527	752,023
County Loan Repayment (SLCo.)		216,628	230,711	230,711	230,711	230,711	347,970	347,970	347,970	347,970	347,970	347,970	347,970	347,970	347,970	347,970	347,970	347,970	347,970	347,970	201,016	201,016	75,116	75,116	75,116	75,116	6,440,697	5,849,546
Total Uses (Including County Repayment)	**10,271,527**	**469,064**	**497,112**	**497,112**	**497,112**	**497,112**	**457,488**	**457,488**	**457,488**	**457,488**	**457,488**	**457,488**	**457,488**	**457,488**	**457,488**	**457,488**	**457,488**	**457,488**	**457,488**	**457,488**	**310,534**	**310,534**	**173,590**	**173,590**	**173,590**	**173,590**	**9,893,878**	**8,550,683**
Remaining Tax Increment for O&M, etc.:1		51	2,502	2,502	2,502	2,502	42,125	42,125	42,125	42,125	42,125	42,125	42,125	42,125	42,125	42,125	42,125	42,125	42,125	42,125	42,125	(41,807)	(41,807)	(41,807)	(41,807)	(41,807)	432,902	404,115
Public Portion O&M		70,200	70,200	70,200	70,200	70,200	70,200	70,200	70,200	70,200	70,200	70,200	70,200	70,200	70,200	70,200	70,200	70,200	70,200	70,200	70,200	70,200	70,200	70,200	70,200	70,200	1,755,000	1,575,067

Assumptions	
Discount Rate (PTIF Est.%)	0.850%
Developer Debt Service	(3.00% tax-exempt) 5.25% (taxable equivalent) 25 Year Amortization
County Loan Repayment Years 1-5	25% County 75% CDRA
County Loan Repayment Years 6-25	60% County 40% CDRA
O&M	351 Stalls * $200/Stall

* In this scenario, the County will receive 100% of their portion (including Library) for the 18 year County tax increment particpation period. The pro rata split includes all of the increment of the remaining taxing entities.

[1] The RDA has agreed to fund the park improvements within the first 5 years of receiving tax increment, with the understanding that there may be an annual shortfall in tax increment revenues at the current projections. After the initial 5 years, the remaining tax increment will be used to repay this deficit, fund some costs of the O & M, and fund the projected deficit during the final 5 years of the tax increment period.

2/2/2018
Budget (BY & Prop Value Change)

EXHIBIT C
Public Parking Easement Agreement

EXHIBIT C
Public Parking Easement Agreement

WST 2.14.2018 Version

AFTER RECORDING MAIL TO:

COTTONWOOD HEIGHTS COMMUNITY
DEVELOPMENT AND RENEWAL AGENCY
Attn: John R. Park, Executive Director
2277 East Bengal Blvd.
Cottonwood Heights, UT 84121

Public Parking Easement Agreement

THIS PUBLIC PARKING EASEMENT AGREEMENT (this "*Agreement*") is entered into by and among **CANYON CENTRE CAPITAL, LLC**, a Utah limited liability company whose address is 9067 South 1300 West, Suite 105, West Jordan, Utah 84088-5582 ("*Grantor*"); the **COTTONWOOD HEIGHTS COMMUNITY DEVELOPMENT AND RENEWAL AGENCY**, a governmental entity organized under the laws of the state of Utah whose address is 2277 East Bengal Blvd., Cottonwood Heights, UT 84121 ("*Agency*"); and **SALT LAKE COUNTY**, a body corporate and politic of the State of Utah whose address is 2001 South State Street, #S3-600, Salt Lake City, UT 84190 ("*County*") (Agency and County are collectively referred to herein as "*Grantee*"). Grantor and Grantee are sometimes referred to collectively as the "*Parties*" and either may be referred to individually as a "*Party*," all as governed by the context in which such words are used. **THE CANYON CENTRE CONDOMINIUM ASSOCIATION** (the "*Condominium Association*") also is a party to this Agreement for the limited purposes of Sections 2-4, inclusive, below.

RECITALS:

A. In furtherance of the objectives of the "Limited Purpose Local Government Entities--Community Development and Renewal Agencies Act," UTAH CODE ANN. Title 17C, Chapters 1 through 4 (including any future amendments or successors, the "*Act*"), Agency has undertaken a program for the development of the Canyon Centre Community Development Project Area (the "*Project Area*" or the "*Project*") located at approximately 7350 South Wasatch Blvd. in the city of Cottonwood Heights, Salt Lake County, Utah ("*City*").

B. Agency has prepared, and City has approved, a community development plan (the "*Plan*") providing for the development of the land located within the Project Area and the future uses of such land.

C. The Project Area consists of approximately 10.89 acres which Grantor, as developer, has agreed to develop with certain private and public improvements as provided in the Plan. A plat (the "*Plat*") subdividing the Project Area into five lots ("*Lots*") has been recorded in the official records of County's Recorder. The division of the Lots as shown on the Plat contemplates the development of the separate uses in the Project Area.

D. Lot 1 of the Project Area has been or will be developed into a public park (the "*Park*"). Lot 2 of the Project Area has been or will be condominiumized and developed to include several buildings (the "*Condominium Project*") including a hotel (the "*Hotel Unit*"), a commercial office building (the "*Office Unit*"), and various retail and restaurant buildings, each of which will be separate condominium units ("*Units*") under separate ownership. The Units will rest on a structural podium which, in turn, will rest on a three-level parking structure (the "*Parking*

Structure") containing at least 415 parking stalls (the "*Parking Stalls*"). The legal descriptions of the Project Area, of Lot 2 of the Project Area and of the Parking Structure within said Lot 2 are set forth in ATTACHMENT NO. 1 to this Agreement.

E. Level P1 of the Parking Structure will contain approximately 217 Parking Stalls, Level P2 will contain approximately 145 Parking Stalls, and Level P3 will contain approximately 55 Parking Stalls. Each level within the Parking Structure will be included within one of the Units, with Levels P1 (comprising Unit 2B-1 and sometimes called "*Parking Level 1*") and P3 (comprising Unit 2B-3 and sometimes called "*Parking Level 3*") being included in the Office Unit (comprising Unit 2B), and Level P2 (comprising Unit 2A-2 and sometimes called "*Parking Level 2*") being included within the Hotel Unit (comprising Unit 2A). The use of all Parking Stalls will be monitored at the gates of the Parking Structure as vehicles exit. Grantor will erect access gates, ticketing/payment booths or kiosks, or other similar improvements in the Parking Structure to aid in controlling access to and use of the Parking Structure.

E. Grantor has recorded a master declaration of covenants, conditions and restrictions and a first amendment to such master declaration (collectively, the "*Master Declaration*") against the entire Project and has or will record the condominium declaration (the "*Condominium Declaration*") (the Master Declaration and the Condominium Declaration are collectively referred to herein as the "*Declarations*") against Lot 2 of the Project in connection with the development of the Project. The Condominium Association will be responsible for operation and maintenance of the Project's common areas and for performing other duties described in the Declarations and the "Master Parking Agreement" (the "*Master Parking Agreement*") that will encumber the Units as contemplated by the Condominium Declaration.

F. Grantor and Agency have or will enter into a "Development Agreement" (the "*Development Agreement*") for the Project whereunder, among other provisions, Agency will pay up to $9.5 Million (the "*Purchase Price*") of public funds--most of which originated from County—for, *inter alia*, a perpetual, exclusive easement for public parking in certain of the Parking Stalls during certain times on certain days as explained in the Development Agreement and this Agreement, which funds will be recouped by Agency and County through future tax increment payments arising from the Project as contemplated by the Plan (the "*Tax Increment*").

G. Agency's and County's decision to purchase such parking rights and easement is based on their determination that the availability of public parking in the Project likely will help alleviate traffic and vehicle congestion in Big Cottonwood Canyon and Little Cottonwood Canyon, thereby furthering the health, safety and welfare of City and County residents and being in accord with the public purposes and provisions of the applicable state laws and requirements under which development of the Project Area is undertaken.

H. The Parties desire to enter into and record this Agreement to evidence and assure that the parking rights and easement in and to the Parking Structure accrue and perpetually are available to Agency, County and the public as provided in the Development Agreement and this Agreement.

AGREEMENT:

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Section 1. **Grant of Public Easements**. Conditioned on full and timely performance of all of Agency's funding obligations under the Development Agreement, Grantor hereby **grants, conveys and warrants** to Agency and County, and their respective successors and assigns, for the use and benefit of the general public, the following perpetual, irrevocable easements (the "*Public Easements*") on the Parking Structure and the surrounding Project Area:

(a) *Public Parking*.

(i) An exclusive easement for the general public to use the Parking Stalls as specified below:

(A) 80 of the Parking Stalls located on Parking Level 1 (the "*Exclusive Public Stalls*") shall be designated for exclusive use by the general public 24 hours per day, 365 days per year. Signage stating "CANYON PARKING ONLY. No Hotel/Office Parking," or other verbiage specified by Grantee, shall be placed by each of the Exclusive Public Stalls to clarify that such stalls may not be used by employees, customers or other users of the Office Unit or the Hotel Unit. Such signage, its size, color, letter font and placement, shall be subject to the prior reasonable approval of Grantee. The location of the 80 Exclusive Public Stalls may not be modified without Grantee's prior written consent; and

(B) Other Parking Stalls (the "*Nonexclusive Public Stalls,*" which term shall not include any of the Exclusive Public Stalls) in addition to the Exclusive Public Stalls shall be designated for use by the general public as follows:

(1) 137 of the Parking Stalls located on Parking Level 1 shall be available for Public Use (defined below) from 6:00 p.m. to midnight on business days and from 6:00 a.m. to midnight on weekends and federal or state holidays (excluding Columbus Day and Veterans Day); and

(2) An additional 65 of the Parking Stalls located on Parking Level 2 shall be available for Public Use on weekends and federal or state holidays (excluding Columbus Day and Veterans Day), with 40 of those stalls designated for Public Use from 6:00 a.m. to midnight, and the remaining 25 of those stalls designated for Public Use from 6:00 a.m. to 6:00 p.m.

The 24/7/365 public use times for the Exclusive Public Stalls and the above-specified public use times for the Nonexclusive Public Stalls are collectively referred to herein as the "*Public Use Times.*"

(ii) The Exclusive Public Stalls, and the Nonexclusive Public Stalls during the Public Use Times, as described above are referred to herein as the "*Public Stalls.*" The location and grouping of the Public Stalls are depicted on the shared parking plan (the "*Shared Parking Plan*") which is attached hereto as **ATTACHMENT NO. 2** to this Agreement. In this Agreement, the term "*Public Use*" means use of the Public Stalls as provided in this Section 1(a).

(iii) In order to reduce congestion in Big Cottonwood Canyon and Little Cottonwood Canyon, use of the 80 Exclusive Public Stalls shall be reserved for members of the general public who are then visiting those canyons and shall not be available for use by owners, tenants, occupants, customers, guests or invitees of any Unit except to the extent, and for the

duration, that such persons are then visiting those canyons. Grantee may modify the scope of permissible Public Use of the Exclusive Public Stalls beyond solely parking for canyon visitors by written resolutions enacted by both Agency and County. Grantee also may, at its cost, erect access gates, ticketing/payment booths or kiosks, or other similar improvements in an appropriate location in the Parking Structure to further prevent or discourage unauthorized use (defined below) of the 80 Exclusive Public Stalls, subject to the Condominium Association's input and prior approval, which may not be withheld, delayed or conditioned unreasonably. Grantee also shall have the right to enforce against unauthorized use of the 80 Exclusive Public Stalls through ticketing, towing, "booting" or other commercially reasonable enforcement methods, with the resulting proceeds belonging solely to Grantee ("*Enforcement Methods*"). In this Agreement, "*unauthorized use*" means use of Parking Stalls by a user or in a manner that is not specifically authorized by this Agreement and the Shared Parking Plan.

During the Public Use Times, Public Use of the Nonexclusive Public Stalls (A) shall include use by members of the general public when taking advantage of the Condominium Project amenities, while visiting the Park, or while visiting the nearby canyons, (B) shall include use by visitors or customers of the Units other than lodging guests of the Hotel Unit (who are provided with adequate parking under the Master Parking Agreement), but (C) shall not include owners, tenants, occupants, or employees of any Unit or a business conducted within any Unit. Notwithstanding the foregoing, however, Grantee may, in its sole discretion, grant in writing a Unit Owner's written request for a temporary license to use certain Nonexclusive Public Stalls for employee parking during certain Public Use Times.

All users of the Public Stalls shall pay the same Parking Fees. The Condominium Association (or its replacement as the manager of the Parking Structure under the Condominium Declaration and/or the Master Parking Agreement), in consultation with Grantee, shall take such steps as may be reasonably available to prevent and/or to penalize unauthorized use of the Nonexclusive Public Stalls; provided that if notwithstanding such steps Grantee reasonably suspects a pattern of unauthorized use of the Nonexclusive Public Stalls, then Grantee may so inform the Condominium Association in writing and, following at least ten days after the giving of such notice, Grantee may institute Enforcement Methods for its own benefit which are reasonably designed to cause offenders to avoid, remedy and/or cease unauthorized use of the Nonexclusive Public Stalls. Grantee's use of Enforcement Methods as to the Nonexclusive Public Stalls shall be undertaken in a phased manner proceeding from least to most severe only as reasonably deemed necessary by Grantee, in consultation with the Condominium Association, to accomplish Grantee's goal of eliminating unauthorized use of the Nonexclusive Public Stalls.

The 80 Exclusive Public Stalls, and the Nonexclusive Public Stalls during the Public Use Times, shall not be considered to be available to meet the parking needs of any Unit(s) of the Condominium Project, or of any other portions of the Project, when analyzing the availability of adequate parking to meet City's requirements in connection with any land use application concerning such other Unit(s) or portion. To further reduce the possibility of non-public use of the Public Stalls by employees of the Office Unit, there shall be no uses or leases of the Office Unit requiring, in the aggregate taking into account all such uses and leases, use or allocation of over four and one-half (4.5) Parking Stalls per 1,000 square feet of leasable floor area, measured under applicable City parking standards.

The Condominium Association shall cause the Hotel Unit and the Office Unit to adopt and consistently follow policies and procedures whereby the owners, tenants, occupants, customers,

guests and invitees of those Units regularly are given clear instructions on when and where to park in the Parking Structure in a manner that will not impair the public's rights to exclusive use of the 80 Exclusive Public Stalls at all times or of the Nonexclusive Public Stalls during the Public Use Times. The Condominium Association may also develop, adopt and consistently follow policies and procedures whereby the public is regularly given clear instructions on when and where to park in the Parking Structure in a manner that will not impair the rights of the Unit owners to utilize the Parking Stalls that are not Public Stalls hereunder or at times other than the Public Use Times at the time set forth in the Shared Parking Plan.

(b) *Ingress, Egress and Travel*. A non-exclusive easement across the Project Area and within the Parking Structure for ingress and egress, and pedestrian and vehicular travel, associated with public use of the Public Stalls hereunder.

Section 2. **Parking Management Committee**. If the Condominium Association creates any committee, board or other body under the Master Parking Agreement, under the Condominium Declaration, or otherwise, for the purpose of managing the Parking Structure (the "*Parking Management Committee*"), Agency or its designee shall permanently have a voting membership seat on such body. If the Condominium Association does not delegate such management function to a Parking Management Committee, then Agency or its designee shall be entitled to receive prior notice of, and the right to attend and give input in, all Condominium Association meetings where operation of the Parking Structure and the public use thereof is to be discussed.

Section 3. **Public Parking Fees**. The fees for public parking in the Parking Structure shall be set from time to time by the Condominium Association or the Parking Management Committee, as applicable, in a manner that promotes, rather than discourages, public parking in the Parking Structure and in an amount that results in income from the Public Stalls in an amount sufficient to pay up to 20% of "Parking Assessments" pursuant to and as defined in the Master Parking Agreement. Notwithstanding the foregoing, the fees charged for public use of any Public Stall may not at any time exceed the lesser of (i) the average fee for public parking in three comparable parking structures outside the central business district (i.e., 400 West to 200 East, inclusive, between North Temple and 600 South, inclusive) of downtown Salt Lake City, as reasonably designated by Agency, or (ii) 75% of the average fee for public parking in three comparable parking structures within the central business district of downtown Salt Lake City, as reasonably designated by Agency, or (iii) $1.50 per hour, adjusted for any changes in the Consumer Price Index between the date of this Agreement and the date of the proposed adjustment to such public parking fees. As used herein, "*Consumer Price Index*" shall mean the consumer price index published by the United States Department of Labor, Bureau of Labor Statistics, U.S. City Average, All Items and Major Group Figures for Urban Wage Earners and Clerical Workers (1982-84=100). Should the Bureau of Labor Statistics discontinue the publication of said index, or publish the same less frequently, or alter the same in some other manner, then the Agency shall use as a reference a substitute index or substitute procedure which reasonably reflects and monitors consumer prices. Further, if the base year "(1982-84=100)" or other base year used in computing the Consumer Price Index is changed, the figures used in making the rental adjustments required herein shall be changed accordingly so that all increases in the Consumer Price Index are taken into account notwithstanding any such change in the base year. The designation of "comparable parking structures" pursuant to (i) and (ii) above will be subject to the prior notice to and input from the Condominium Association. The provisions of this Section 3 shall not impair Grantee's

right to employ Enforcement Methods and to retain the proceeds thereof as provided in Section 1 of this Agreement.

Section 4. **Maintenance, Repair and Replacement**. The Condominium Association perpetually shall, or shall cause, the Parking Structure to be maintained in a good, attractive and usable condition for the benefit of, *inter alia*, Grantee and the public in their ownership, use and enjoyment of the Public Easements under this Agreement. Neither Agency, County nor the public shall have any maintenance, repair or replacement obligations concerning the Parking Structure notwithstanding their ownership, use and enjoyment of the Public Easements, the Parties acknowledging that the Purchase Price is fair and adequate consideration for, *inter alia*, exculpation of Grantee from any and all responsibility for the future costs of maintaining, repairing or replacing the Parking Structure. Instead, all short-term and long-term maintenance, repair and replacement of the Parking Structure shall be the responsibility of or otherwise assured by the Condominium Association, and shall be governed by the Condominium Declaration and/or the Master Parking Agreement which will impose on the Condominium Association or the Unit Owners **all** costs and expenses of maintenance, repair and replacement of the Parking Structure; provided, however, that the portion of the Tax Increment that is specifically designated in the "Distribution Chart" attached to the Development Agreement for use in operation and maintenance of the Parking Structure shall be available to defray those costs and expenses and further provided that, except for monies derived from Grantee's use of Enforcement Methods as provided above (which shall belong to Grantee), all parking fees received from use of the Public Stalls shall be received by the Condominium Association and used in connection with such costs and expenses.

Section 5. **Duration**. The Public Easements granted herein shall be perpetual in duration.

Section 6. **Covenants Run with Land**. The Public Easements shall (a) create an equitable servitude on the Project, including Lot 2 and the Parking Structure, in favor of Grantee; (b) constitute a covenant running with the land; (c) bind every person having any fee, leasehold or other interest in any portion of the Project at any time or from time to time; and (d) inure to the benefit of and be binding upon the Parties and their respective successors and their assigns.

Section 7. **Assignment**. Each of Agency and County freely may assign its rights and/or delegate its duties under this Agreement to other governmental entities acting on behalf of the general public, including an interlocal entity such as a public parking authority or agency. The assignor shall notify the other Parties in writing of any such assignment/delegation. No such assignment/delegation shall relieve the Assignor of the responsibility to ultimately assure full and timely performance of its obligations hereunder.

Section 8. **Default and Remedies**. In the event of any breach of this Agreement by a Party, the non-breaching Party may give the breaching Party written notice describing the breach and ten days in which to cure. Should the breaching Party fail to cure such breach within the ten day cure period, the non-breaching Party may pursue any and all the remedies available to it at law or in equity, including specific performance.

Section 9. **Recordation**. This Agreement shall be recorded in the office of the Salt Lake County Recorder before any transfer of a Unit from Grantor or, if none has by then occurred, upon completion of construction of the Parking Structure, as provided in the Development Agreement.

Section 10. **Estoppel Certificate**. Within 10 business days after request, each party shall furnish to the other party, for use by such party and/or potential buyers, lenders, and tenants, a statement describing any alleged breaches of this Agreement, or if none, so stating, and such other matters relating to this Agreement as may be reasonably requested.

Section 11. **General Provisions**. The following provisions are also integral parts of this Agreement:

(a) *Binding Agreement*. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective Parties.

(b) *Captions*. The headings used in this Agreement are inserted for reference purposes only and shall not be deemed to define, limit, extend, describe, or affect in any way the meaning, scope or interpretation of any of the terms or provisions of this Agreement or the intent hereof.

(c) *Counterparts*. This Agreement may be signed in any number of counterparts with the same effect as if the signatures upon any counterpart were upon the same instrument. All signed counterparts shall be deemed to be one original.

(d) *Severability*. The provisions of this Agreement are severable, and should any provision hereof be void, voidable, unenforceable or invalid, such void, voidable, unenforceable, or invalid provision shall not affect the other provision of this Agreement.

(e) *Waiver of Breach*. Any waiver by either party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of or consent to any subsequent breach of this Agreement.

(f) *Amendment*. This Agreement may not be materially modified except by an instrument in writing signed by the Parties, the Condominium Association, the owner of the Hotel Unit and the owner of the Office Unit.

(g) *Time of Essence*. Time is the essence in this Agreement.

(h) *Interpretation; Venue*. This Agreement shall be interpreted, construed, and enforced according to the substantive laws of the state of Utah. In any action brought to enforce the terms of this Agreement, the Parties agree that the appropriate venue is the Third Judicial District Court in and for Salt Lake County, Utah.

(i) *Notices*. Any notice or other communication required or permitted to be given hereunder shall be deemed to have been received:

(i) Upon personal delivery or actual receipt thereof; or

(ii) Within three (3) days after such notice is deposited in the United States mail, certified mail postage prepaid and addressed to the parties at their respective addresses specified above or any substitute or additional address(es) previously specified by a Party to the other Parties by written notice.

(j) *Exhibits and Recitals*. The Recitals set forth above and all exhibits to this Agreement are incorporated herein to the same extent as if such items were set forth herein in their entirety within the body of the Agreement.

(k) *Governmental Immunity*. Agency and County are governmental entities under the Governmental Immunity Act, UTAH CODE ANN. Section 63G-7-101 *et. seq.* (the "*Immunity Act*"). Consistent with the terms of the Immunity Act, the Parties agree that each Grantee is responsible and liable for the wrongful or negligent acts which it commits or which are committed by its agents, officials, or employees. Neither Grantee waives any defenses or limits of liability otherwise available under the Immunity Act and all other applicable law, and each Grantee maintains all privileges, immunities, and other rights granted by the Immunity Act and all other applicable laws.

(l) *Attorney's Fees*. In the event any action or proceeding is taken or brought by a Party against another Party concerning this Agreement, the prevailing Party shall be entitled to recover its costs and reasonable attorneys' fees, whether such sums are expended with or without suit, at trial, on appeal or in any bankruptcy or insolvency proceeding.

DATED effective __ _____ 201_.

GRANTOR:

CANYON CENTRE CAPITAL, LLC,
a Utah limited liability company

By: **CW MANAGEMENT CORP.,**
a Utah corporation, its Manager

By:_____
Chris McCandless, President

STATE OF UTAH)
:ss.
COUNTY OF SALT LAKE)

On this ___ day of _____ 201_, personally appeared before me **Chris McCandless**, who duly acknowledged to me that he signed the foregoing agreement as the President of **CW Management Corp.**, a Utah corporation acting in its capacity as the manager of **Canyon Centre Capital, LLC**.

_____
Notary Public

CONDOMINIUM ASSOCIATOIN:

THE CANYON CENTRE CONDOMINIUM ASSOCIATION, a Utah non-profit corporation

By: _____
_____, President

STATE OF UTAH)
:ss.
COUNTY OF SALT LAKE)

On this ___ day of _____ 201_, personally appeared before me _____, who duly acknowledged to me that he signed the foregoing agreement as the President of **THE CANYON CENTRE CONDOMINIUM ASSOCIATION**, a Utah non-profit corporation.

_____
Notary Public

GRANTEE:

AGENCY:

ATTEST:

COTTONWOOD HEIGHTS COMMUNITY DEVELOPMENT AND RENEWAL AGENCY

By:_____
Paula Melgar, Secretary

By: _____
Michael J. Peterson, Chairman

STATE OF UTAH)
:ss.
COUNTY OF SALT LAKE)

On this ___ day of _____ 201_, personally appeared before me **Michael J. Peterson** and **Paula Melgar**, who duly acknowledged to me that they signed the foregoing agreement as the Chairman and the Secretary, respectively, of the **Cottonwood Heights Community Development and Renewal Agency**.

_____
Notary Public

COUNTY:

SALT LAKE COUNTY

By: _____
Mayor or Designee

STATE OF UTAH)
:ss.
COUNTY OF SALT LAKE)

On this ____ day of _____ 201_, personally appeared before me _____, who being duly sworn, did say that (s)he is the _____ of Salt Lake County, Office of Mayor, and that the foregoing instrument was signed on behalf of **Salt Lake County** by authority of law.

_____
Notary Public

ATTACHMENT NO. 1

(Attach Legal Descriptions of the Project Area, Lot 2 and the Parking Structure)

AS OF FEBRUARY 27, 2018, THIS EXHIBIT HAS YET TO BE COMPLETED

ATTACHMENT NO. 2

(Attach Shared Parking Plan)

Canyon Centre Condominium Shared Parking Plan

Cottonwood Heights City, Utah

30-Dec-17

Contents:

1. Shared Parking Plan

2. Site Plan showing surface parking rights

3. Weekend and Holiday Parking Stall Allocation

4. Weekday Parking Stall Allocation

5. Weekday Evening Parking Stall Allocation

6. Weekend Evening Parking Garage Stall Allocation (P2 Only)

Canyon Centre Condominium Shared Parking Plan

Cottonwood Heights City, Utah

30-Dec-17

Shared Parking Plan - Summary Chart

(Chart totals include surface and parking garage stalls)

Canyon Centre Condominium Shared Parking Plan

Cottonwood Heights City, Utah

30-Dec-17

Lot Two Parking Required (Standard)

Use	*Quantity*	*Peak Ratio*	*Required*
2A. Hotel	154	0.75	116
2D. Restaurant	5500	0.01	55
2E. Retail	3300	0.005	17
2B. Office	65000	0.004	260
2F. Retail	3300	0.005	17

Total	465
Total Required	**465**

Lot Two Parking Provided

Land Use	*Qty*
Structure (Level P3)	55
Structure (Level P2)	145
Structure (Level P1)	217
Office 1 (surface)	17
Unrestricted surface stalls	0
Retail (2 Units surface only)	36
Restaurant (surface only)	55
Hotel (surface)	46
Total Parking Provided	**571**

417 Parking Structure stalls

Canyon Centre: Lot Two Shared Parking Analysis (Parking Garage and Surface Stalls)

Weekday

Year-Round Uses		Mon-Fri 8 am-6 pm		Mon-Fri 6 pm-12 am		Mon-Fri 12 am-8 am	
Lot Two Parking Calculations Only							
Land Use	*Qty*	*%*	*Spaces*	*%*	*Spaces*	*%*	*Spaces*
Hotel	116	71%	126	133%	154	133%	154
Restaurant/Retail (surface stalls)	92	100%	92	100%	92	100%	92
Office 1	260	105%	273	27%	70	27%	70
Total	468		491		316		316
			Peak				

Weekend and Holidays

Sat & Sun 6am-6pm		Sat & Sun 6 pm-12 am		Sat & Sun 12 am-8 am	
%	*Spaces*	*%*	*Spaces*	*%*	*Spaces*
83%	126	133%	151	100%	151
100%	92	100%	92	100%	92
27%	70	27%	70	27%	70
	288		313		313
			Peak		

Public Parking Uses/Allocation:						
Non-exclusive shared stalls available to public	*0*	137	137	*202*	*178*	0
Dedicated canyon recreation garage stalls (24/7)	80	80	80	80	80	0
Parking stalls available to public in the time periods:	80	217	217	282	258	0

Notes:

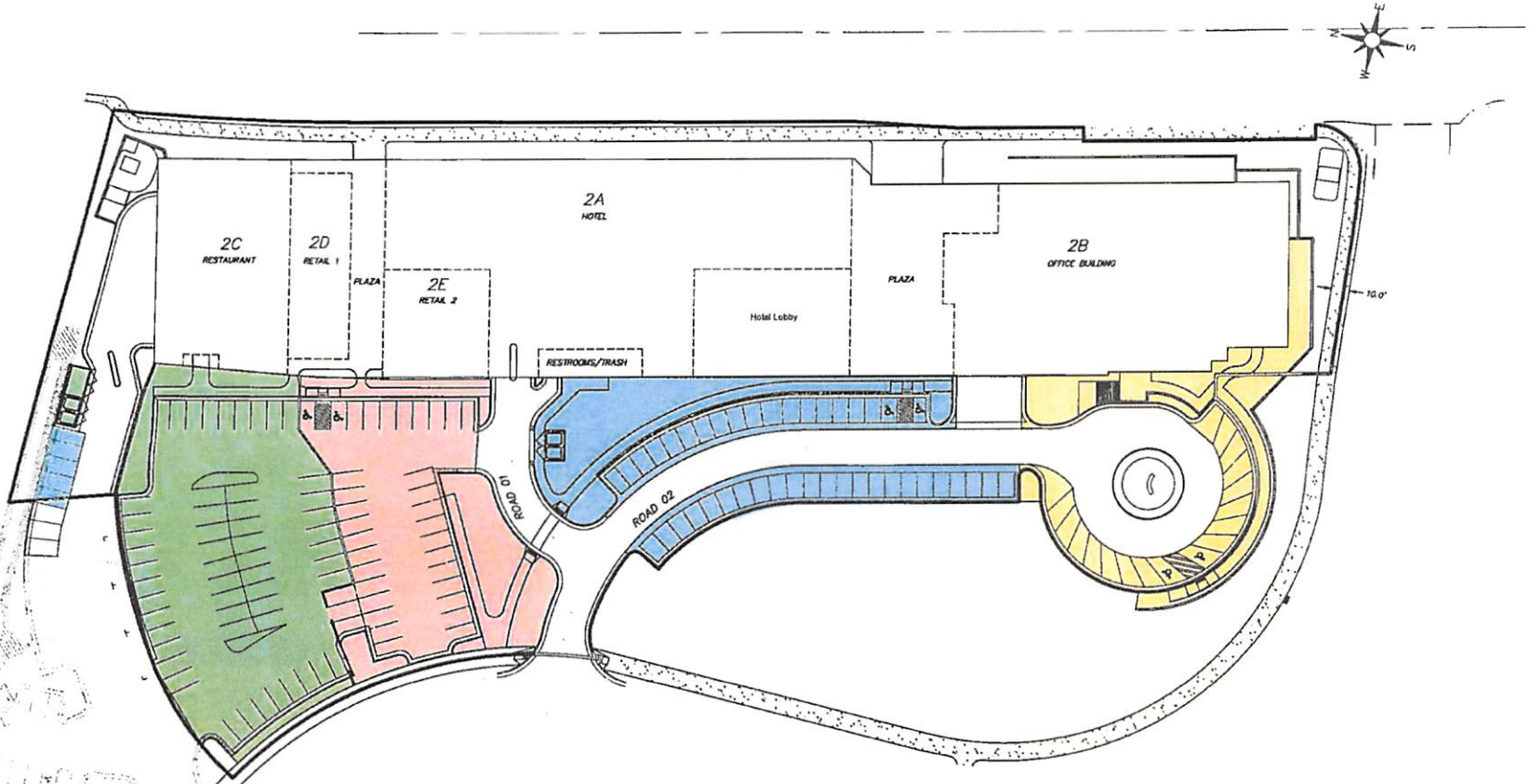
1) Eighty of the P1 parking stalls as shown on the Plan are dedicated for use by Canyon Recreationalist only (24/7).
2) There are 46 nearby hotel surface stalls shown on the site plan but it is expected the Hotel will chose to will lose four of the stalls to allow fo a pullout or walkthough area for customer's checking into or registering at the hotel.
3) Twenty-five of the public P2 Stalls allocated for use on Weekends and Holidays (not including the 80 exclusive Hotel stalls) become available to the Hotel as defined in the Development Agreement from 6PM.
4) The Hotel stall guests that are parked in one of the 25 P2 public stalls after 6PM shall be given lattitude to remain parked in those stalls beyond the 6AM time until hotel check out times on Weekends and Holidays.
5) No overnight canyon recreationalist or public parking is permitted from 12am-6am.

Canyon Centre Condominium Shared Parking Plan

Cottonwood Heights City, Utah

30-Dec-17

Site Plan Showing Surface Parking Rights



CANYON CENTER PHASE 1
PARKING EXHIBIT

PREPARED FOR: CHRIS McCANDLESS

DATE SUBMITTED: 08/15/2017

PERIGEE CONSULTING
CIVIL · STRUCTURAL · SURVEY

DATE:
TIME:
NETWORK:
PATH:
DWG NAME:
LAYOUT:
DESIGNER:
MGR:

SHEET NUMBER
EXHIBIT

JOB NUMBER
00127

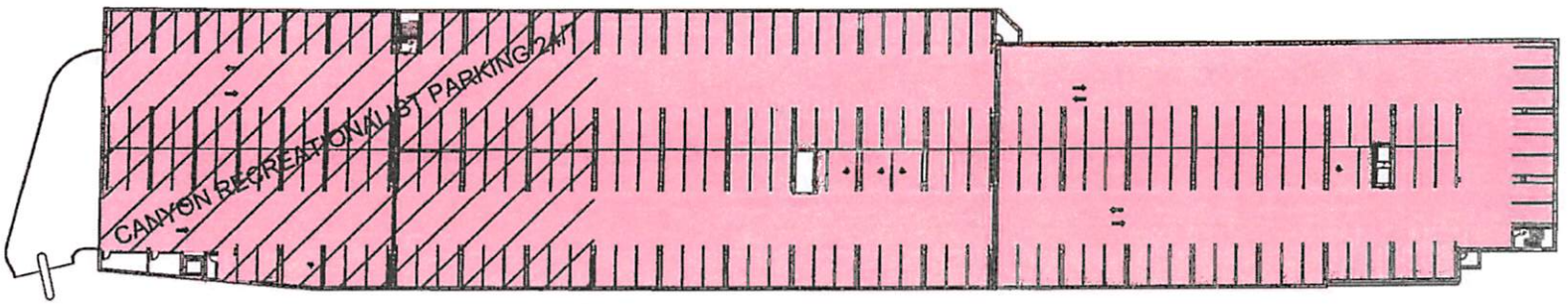
XREFS:

Canyon Centre Condominium Shared Parking Plan

Cottonwood Heights City, Utah

30-Dec-17

Weekend and Holiday Parking Stall Allocations



P1 PARKING GARAGE STALL USE:

UNIT NUMBER	STALL COUNT	OWNED	EASEMENT
UNIT 2A - HOTEL	0		
UNIT 2B - OFFICE	0		
UNIT 2C - RESTAURANT	0		
UNIT 2D - RETAIL	0		
UNIT 2E - RETAIL	0		
P1 PUBLIC STALLS	217		X

SCALE 1"=50'

CANYON CENTRE CONDOMINIUM SHARED PARKING PLAN-WEEKEND & HOLIDAY

LEVEL P1 - PARKING STALL ALLOCATION - 6AM - 12AM

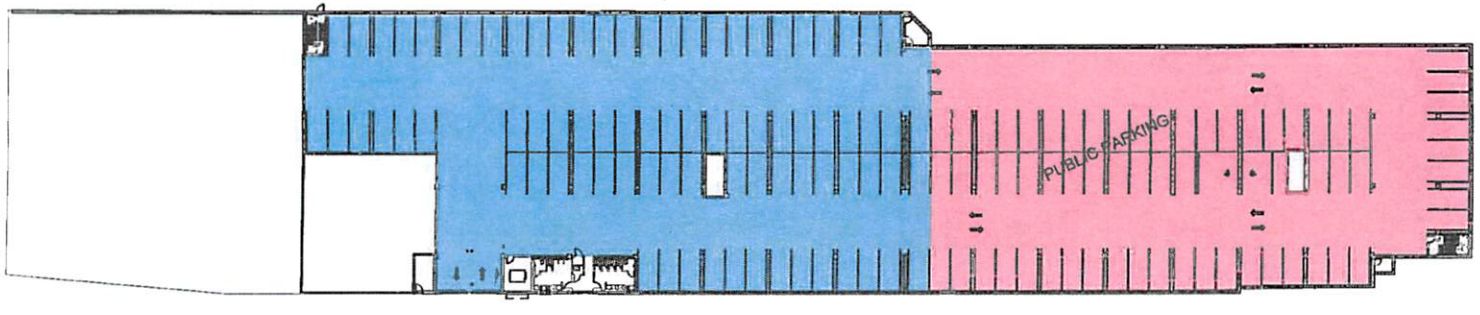
PERIGEE CONSULTING
CIVIL - STRUCTURAL - SURVEY

DATE: TIME:
NETWORK:
PATH:
DWG NAME:
LAYOUT:
DESIGNER: MDR:

SHEET NUMBER

JOB NUMBER 00127

XREFS:



P2 PARKING GARAGE STALL USE:

UNIT NUMBER	STALL COUNT	OWNED	EASEMENT
UNIT 2A - HOTEL	80	X	
UNIT 2B - OFFICE	0		
UNIT 2C - RESTAURANT	0		
UNIT 2D - RETAIL	0		
UNIT 2E - RETAIL	0		
P2 PUBLIC STALLS	65		X

SCALE 1"=50'

CANYON CENTRE CONDOMINIUM SHARED PARKING PLAN-WEEKEND & HOLIDAY

LEVEL P2 - PARKING STALL ALLOCATION - 6AM - 6PM

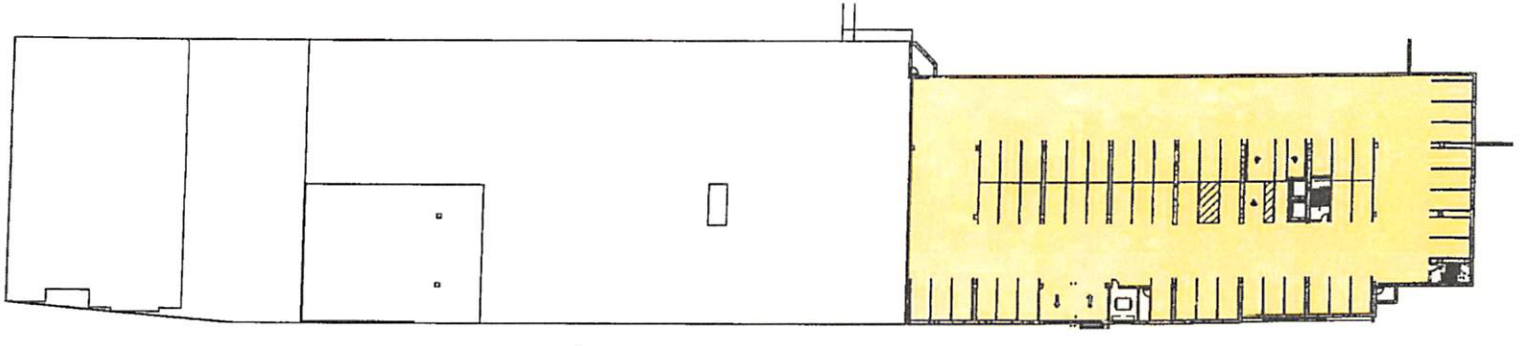
PERIGEE CONSULTING
CIVIL - STRUCTURAL - SURVEY

DATE:
TIME:
NETWORK:
PATH:
DWG NAME:
LAYOUT:
DESIGNER:
MGR:

SHEET NUMBER

JOB NUMBER
00127

XREFS:



P3 PARKING STALLS USE:

UNIT NUMBER	STALL COUNT	OWNED	EASEMENT
UNIT 2A - HOTEL	0		
UNIT 2B - OFFICE	55		X
UNIT 2C - RESTAURANT	0		
UNIT 2D - RETAIL	0		
UNIT 2E - RETAIL	0		
P2 PUBLIC STALLS	0		

SCALE 1"=50'

CANYON CENTRE CONDOMINIUM SHARED PARKING PLAN-WEEKEND & HOLIDAY

LEVEL P3 - PARKING STALL ALLOCATION - 8AM - 6PM

PERIGEE CONSULTING
CIVIL • STRUCTURAL • SURVEY

DATE: TIME:
NETWORK:
PATH:
DWG NAME:
LAYOUT: MDR:
DESIGNER:

SHEET NUMBER

JOB NUMBER 00127

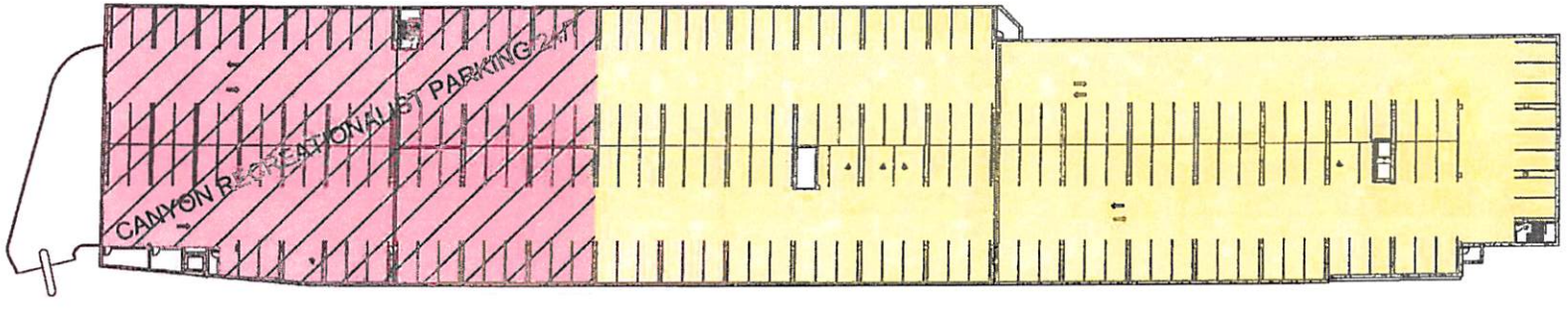
XREFS:

Canyon Centre Condominium Shared Parking Plan

Cottonwood Heights City, Utah

30-Dec-17

Weekday Parking Garage Stall Allocation



P1 PARKING GARAGE STALL USE:

UNIT NUMBER	STALL COUNT	OWNED	EASEMENT
UNIT 2A - HOTEL	0		
UNIT 2B - OFFICE	137		X
UNIT 2C - RESTAURANT	0		
UNIT 2D - RETAIL	0		
UNIT 2E - RETAIL	0		
P1 PUBLIC STALLS	80		X

SCALE 1"=50'

CANYON CENTRE CONDOMINIUM SHARED PARKING PLAN-WEEKDAY

LEVEL P1 - PARKING STALL ALLOCATION - 6AM - 6PM

PERIGEE CONSULTING
CIVIL - STRUCTURAL - SURVEY

DATE: TIME:
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LAYOUT: MDPL
DESIGNER:

SHEET NUMBER

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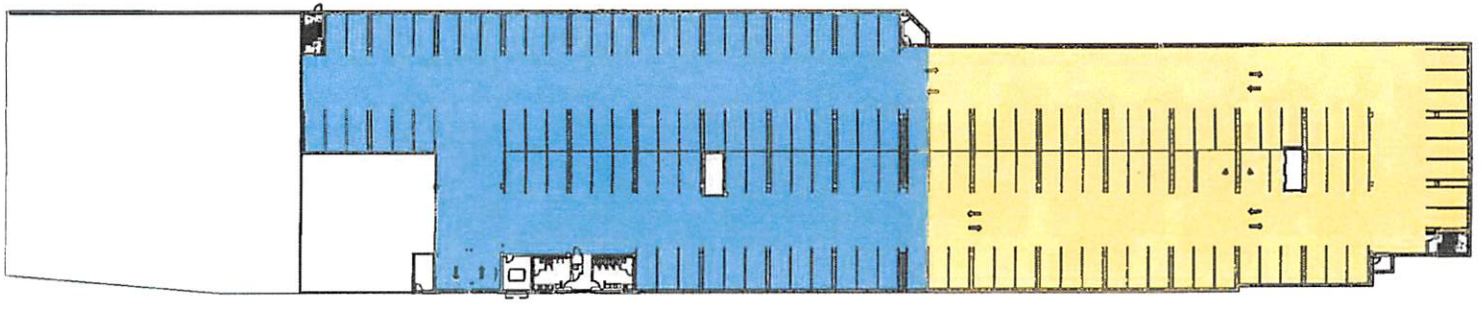

P2 PARKING GARAGE STALL USE:

UNIT NUMBER	STALL COUNT	OWNED	EASEMENT
UNIT 2A - HOTEL	80	X	
UNIT 2B - OFFICE	65		X
UNIT 2C - RESTAURANT	0		
UNIT 2D - RETAIL	0		
UNIT 2E - RETAIL	0		
P2 PUBLIC STALLS	0		

SCALE 1"=50'

CANYON CENTRE CONDOMINIUM SHARED PARKING PLAN-WEEKDAY

LEVEL P2 - PARKING STALL ALLOCATION - 8AM - 6PM

PERIGEE CONSULTING
CIVIL · STRUCTURAL · SURVEY

DATE: TIME:
NETWORK:
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LAYOUT:
DESIGNER: MGR:

SHEET NUMBER

JOB NUMBER 00127

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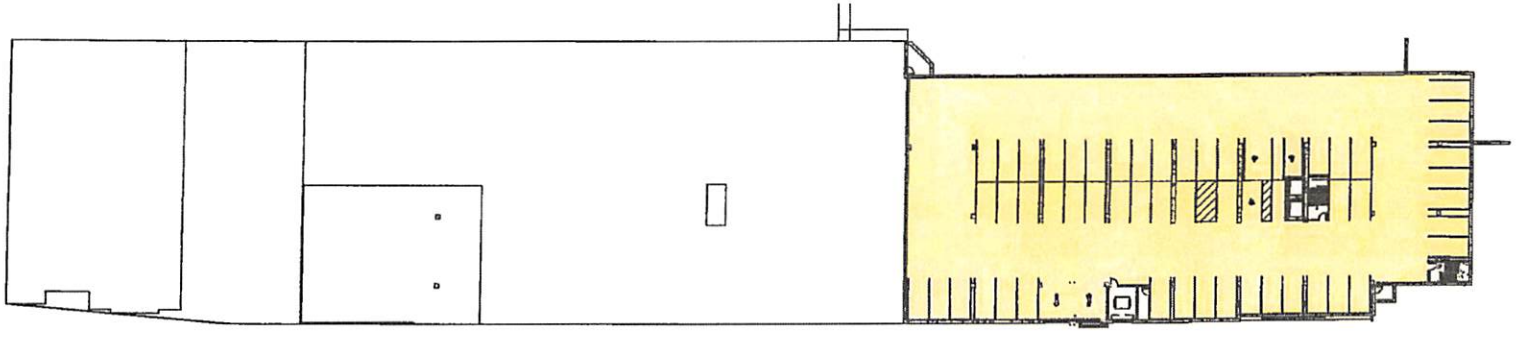


P3 PARKING GARAGE STALL USE:

UNIT NUMBER	STALL COUNT	OWNED	EASEMENT
UNIT 2A - HOTEL	0		
UNIT 2B - OFFICE	55	X	
UNIT 2C - RESTAURANT	0		
UNIT 2D - RETAIL	0		
UNIT 2E - RETAIL	0		
P2 PUBLIC STALLS	0		

SCALE 1"=50'

CANYON CENTRE CONDOMINIUM SHARED PARKING PLAN-WEEKDAY

LEVEL P3 - PARKING STALL ALLOCATION - 8AM - 6PM

PERIGEE CONSULTING
CIVIL - STRUCTURAL - SURVEY

DATE: TIME:
NETWORK:
PATH:
DWG NAME:
LAYOUT:
DESIGNER: MDR:

SHEET NUMBER

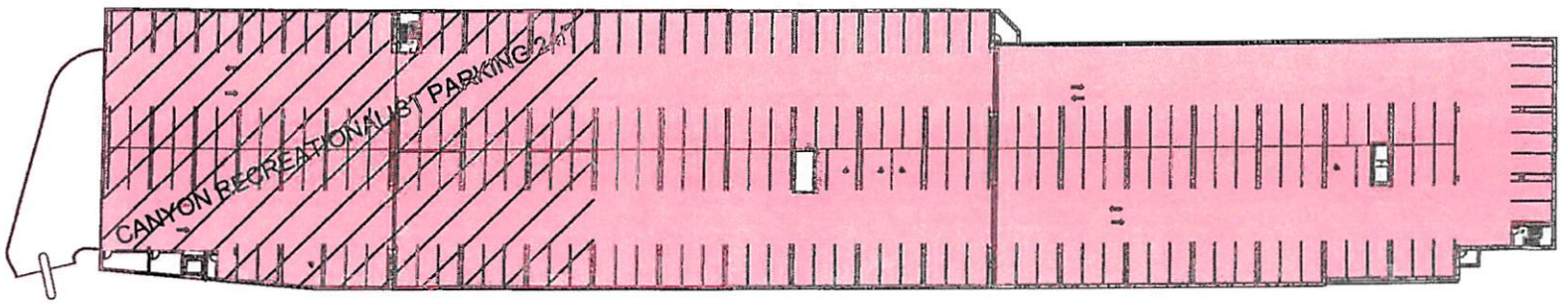
JOB NUMBER 00127

Canyon Centre Condominium Shared Parking Plan

Cottonwood Heights City, Utah

30-Dec-17

Weekday Evening Parking Garage Stall Allocation



P1 PARKING GARAGE STALL USE:

UNIT NUMBER	STALL COUNT	OWNED	EASEMENT
UNIT 2A - HOTEL	0		
UNIT 2B - OFFICE	0		
UNIT 2C - RESTAURANT	0		
UNIT 2D - RETAIL	0		
UNIT 2E - RETAIL	0		
P1 PUBLIC STALLS	217		X

SCALE 1"=50'

CANYON CENTRE CONDOMINIUM SHARED PARKING PLAN-WEEKDAY EVENING

LEVEL P1 - PARKING STALL ALLOCATION - 6PM - 8AM

PERIGEE CONSULTING
CIVIL - STRUCTURAL - SURVEY

DATE: TIME:
NETWORK:
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DWG NAME:
LAYOUT:
DESIGNER: MGR:

SHEET NUMBER

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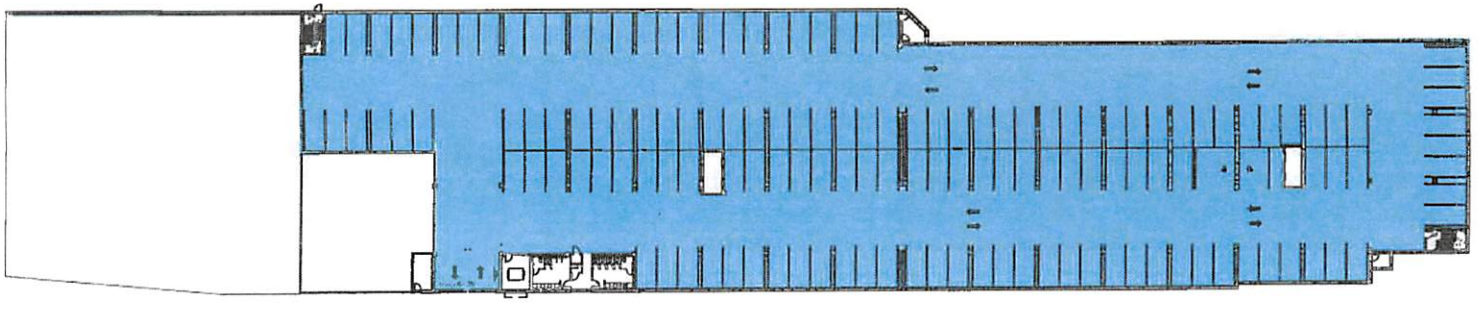

P2 PARKING GARAGE **STALL USE:**

UNIT NUMBER	STALL COUNT	OWNED	EASEMENT
UNIT 2A - HOTEL	145	X	
UNIT 2B - OFFICE	0		
UNIT 2C - RESTAURANT	0		
UNIT 2D - RETAIL	0		
UNIT 2E - RETAIL	0		
P2 PUBLIC STALLS	0		

SCALE 1"=50'

CANYON CENTRE CONDOMINIUM SHARED PARKING PLAN-WEEKDAY EVENING

LEVEL P2 - PARKING STALL ALLOCATION - 6PM - 8AM

PERIGEE CONSULTING
CIVIL · STRUCTURAL · SURVEY

DATE:
TIME:
NETWORK:
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DWG NAME:
LAYOUT:
DESIGNER:
MGR:

SHEET NUMBER

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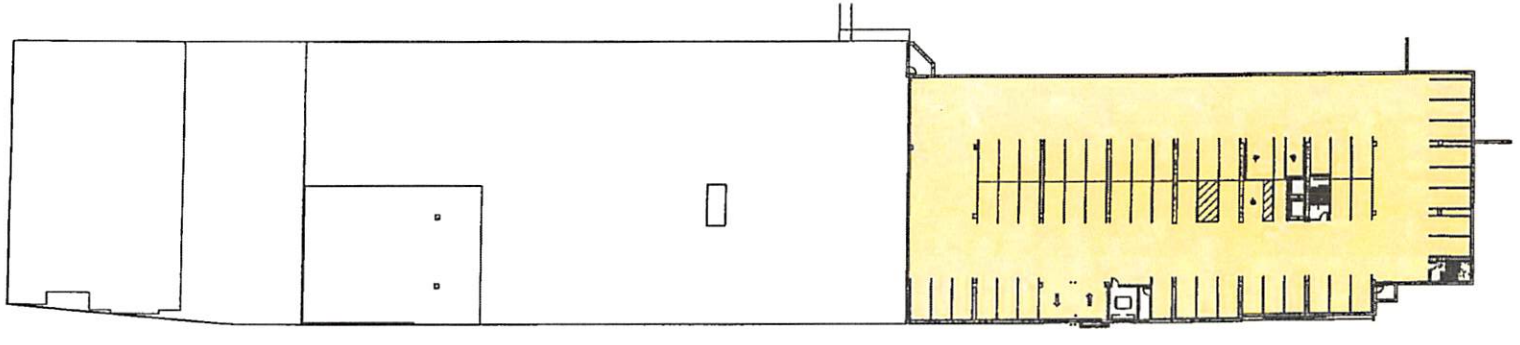


P3 PARKING GARAGE STALL USE:

UNIT NUMBER	STALL COUNT	OWNED	EASEMENT
UNIT 2A - HOTEL	0		
UNIT 2B - OFFICE	55	X	
UNIT 2C - RESTAURANT	0		
UNIT 2D - RETAIL	0		
UNIT 2E - RETAIL	0		
P2 PUBLIC STALLS	0		

SCALE 1"=50'

CANYON CENTRE CONDOMINIUM SHARED PARKING PLAN-WEEKDAY EVENING

LEVEL P3 - PARKING STALL ALLOCATION - 6PM - 8AM

PERIGEE CONSULTING
CIVIL - STRUCTURAL - SURVEY

DATE:
TIME:
NETWORK:
PATH:
DWG NAME:
LAYOUT:
DESIGNER:
MDR:

SHEET NUMBER

JOB NUMBER
00127

XREFS:

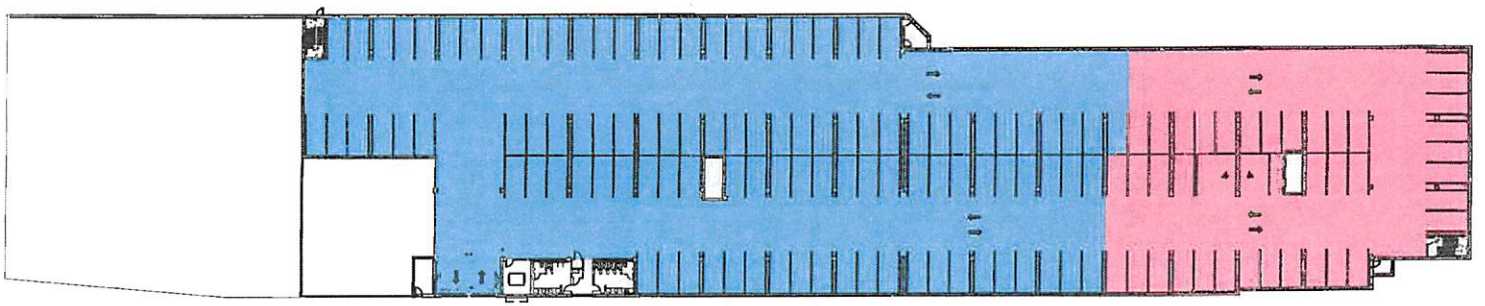
Canyon Centre Condominium Shared Parking Plan

Cottonwood Heights City, Utah

30-Dec-17

Weekend Evening Parking Garage Stall Allocation

(Affects Level P2 only)



P2 PARKING GARAGE STALL USE:

UNIT NUMBER	STALL COUNT	OWNED	EASEMENT
UNIT 2A - HOTEL	105	X	
UNIT 2B - OFFICE	0		
UNIT 2C - RESTAURANT	0		
UNIT 2D - RETAIL	0		
UNIT 2E - RETAIL	0		
P2 PUBLIC STALLS	40		

N E S W

SCALE 1"=50'

CANYON CENTRE CONDOMINIUM SHARED PARKING PLAN-WEEKEND EVENING

LEVEL P2 - PARKING STALL ALLOCATION - 6PM - 6AM

PERIGEE CONSULTING
CIVIL · STRUCTURAL · SURVEY

DATE: TIME:
NETWORK:
PATH:
DWG NAME:
LAYOUT: MGR:
DESIGNER:

SHEET NUMBER

JOB NUMBER 00127

XREFS:

EXHIBIT B
Public Parking Easement Agreement

See Public Parking Easement Agreement attached to Amendment No. 1 to Interlocal Cooperation Agreement dated November 8, 2011, above.

EXHIBIT B
Public Parking Easement Agreement

EXHIBIT C
Master Parking Agreement

EXHIBIT C
Master Parking Agreement

WST 2.14.2018 Redline of SB 2.09.2018 Clean Version

When Recorded Return to:
Scott R. Sabey
FABIAN VANCOTT
215 South State Street, Suite 1200
Salt Lake City, Utah 84111

MASTER PARKING AGREEMENT

FOR

CANYON CENTRE PARKING STRUCTURE

_____, 2017

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MASTER PARKING AGREEMENT
FOR
CANYON CENTRE (PHASE I, LOT 2)

THIS MASTER PARKING AGREEMENT FOR CANYON CENTRE (Phase I, Lot 2), is executed this ___ day of _____, 201_ by CANYON CENTRE, LLC, a Utah limited liability company.

RECITALS

A. Developer is the owner of a certain parcel of real property known as Lot 2 of the Canyon Centre Subdivision located in the City of Cottonwood Heights, Salt Lake County, Utah, more particularly described in **"Attachment 1"**, attached hereto (the **"Condominium Property"**) upon which Developer intends to develop an integrated retail, commercial and hotel project (the **"Condominium Project"**).

B. Developer, as declarant, has recorded the Condominium Declaration against the Condominium Property.

C. The Condominium Project will include an underground parking structure more particularly depicted on the Shared Parking Plan attached hereto as **"Attachment 2"**.

D. By this Master Parking Agreement (the **"Agreement"**), Developer intends to establish the terms, procedures and plan for the operation of the Parking Structure as a single, integrated parking facility and to create the Committee to implement the terms and conditions set forth herein.

NOW, THEREFORE, Developer does hereby declare, as owner of all of the Units in the Condominium Project, and on behalf of all future owners of the Units, that this Agreement and the terms, covenants, restrictions, limitations, and conditions herein shall constitute covenants that run with the land and shall be binding on and be for the benefit of the Developer, its successors and assigns and all parties having or acquiring any right, title or interest in and to the Units and all or any portion of the Condominium Project, and the respective heirs, successors and assigns of such parties.

ARTICLE I
DEFINITIONS

When used in this Condominium Declaration (including the **"Recitals"** set forth above), the following terms shall have the meanings indicated.

1. **Defined Terms**. Unless the context clearly indicates otherwise, capitalized terms used in this Agreement without further definition and not defined herein are defined in this Article I. Unless the context requires otherwise, the masculine, feminine and neuter genders and the singular and the plural shall be deemed to include one another, as appropriate.

"Allocated Percentage" shall mean the percentage of Parking Expenses and Capital Expenditures to be charged to the Hotel Unit and the Office Unit as set forth in Section 4.4(c) below and assessed to each of the Hotel Unit and the Office Unit.

"Annual Assessments" shall include Annual Parking Assessments and annual assessments for Capital Expenditures as set forth in Section 4.6.2 of this Agreement.

"Annual Parking Expenses" shall have the meaning set forth in Section 4.6.2 of this Agreement.

"Available Hours" shall mean the total number of parking space hours available within the Parking Structure during a defined period.

"County" shall mean Salt Lake County, Utah.

"Bank" has the meaning set forth in Section 4.6.5.

"Budget" shall have the meaning set forth in Section 4.1 of this Agreement.

"Canyon Centre Project" shall mean the Canyon Center mixed use project that is the subject of the Master Declaration.

"Capital Expenditures" means all capital expenditures for Capital Improvements to the Parking Structure which are permitted to be made by the Committee pursuant to or in compliance with this Agreement.

"Capital Improvement" shall have the meaning set forth in Section 4.3 of this Agreement. The term shall not include routine maintenance and replacement of the Parking Structure.

"Capital Reserve Account" shall have the meaning set forth in Section 4.5 of this Agreement.

"CHCDRA" shall mean and refer to the Cottonwood Heights Community Development and Renewal Agency.

"City" shall mean and refer to the city of Cottonwood Heights.

"Committee" shall mean and refer to the committee described in Article II of this Agreement.

"Condominium Association" shall refer to THE CANYON CENTRE CONDOMINIUM ASSOCIATION, the membership of which shall include each Owner of a Unit in the Condominium Project.

"Condominium Declaration" shall mean and refer to the Declaration of Condominium for Canyon Centre recorded _____, 20___ as Entry No. _____ in Book _____ at Pages __- through_____ of the official records of the Salt Lake County Recorder, as such declaration may be, as the same may hereafter be amended, and supplemented.

"Condominium Plat" shall mean the record of survey map of the Condominium Property submitted with respect to the Condominium Project in the official records of the Salt Lake County and all amendments thereto.

"Condominium Project" shall mean and refer to Lot 2 of the Canyon Centre Project subject to the Master Declaration, together with all improvements to be located on the Condominium Property and the plan of development and ownership of the Condominium Property.

DRAFT

"Condominium Property" shall mean and refer to the entire tract of real property now or hereafter covered by the Condominium Plat. A description of the real property covered by the Condominium Plat on the effective date of this Condominium Declaration is set forth in Attachment 1.

"Consumer Price Index" shall have the meaning set forth in Section 3.2(a) of this Agreement.

"Consumptive Use" shall mean the total number of hours (with each partial hour being counted as a full hour) that vehicles operated by or associated with a guest, patron, tenant or user of a certain Unit occupies a parking space in the Parking Structure during the defined period of time divided by the Available Hours for that same time period.

"County" shall mean and refer to Salt Lake County.

"Developer" shall mean and refer to Canyon Centre Capital, LLC, a Utah limited liability company.

"Default Rate" shall mean that rate of interest which shall be determined in accordance with the provisions of Section 4.6.5 and which shall be required to be paid in accordance with the provisions of this Agreement.

"Development Agreement" shall mean the "Development Agreement" covering the Canyon Centre Project between Developer and the CHCDRA recorded on _____ 2017 as Entry No. _____, starting at Page _____ in Book _____, of the official records of the Salt Lake County Recorder.

"Environmental Laws" means the Clean Air Act. 42 U.S.C. § 7401 et seq.; the Federal Water Pollution Control Act of 1977, 33 U.S.C. § 1251 et seq.; as amended by the Water Quality Act of 1987; FIFRA; the Marine Protection, Research and Sanctuaries Act of 1972, 33 U.S.C. § 1401 et seq.; the National Environmental Policy Act of 1969, 42 U.S.C. § 1431 et seq.; the Noise Control Act of 1972, 42 U.S.C. § 4901 et seq.; the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. § 300f et seq.; CERCLA, as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. § 11001, and the Radon Gas and Indoor Air Quality Research Act of 1986, 42 U.S.C. § 7401; RCRA; TSCA; AEA; and NWPA, all as may be amended, with implementing regulations and guidelines. Environmental Laws shall also include all federal, state, regional, county, municipal and other local laws, regulations, and ordinances insofar as they are equivalent or similar to the federal laws above or purport to regulate (now or in the future) Hazardous Material.

"Exclusive Public Stalls" shall mean 80 contiguous Public Stalls in the Parking Structure which are reserved for use by members of the general public who are then visiting Big Cottonwood Canyon or Little Cottonwood Canyon; provided that CHCDRA and County may modify the scope of permissible public use of the Exclusive Public Stalls beyond solely parking for canyon visitors by written resolutions enacted by both those public entities. In order to reduce congestion in Big Cottonwood Canyon and Little Cottonwood Canyon, the Exclusive Public Stalls shall not be available for use by owners, tenants, occupants, customers, guests or invitees of any Unit except to the extent, and for the duration, that such persons are then visiting those canyons. To that end, signage stating "CANYON PARKING ONLY. No Office/Hotel Parking," or similar, shall be placed by each of the Exclusive Public Stalls to clarify that such stalls may not be used by employees, customers or other users of the Office Unit or the Hotel Unit. Such signage, and its placement, shall be subject to CHCDRA's and County's prior reasonable approval.

"GAAP" means generally accepted accounting principles at the time in question.

"Hazardous Material" means any hazardous substance, pollutant or contaminant regulated under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq. ("CERCLA"; oil and petroleum products and by-products and natural gas, natural gas liquids, liquified natural gas and synthetic gas usable for fuel, urea formaldehyde foam insulation and chlorofluorocarbons; pesticides regulated under the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. § 136 et seq. ("FIFRA"); asbestos, polychlorinated biphenyl and other substances regulated under the Toxic Substances Control Act, as amended, 15 U.S.C. § 2601 et seq. ("TSCA"); chemicals subject to the Occupational Safety and Health Standards, Hazard Communication, 29 C.F.R. § 1910.1200, as amended; source material, special nuclear by-product materials, and any other radioactive materials or radioactive wastes, however produced, regulated under the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2011 et seq. ("AEA"); or the Nuclear Waste Policy Act of 1982, as amended, 42 U.S.C. § 10101 et seq. ("NWPA"); industrial process and pollution control wastes, whether or not hazardous within the meaning of the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. § 6901 et seq. ("RCRA"); and any other hazardous substance, pollutants or contaminant that is regulated or becomes regulated under any other Environmental Laws.

"Hotel Stalls" shall mean the stalls that shall be designated and reserved for use by the Hotel Unit in the Shared Parking Plan attached hereto as Attachment 2, which stalls are subject to the Condominium Declaration, and some of which are subject to the Public Easement and the Office Easement and the rights and obligations set forth therein.

"Hotel Unit" shall mean the Unit indicated as Unit 2A and 2A-1 on the Condominium Plat, which shall include the **"Hotel Podium"** above the Parking Structure on which the Hotel will be constructed, together with Parking Level 2 including approximately 145 Parking Stalls, some of which are subject to the Public Easement and/or the Office Easement as more particularly set forth in the Shared Parking Plan, and subject to the financial obligation for use and maintenance of the Hotel Stalls.

"Interest Rate" shall mean that rate of interest which shall be determined in accordance with the provisions of Section 4.6.5 and which shall be required to be paid in accordance with the provisions of this Agreement.

"Limited Common Area" means those areas depicted on the Condominium Plat as Limited Common Areas and will include the surface parking stalls and plazas related to a specific Condominium Unit.

"Manager" shall mean and refer to the person, firm, or company, if any, designated from time to time by the Committee to manage the Parking Structure pursuant to this Agreement.

"Master Declaration" shall mean that certain Master Declaration of Covenants, Conditions and Restrictions for Canyon Centre recorded April 15, 2015 as Entry No. 12033926 _____in Book _____ at Pages ___through ____ of the official records of the Salt Lake County Recorder, as such declaration may be supplemented or amended.

"Member" shall mean and refer to each member of the Committee.

"Monthly Assessments" shall have the meaning set forth in Section 4.6.1 of this Agreement.

"Monthly Parking Expenses" shall have the meaning set forth in Section 4.6.1 of this Agreement.

"Office Easement" shall mean the easement granted by the Hotel Unit to the Office Unit to convey the right for the Office Unit to use Parking Level 2 as set forth in the Shared Parking Plan.

"Office Stalls" shall mean those Parking Stalls within the Office Unit, which stalls are subject to the Condominium Declaration, and some of which are subject to the Public Easement and the rights and obligations set forth therein, together with those Parking Stalls within the Hotel Unit that are subject to the Office Easement, which are designated and reserved for use by the Office Unit as set forth in the Shared Parking Plan attached hereto as Attachment 2.

"Office Unit" shall mean the Unit indicated as Unit 2B and 2B-1 on the Condominium Plat, which shall include the **"Office Podium"** above the Parking Structure on which the Office Building will be constructed, together with Parking Levels 1 and 3, together with the right to use the Public Stalls on the same terms and conditions as other members of the public, and subject to the financial obligation for use and maintenance of the Office Stalls.

"Owner" shall mean the person or persons, including the Developer, owning in fee simple a Unit in the Condominium Project, as such ownership is shown by the records of the County Recorder of Salt Lake County, State of Utah.

"Park" shall mean the Park indicated on the Master Plan to be contained within Lot One of the Canyon Centre Subdivision Plat and to be improved as set forth in the Declaration.

"Parking Assessments" shall mean charges imposed or levied by the Committee against Owners for Monthly Parking Expenses and Annual Parking Expenses.

"Parking Expense Account" means the separate bank account opened by the Committee as the operating account for the Parking Structure, and which shall be used exclusively for operating expenses and as further permitted herein.

"Parking Expenses" shall mean and refer to those costs and expenses arising out of or connected with the maintenance, operation, repair and replacement of the Parking Structure.

"Parking Fees" shall have the meaning set forth in Section 3.2 of this Agreement.

"Parking Level" shall mean each of P1, P2 and P3 as depicted on the Shared Parking Plan.

"Parking Level P1" shall mean the lowest level of the Parking Structure, as depicted on Attachment 2, and owned as part of the Office Unit, containing approximately 217 Parking Stalls and subject to the Public Easement, the form of which is attached hereto as **"Attachment 3"**.

"Parking Level P2" shall mean the middle level of the Parking Structure as depicted on Attachment 2, owned as part of the Hotel Unit, containing approximately 145 Parking Stalls, and subject to both the Office Easement and the Public Easement.

"Parking Level P3" shall mean the upper level of the Parking Structure as depicted on Attachment 2, owned as part of the Office Unit, and containing approximately 55 Parking Stalls, and subject to the Public Easement.

"Parking Revenue" shall have the meaning set forth in Section 3.3 of this Agreement.

"Parking Stalls" means all of the parking stalls within the Parking Structure.

"Parking Structure" shall mean the Parking Structure to be constructed within the Condominium Project by Developer and to be operated, maintained and used as set forth herein. The Parking Structure will include the foundations, walls, decks, supporting columns and other load-bearing components, elevators, stairs, electrical stair systems, if any, restroom facilities, any utility system (including, without limitation, HVAC, electrical or plumbing systems), striping, fire sprinkler systems and any and all other aspects or components now or hereafter constructed or located within the Parking Structure, but expressly excludes the Podium to the extent the Podium is included in a Condominium Unit pursuant to the Condominium Declaration.

"Permittee" means any customer, patron, employee, tenant, concessionaire or other business invitee of any Unit Owner.

"Person" shall include any entity, as applicable.

"Podium" means the foundation of all of the Condominium Units which is also the ceiling of the parking structure below. The only physical part of the parking structure included in the Condominium Units is the portion of the Podium, if any, that is the footprint of the applicable Unit and which, accordingly, is not a part of the Parking Structure.

"Public Easement" shall mean the Public Parking Easement Agreement recorded against the Canyon Centre Project, including Lot 2 and Units 2A-2, 2B-1 and 2B-3 of the Condominium Project, on _____ __, 2017 as Entry No. _____ _____in Book _____ at Pages ___through ____ of the official records of the Salt Lake County Recorder, the form of which is attached hereto as **"Attachment 3"**, and the perpetual, irrevocable and exclusive easements benefitting the public thereunder. This Agreement, the Master Declaration and the Condominium Declaration are and forever shall be subject and subordinate to the Public Easement despite the fact that the Public Easement may be recorded in the office of the Recorder of Salt Lake County, Utah after, for example, the Master Declaration and the Condominium Declaration.

"Public Entity" shall mean the CHCDRA, the City, the County, or any other public entity or public agency which then owns or controls any part of the Public Easement.

"Public Stalls" shall mean the 80 Exclusive Public Stalls together with the 137-202 (the specific number depending on the particular Public Use Time) non-Exclusive Public Stalls in the Parking Structure which are subject to the Public Easement, as more particularly described in the Development Agreement and the Public Easement and as shown on the Shared Parking Plan.

"Public Use" shall have the same meaning set forth in the Public Easement.

"Public Use Times" shall have the meaning set forth in the Public Easement.

"Reserve Analysis" shall mean an analysis to determine (a) the need for a reserve fund to accumulate funds to cover the cost of repairing, replacing, and restoring the Parking Structure that has a useful life of three years or more, but excluding any cost that can reasonably be funded from the Budget; and (b) the appropriate amount of any reserve fund.

"Reference Rate" shall have the meaning set forth in Section 4.6.5 of this Agreement.

"Restaurant Unit" shall mean the Unit indicated as Unit 2C on the Condominium Plat and will include the Restaurant Podium and the right to use the Public Stalls on the same terms and conditions as other members of the public.

"Restaurant/Retail Units" shall mean collectively the Restaurant Unit and the Retail Units on the Condominium Plat.

"Retail Units" shall mean the Units indicated as Unit 2D and 2E on the Condominium Plat and will include the applicable Retail Podium and the right to use the Public Stalls on the same terms and conditions as other members of the public.

"Rules and Regulations" shall mean standards for the occupancy and use of the Parking Structure and other matters related to the administration and management of the Parking Structure which may be adopted and amended from time to time by the Committee.

"Shared Parking Plan" shall mean the parking plan attached hereto as **Attachment 2**.

"Tax Increment" shall have the meaning set forth in the Development Agreement.

"Total Stalls" shall have the meaning set forth in Section 3.1(a) of this Agreement.

"Unit" shall mean and refer to any of the separately numbered and individually described Condominium Units now or hereafter shown on the Condominium Plat.

ARTICLE II
MANAGEMENT COMMITTEE

2.1 **Formation of Committee.** A parking management committee has been organized by the Condominium Association to take all actions necessary or appropriate for the purpose of managing and operating the Parking Structure as provided in this Agreement (the **"Committee"**). The Committee is composed of a Member appointed by each of the CHCDRA or successor Public Entity, the Owner of the Hotel Unit and the Owner of the Office Unit, or the successor owners of such Units, together with two (2) additional Members to be selected by the foregoing appointed Members. Membership in the Committee shall be conveyed automatically to the transferee of the Hotel and Office Units, and upon such transfer, the transferee shall be entitled to appoint a Member of the Committee, and the transferor's prior appointee shall no longer be a Member.

2.2 **Purpose of Committee.** The Committee shall, through the Manager, cause the usage of stalls in the Parking Structure to be monitored and accounted for as directed by the Committee and as required by the Public Easement. All parking will be governed by Rules and Regulations established by the Committee.

2.3 **Governance of the Committee**

2.3.1 **Voting Rights of Members.** Each Member shall have one vote with respect to all matters to be approved by the Committee.

2.3.2 **Approval and Consents.** Unless otherwise specifically provided in this Agreement, any provision of this Article that requires the affirmative vote or written consent of the Members shall be deemed satisfied by the following:

(1) "Majority" means the affirmative vote of at least three (3) of the Members present, in person or by proxy, at a meeting duly called and noticed hereunder and at which at least four (4) Members are present;

(2) "Super Majority Vote" means the affirmative vote of at least four (4) of the Members present, in person or by proxy, at a meeting duly called and noticed hereunder and at which at least four (4) Members are present; and

(3) in lieu of the vote of a Member required under Sections 2.3.1 and 2.3.2 above, Members may consent to the proposed action in a writing signed by a Majority or Super Majority, as the case may be.

2.4 **Specific Powers and Obligations of the Committee**. Except as otherwise provided in this Agreement, and without limiting the requirements for approval of the Members set forth in this Agreement, the Committee shall have the power:

2.4.1 and the obligation to employ the Manager as follows:

(1) The Committee, acting by a Super Majority Vote, shall employ the Manager under written contract to perform certain services on behalf of the Committee, including, without limitation, management, maintenance, repair and operation of the Parking Structure. The Committee may require appropriate fidelity bond coverage for the Manager and for any officer, employee and agent of the Manager who handles any funds hereunder.

(2) The Committee, acting by a Super Majority Vote, may by such written contract delegate in whole or in part to the Manager the duties, responsibilities, functions and powers of the Committee set forth in this Section 2.4. The services of the Manager shall be a Parking Expense; and

(3) The contract with the Manager shall provide that the Committee may terminate the contract of the Manager for cause immediately upon written notice, or for any reason or no reason upon thirty (30) days' prior written notice;

2.4.2 but not the obligation to resolve all disputes concerning membership in the Committee, such resolution to be approved by a Super Majority Vote;

2.4.3 and the obligation to enforce the provisions of this Article;

2.4.4 but not the obligation, to borrow such funds as may be required in connection with the discharge by the Committee of its powers and duties under this Agreement at then-prevailing market rates and on commercially reasonable terms, all as approved by a Super Majority Vote;

2.4.5 and the obligation, to obtain either directly or indirectly obtain such insurance coverage as may be required by this Agreement or as the Committee otherwise deems reasonably necessary, including, without limitation, a policy insuring the members of the Committee against any

liability for their errors and omissions arising from performance of their duties for the Committee, if available and at commercially reasonable rates;

2.4.6 and the obligation, to adopt, amend and repeal Rules and Regulations;

2.4.7 but not the obligation, to enter into contracts, leases and/or other written instruments or documents otherwise within the powers of the Committee, and to authorize the execution and delivery of any such instruments or documents by the appropriate representatives of the Committee;

2.4.8 and the obligation, to open a bank account or accounts on behalf of the Committee for the sole purpose of operating and maintaining the Parking Structure (the "**Parking Expense Account**") and to designate the signatures therefore;

2.4.9 but not the obligation, to bring, prosecute and settle litigation for itself, provided that it will make no settlement which results in a liability against the Committee in excess of Ten Thousand Dollars ($10,000) without the prior approval of a Super Majority Vote and further provided that it will make no settlement resulting in any liability against a Member without that Member's approval;

2.4.10 but not the obligation, to own, purchase or lease, hold and sell or otherwise dispose of, on behalf of the Owners, items of personal property necessary or convenient to the management of the business and affairs of the Committee and in the operation of the Parking Structure, including, without limitation, fixtures, maintenance equipment and office supplies;

2.4.11 and the obligation, to keep adequate and proper books and records, including financial statements, required by this Agreement;

2.4.12 and the obligation, to do all other acts necessary for the operation of the Committee and the operation and maintenance of the Parking Structure.

2.5 **Matters Requiring Majority Approval**. A Majority shall be required to approve or consent to any matter not explicitly requiring the approval of a Super Majority under this Agreement, including, without limitation, the following matters:

2.5.1 adoption of a Budget, but only if the budgeted expenditures pursuant to such Budget are, in the aggregate, less than one hundred twenty percent (120%) of the budgeted expenditures under the Budget for the prior year;

2.5.2 adoption of the Rules and Regulations;

2.5.3 adoption of an amendment to this Agreement;

2.5.4 approval of any item of expense not included in the Budget which is in excess of Ten Thousand Dollars ($10,000) in 2017 and thereafter Adjusted Annually by the Cost of Living Index;

2.5.5 establishing Assessments to Owners for Capital Expenditures in addition to the Capital Reserve Account.

2.6 **Matters Requiring Super Majority Approval**. Notwithstanding any other provisions of this Agreement to the contrary, a Super Majority shall be required to approve or consent to any matters

which, by the terms of this Agreement, explicitly require a Super Majority Vote including, without limitation, the following matters:

2.6.1 the Budget, but only if the budgeted expenditures pursuant to such Budget are, in the aggregate, equal to or greater than one hundred twenty percent (120%) of the budgeted expenditures under the Budget for the prior year;

2.6.2 a revised Assessment pursuant to Article IV below;

2.6.3 selection of the Manager and approval of the terms of the contract for the Manager;

2.6.4 selection of an expert for annual inspection of the Parking Structure;

2.6.5 modification of the system for the distribution of parking passes, collection of Parking Revenue, expenditures including the determination of the number of validations to be issued in respect of a stall and the process for allocation and distribution of validations; and

2.6.6 a Capital Improvement with a cost exceeding Fifty Thousand Dollars ($50,000.00).

2.7 **Matters Affecting Only One Parking Level**. Notwithstanding anything in Section 2.6 or elsewhere in this Agreement to the contrary, action may be taken by an Owner of a Parking Level, without any vote or approval of any other Owner; provided that (i) such action is necessary or desirable, in the sole discretion of such Owner in connection with such Owner's obligation to provide parking to its tenants or users, and (ii) such action does not materially and adversely affect any lease or easement holder of the subject stalls or impair the ownership, use, enjoyment or operation of any other Parking Level or the Parking Structure generally; and further provided that such action does not reduce the access to or number of Parking Stalls on such Parking Level.

2.8 **Arbitration of Committee Decisions**. If the Members cannot agree on any matter which requires the approval of a Super Majority Vote, a Majority may elect to submit such dispute to Arbitration; provided, disputes relating to a determination to amend this Agreement shall not be submitted to arbitration. In the event a dispute arises as to a matter requiring Super Majority Vote which involves the payment of an Assessment for work previously performed and billed to the Committee or relates to an emergency expenditure approval by a Majority, each Owner shall pay such Assessment pending the resolution of the dispute by Arbitration. If it is determined as a result of such dispute resolution that an Owner was not required to pay the Assessment(s) it paid, the Committee shall permit such Owner to offset future Assessments by the amounts the Owner paid pending the dispute resolution, together with a reasonable interest rate, with the result that such Owner is permitted to recover its actual cost for paying an Assessment(s) pending the dispute resolution. Alternatively, the Members may submit the question of appropriate reimbursement procedures to Arbitration.

If an Owner disputes a determination made pursuant to this Article II that special requirements of such Owner's use of its Parking Level pursuant to an easement or lease, results in an expenditure being appreciably higher than it otherwise would be in connection with an office building or a hotel, as the case may be and thus result in a higher Assessment to such Owner, such Owner may elect to submit such dispute to Arbitration.

2.9 **Audit**. Annually, or at the request of any Owner, the Committee shall cause an audit to be conducted to determine Consumptive Use of the Parking Stalls. The Committee shall also cause an audit of its books and records to be conducted periodically, but not more frequently than annually, and certified by a certified public accounting firm and delivered to the Owners. In addition, at its sole cost, any Owner shall have the right, of ten (10) days' prior written notice to the Committee, to audit the Committee's books and records during normal business hours. The Owner requesting an audit shall reimburse the Committee for any reasonable costs the Committee may incur in cooperating with such audit unless such audit is conducted by auditors reasonably acceptable to the Committee and such audit discloses that such Owner's proper Assessment for the accounting period involved should have been at least five percent (5%) less than the Assessment the Committee actually levied to such Owner, or such Owner's proper revenue share with respect to the Parking Structure should have been at least five percent (5%) greater than the share actually paid to such Owner, in which case the Committee shall reimburse the auditing Owner for its reasonable costs in conducting the audit. Notwithstanding anything to the contrary in this Agreement, the financial records of the Committee for a Fiscal Year shall be deemed correct and may not be challenged by an Owner after the last day of the third Fiscal Year following such Fiscal Year.

ARTICLE III
USAGE OF PARKING STRUCTURE, IMPOSITION AND COLLECTION OF PARKING FEES

3.1 **Designation of Parking Stall Use**.

(a) The Parking Structure shall contain three levels and an anticipated total of no fewer than 415 parking stalls (the "**Total Stalls**"). Each Parking Level will be owned by one of the Unit Owners. The Owner of the Hotel Unit will own Parking Level P2 with approximately 145 Parking Stalls and the Owner of the Office Unit will own Parking Levels P1 and P3 with approximately 217 and 55 Parking Stalls, respectively. The use of all Parking Stalls will be monitored at the gates of the Parking Structure as vehicles exit the Parking Structure. The Developer will erect access gates, ticketing/payment booths or kiosks, or other similar improvements in the Parking Structure to aid in controlling access to and use of the Parking Structure as provided herein and in the Condominium Declaration. Use of the Parking Stalls will be signed and allocated as set forth at the times and in the locations depicted in the Shared Parking Plan and as follows:

(i) 80 of the Parking Stalls shall be the Exclusive Public Stalls, designated (and so-marked) for exclusive use by the general public 24 hours per day, 365 days per year as provided above, and 137-202 (the specific number depends on the particular Public Use Time) of the other Parking Stalls shall be non-Exclusive Public Stalls designated for use by the general public during the Public Use Times as set forth in the Easement Agreement and the Shared Parking Plan (together, the "**Public Stalls**"). The location and grouping of the Public Stalls is also depicted in the Shared Parking Plan. Use of the 80 Exclusive Public Stalls is limited as provided above, and use of the 137-202 non-Exclusive Public Stalls during the Public Use Times is limited to Public Use.

(ii) Notwithstanding anything in this Agreement to the contrary, the number of Exclusive Public Stalls may not be reduced to less than 80 and the number of non-Exclusive Public Stalls may not be reduced to less than 137-202 (the specific number depending on the particular Public Use Time). Otherwise, the numbers of available Parking Stalls set forth in this Agreement may be modified as a result of design, site, or other plan changes during the course of construction or use. In the event of a modification, the actual number of stalls shall be substituted in all calculations to be made under this Agreement. The basis for the foregoing parking stall use allocation is the Shared Parking Plan.

(iii) The Parking Stalls in the Parking Structure other than the Public Stalls during Public Use Times shall be available for use by tenants, employees, and users of the Hotel Unit, the Office Unit and the Restaurant/Retail Units at the times and in the locations set forth in the Shared Parking Plan. The Owner of the Hotel Unit shall grant the Office Easement to the Office Unit with respect to the Parking Stalls shown in the Shared Parking Plan.

(b) The Parking Stalls are subject to the Public Easement and the Office Easement, provided that the Office Easement shall be subordinate to the Public Easement. Pursuant to Section 57-8-6, Utah Code Annotated, the Owner from time to time of the Office Unit and the Hotel Unit are entitled to exclusive ownership and possession of such Units but may, under Section 57-8-4, Utah Code Annotated, and other applicable law, grant leases, easements and other rights therein to third parties for such consideration as such owner deems appropriate. Consequently, for valuable consideration, Developer, as owner of the Hotel Unit and the Office Unit and on behalf of all future owners of such Units has granted (i) the Public Easement for the benefit of the public and hereby further grants and conveys an easement for the ingress and egress of pedestrian and vehicular traffic in connection with use of the Public Stalls and (ii) the Office Easement for the benefit of the Office Unit and hereby further grants and conveys an easement for the ingress and egress of pedestrian and vehicular traffic in connection with use of the Office Stalls.

(c) The Public Stalls shall not be available for use by owners, tenants, occupants, customers, guests or invitees of any other Unit except in their capacity as members of the general public and when they are using the Public Stalls for a Public Use, and the Committee will take such steps as may be reasonably available to prevent and/or to penalize unauthorized use of the Public Stalls. Further, the Public Entity may utilize certain enforcement methods to better assure that the Public Stalls are only subject to Public Use during the Public Use Times as explained in the Public Easement and the Development Agreement, and the Committee may utilize certain enforcement methods to better assure the authorized use of the Parking Structure during the times and in the locations set forth in the Shared Parking Plan. The 80 Exclusive Public Stalls, and the 137-202 non-Exclusive Public Stalls during the Public Use Times, shall not be considered to be available to meet the parking needs of any Unit(s) of the Condominium Project, or of any other portions of the Canyon Centre Project, when analyzing the availability of adequate parking to meet City's requirements in connection with any land use application concerning such other Unit(s).

3.2 **Parking Fees.** An hourly or daily parking fee will be charged (**"Parking Fees"**) for the use of all Parking Stalls in the Parking Structure.

(a) The fees for public parking in the Parking Structure shall be set from time to time by the Committee or the Condominium Association in a manner that promotes, rather than discourages, public parking in the Parking Structure and in an amount that results in income from the Public Stalls in an amount sufficient to pay 20% of Parking Assessments; provided, however, that the fees charged for public use of any Public Stall may not at any time exceed the lesser of (i) the average fee for public parking in three comparable parking structures outside the central business district (i.e., 400 West to 200 East, inclusive, between North Temple and 600 South, inclusive) of downtown Salt Lake City, as reasonably designated by CHCDRA, or (ii) 75% of the average fee for public parking in three comparable parking structures within the central business district of downtown Salt Lake City, as reasonably designated by CHCDRA, or (iii) $1.50 per hour, adjusted for any changes in the Consumer Price Index between the date of this Agreement and the date of the proposed adjustment to such public parking fees. As used herein, **"Consumer Price Index"** shall mean the consumer price index published by the United States Department of Labor, Bureau of Labor Statistics, U.S. City Average, All Items and Major Group Figures for Urban Wage Earners and Clerical Workers (1982-84=100). Should the Bureau of Labor

Statistics discontinue the publication of said index, or publish the same less frequently, or alter the same in some other manner, then the CHCDRA shall use as a reference a substitute index or substitute procedure which reasonably reflects and monitors consumer prices. Further, if the base year "(1982-84=100)" or other base year used in computing the Consumer Price Index is changed, the figures used in making the rental adjustments required herein shall be changed accordingly so that all increases in the Consumer Price Index are taken into account notwithstanding any such change in the base year. The designation of "comparable parking structures" pursuant to (i) and (ii) above will be subject to prior notice to and input from the Committee or the Condominium Association.

(b) The Committee may issue parking validations at the same cost as Parking Fees or as otherwise determined by the Committee. Such validations may be issued to the general public or the tenants, guests and invitees of any Unit.

(c) In consideration for payment of their Allocated Percentages, the Owner of the Office Unit is entitled to a credit against Parking Fees and Capital Expenditures for 24% of the Available Hours and the Owner of the Office Unit is entitled to a credit against Parking Fees and Capital Expenditures for 56% of the Available Hours.

3.3 **Parking Revenue**. Parking Fees, including revenue from the sale of parking validations, from all Parking Stalls constitute (**"Parking Revenue"**). The Hotel and Office Owners' share of Parking Revenue is the amount of Parking Revenue derived from rental of the Hotel Stalls and Office Stalls, as applicable, and is determined in accordance with the provisions of this Section 3.3. Parking Revenue from the Public Stalls is the amount of Parking Revenue derived from rental of the Public Stalls, also as determined in accordance with the provisions of this Section 3.3.

3.3.1 Parking control equipment, including gates, passes and validations, will be provided through a third party provider that will electronically track all vehicles entering into and exiting the various Parking Levels. Signage will also be used within the Parking Structure to designate parking rights and time frames. Parking Fees shall be determined pursuant to procedures determined by the Committee, acting by Super Majority Vote. The Committee shall establish such accounting and collection procedures as are reasonably required to allocate Parking Fees from each vehicle on an accurate, fair and equitable basis for such periods. In the event any Member objects to the procedures established by the Committee, such procedures shall be finally established by arbitration pursuant to Section 2.8.

3.3.2 All Parking Revenue shall be deposited into the Parking Expense Account. An Owner's share of Parking Revenue shall be based upon revenue arising from vehicles using such Owner's stalls as an owner, guest, tenant or other user or pursuant to a lease, lease or easement agreement.

3.3.3 At the end of each calendar year, the Committee shall first offset the credits set forth in Section 3.2(c) above against the Parking Expenses owed by the Hotel Unit and the Office Unit, collect all outstanding Parking Revenue, and then distribute all Parking Revenue received for the accounts of the Hotel Unit Owner and the Office Unit Owner to such Owner. No Parking Revenue derived from the Public Stalls will be disbursed to CHCDRA or any successor Public Entity, and any balance in the Parking Expense Account that was derived from the Public Stalls shall then be transferred into the Capital Reserve Account.

ARTICLE IV
BUDGET, PARKING EXPENSES, CAPITAL EXPENDITURES, CAPITAL RESERVES AND ASSESSMENTS

4.1 **Budget**. Parking Expenses and Capital Expenditures shall be determined on the basis of a calendar year beginning January 1 and ending December 31 next following; provided, however, that the first such year shall begin on the date that the Condominium Declaration is recorded and shall end December 31 of the following year. On or before September 1st of each year, the Manager shall prepare and furnish to the Committee or cause to be prepared and furnished to the Committee an operating budget for the upcoming calendar year (the "**Budget**"). The Budget shall itemize for the applicable year the estimated Parking Expenses, and anticipated Capital Improvement Expenses, anticipated revenue, if any, any estimated deficits or surpluses from the prior year, and any other detail as determined by the Committee. On or before October 1 of each year, the Committee shall provide the Budget to each Unit Owner and also provide a copy to the Condominium Association for information purposes only. The Budget shall serve as notice of and as the supporting document for the Assessments for the upcoming calendar year and as a guideline under which the Parking Structure shall be operated during such year.

4.2 **Parking Expenses**. Parking Expenses include all actual amounts expended for management and operation of the Parking Structure and associated accounting, maintenance, cleaning and janitorial services related to the Parking Structure, liability, property, errors and omissions insurance in connection with the Committee and such other insurance described in Section 5.6, security personnel and maintenance and repair of security systems, utilities; and any audit performed by the Committee if requested by an Owner, but not more frequently than once per year (which is separate from determination of Consumptive Use).

Notwithstanding the foregoing, in the event that a Parking Expense is appreciably higher than it otherwise would be required in connection with a parking facility operated in connection with an office building, due to the special requirements of an Owner or that Owner's special use of the Parking Structure, then the amount of such expenditure that is attributable to such nature or requirements shall be paid solely by such Owner. By way of example, but not in limitation of the foregoing, the incremental expenditures for security personnel and systems which are attributable to the particular nature and requirements of the Owner of the Hotel Unit shall be borne solely by the Hotel Unit. The determination of whether an expenditure should be specially allocated shall be made by a Super Majority Vote.

4.3 **Capital Expenditures for Parking Structure**. Capital Expenditures include all actual amounts expended for Capital Improvements. "**Capital Improvements**" means all improvements and replacements to the Parking Structure classified as capital in nature by GAAP and all of the following, however classified under GAAP: (i) major repairs to and replacement of vehicular access drives, underground stairwells up to the surface, card reader systems, ticket spitters, control gates, directional signage within the Parking Structure, security systems, and other areas and systems operated for the benefit of the entire Parking Structure; (ii) an annual inspection of the Parking Structure by an expert who shall be hired by the Committee, pursuant to the selection of such expert by a Super Majority Vote, to inspect and analyze the Parking Structure and make recommendations with respect to the structure and any repairs and capital improvements and, if approved by a Super Majority Vote, the implementation of such recommendations; and (iii) painting, waterproofing, resealing and equipment replacement with respect to the Parking Structure.

Notwithstanding the previous provisions of this Section 4.3, in the event that any Capital Expenditure occurs only because of, or is appreciably higher than otherwise would be required in connection with a parking facility operated in connection with an office building, due to the requirements

of an Owner or that Owner's specialized use of the stalls used by such Owner, then the amount of such Capital Expenditure that is attributable to such special requirements shall be paid solely by such Owner. By way of example, but not limitation, any Capital Expenditure for security systems which is attributable to the special requirements of the Owner of the Hotel Unit shall be borne solely by the Owner of the Hotel Unit. The determination of whether a Capital Expenditure should be specially allocated shall be determined by a Super Majority Vote.

4.4 **Sources for Payment of Parking Expenses and Capital Expenditures**. It is intended that as consideration for the ongoing operation and maintenance of the Parking Structure, all Parking Fees obtained from rental of the Public Stalls during Public Use Times shall be deposited into the Parking Expense Account for use in operation and maintenance of the Parking Structure as set forth herein, and that such revenue, together with certain Tax Increment available as provided in the Development Agreement, will account for up to approximately 20% of the Parking Expenses and Capital Expenditures on a monthly and annual basis. The balance of the Parking Expenses and Capital Expenditures not derived from use of the Public Stalls or available Tax Increment will be paid by the Owners of the Hotel Unit and the Office Unit on a monthly and yearly basis as set forth herein.

a. Parking Revenue paid by users of the Restaurant/Retail Units will be applied to payment of Monthly Parking Expenses.

b. Parking Revenue paid by users of the Public Stalls will be applied to payment of Monthly Parking Expenses, with any amount over 20% of such expenses remaining in the Parking Expense Account.

c. The balance of the Monthly Parking Expenses will be paid 30% by the Owner of the Hotel Unit and 70% by the Owner of the Office Unit (the **"Allocated Percentage"**).

d. All Tax Increment received by the Condominium Association will be deposited into the Parking Expense Account or the Capital Reserve Account as reasonably determined by the Committee.

e. At the end of each calendar year, all amounts remaining in the Parking Expense Account will be applied first to Annual Parking Expenses. Any then unpaid Annual Parking Expenses will be paid by the Owners of the Hotel Unit and the Office Unit pursuant to the Allocated Percentage.

f. Also at the end of each calendar year, Capital Expenditures will be billed to the Owners of the Hotel Unit and the Office Unit in the Allocated Percentages after deduction of all amounts of Tax Increment in the Capital Reserve Account.

4.5 **Capital Reserve Analysis and Capital Reserve Account.** The Committee shall cause a Reserve Analysis to be conducted no less frequently than every five (5) years. The Committee shall review and, if necessary, update a previously conducted Reserve Analysis no less frequently than every two (2) years. The Reserve Analysis and updates shall project a minimum of 30 years into the future. The Committee shall maintain a reserve fund based on the Reserve Analysis (the **"Capital Reserve Account"**) for the maintenance, repair, and replacement of the Parking Structure as determined by the Owners annually and which will be included in the Budget. All such funds shall be segregated from other operating accounts to the extent required by Utah law, and to the extent such funds are not expended, they shall be retained as additional reserves. The Reserve Analysis report shall be prepared by a person or persons with (a) experience in current building technologies, (b) a solid working knowledge of building cost estimating and life cycle costing for facilities, and (c) the tools and knowledge to prepare a report. Preferably, but subject to the discretion of the Committee in determining that the qualifications have

otherwise been met by one person, two people shall prepare the Reserve Analysis, an architectural consultant who will perform a property condition assessment and a reserve study professional who will utilize the property condition assessment and prepare the Reserve Analysis. The Reserve Analysis shall be presented at the annual meeting or special meeting of the Owners, and the Owners shall be given an opportunity to discuss reserves and to vote on the funding of the Capital Reserve Account. The minutes of the Condominium Association shall reflect such decisions.

4.6 **Agreement to Pay Assessments.** Each Owner of any Unit, including the Restaurant/Retail Units, by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other Owner and the Condominium Association to pay its Assessments hereunder for the purposes provided in this Agreement. Such assessments shall be fixed, established, and collected from time to time as provided in this Section 4.6.

4.6.1 **Monthly Assessments.** Monthly assessment of Parking Expenses ("**Monthly Parking Expenses**") shall be levied by the Committee to obtain the funds to operate and maintain the Parking Structure based on Consumptive Use. Consumptive Use shall be determined by SkiData. All Monthly Assessments shall be assessed to each Unit monthly based on Consumptive Use for the prior month ("**Monthly Assessments**"), and are due and payable on the 1st day of the following calendar month. Any Unit Owner may direct the Committee to offset Parking Revenue credited to such Unit against the Monthly Assessment for such Unit at any time. Subject to the limitations of this Article, if the Committee determines, in its sole discretion and for any reason that the current Monthly Assessments are, or shall become, insufficient to meet the Parking Expenses, the Members shall revise the Budget and, upon approval of a Super Majority Vote, levy revised Monthly Assessments.

4.6.2 **Annual Assessments.** Assessments shall be levied by the Committee to obtain the funds to operate and maintain the Parking Structure and to make Capital Improvements to the Parking Structure. In the event actual Parking Expenses for the calendar year exceed the amount of Monthly Parking Expenses assessed by the Committee hereunder, the shortfall shall be an "**Annual Parking Expense**" to be collected hereunder as an Annual Parking Expense. In the event assessed Parking Expenses for the calendar year exceed actual Parking Expenses for such year, the excess will be deposited into the Parking Expense Account. The Capital Expenditures shall be based on the Budget determined in accordance with the Allocated Percentages. Annual Assessments shall be computed and assessed against all Units in the Condominium Project and shall include each Owner's Allocated Percentage of Annual Parking Expenses and Capital Expenditures. All Annual Assessments are due and payable January 1 of each year. Subject to the limitations of this Article, if the Committee determines, in its sole discretion and for any reason that the current Annual Assessments are, or shall become, insufficient to meet the total expenses, the Members shall revise the Budget and, upon approval of a Super Majority Vote, levy revised Annual Assessments.

4.6.3 **Collection of Assessments**. At the end of each calendar year, the Committee shall determine the exact amount of the Parking Expenses which have been incurred during that year, and shall charge or credit each Owner in the next assessment period for the difference between the actual Parking Expenses incurred for the prior assessment period and the estimated expenses upon which the prior Parking Assessment was paid by such Owner. Within ninety (90) days of the close of each calendar year, each Owner shall be provided a copy of the operating statement of the Parking Structure for the preceding year. Such operating statement shall provide reasonable detail of the actual income and expenses of the Committee for the applicable year. Failure of the Committee to give timely notice of any Annual Assessment or failure to deliver the Budget as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Agreement or a release of any Owner from the

obligation to pay such Assessment (or any other Assessment); provided, however, the date on which payment shall become due in such case shall be deferred to a date thirty (30) days after written notice of such Annual Assessment shall have been given to such Owner. The Committee shall in its sole discretion, be entitled to establish or modify such procedures for the collection of Assessments, including provisions for filing a lien against the Unit in the overdue amount as set forth in this Section below, late charges, interest on unpaid Assessments, and such other matters as the Committee shall determine, and shall have any and all rights and remedies provided at law or in equity for the collection of debts, subject only to the requirement of notice and hearing provided herein. Upon collection, all Parking Expenses shall be deposited into the Parking Expense Account and Capital Expenditure funds collected shall be deposited into the Capital Expense Account.

(1) **Notice of Unpaid Assessment**. If any Assessment or any installment thereof is not paid within thirty (30) days after its due date, the Committee may mail a notice of default to the applicable Owner. Such notice shall specify (a) that the applicable Assessment or installment thereof is late, (b) the action required to cure such default, including the specific amount required to be paid, including late charges, interest and costs of collection, if any, (c) a date not less than thirty (30) days from the date the notice is mailed by which such default must be cured, and (d) that a failure to cure the default on or before the date specified in the notice may result in the acceleration of the balance of the Assessment for the current year and the filing and foreclosure of a lien for the Assessment. If the default in the payment of the Assessment is not cured as specified in the notice, the Committee, at its option, may declare all of the unpaid balance of the Assessment to be immediately due and payable without further notice or demand to the Owner and may enforce the collection of the full Assessment and all charges and interest thereon in any manner authorized by law or in this Agreement.

(2) **Remedies to Enforce Assessments**. Each Assessment levied, together with accrued interest, late charges or other similar charges, shall be a separate, distinct debt and obligation of the Owner against whom such Assessment is assessed. Suit to recover a money judgment for such obligation shall be maintainable by the Condominium Association against such Owner without foreclosing or waiving the lien securing the same. Any and all rights and remedies shall be exercised in such manner, on one or more occasions and in such order as the Committee shall elect, without waiver of any other right or remedy or lien provided in this Agreement or by law. Any failure of the Committee to exercise any such right on one or more occasions shall not constitute a waiver of the right to so exercise such right in the future. In addition to the amount of the unpaid Assessment, an Owner shall be required to pay any and all costs and expenses which may be incurred by the Committee in collection of such Assessment, including reasonable attorneys' fees and costs, whether or not litigation is commenced.

(3) **Lien for Assessments**. The Committee may record a lien against the Unit owned by a delinquent Owner and may collect the unpaid Assessment, together with interest thereon at the Default Rate, late charges and costs of collection by lawsuit, by trustee's sale under power of sale (such power being hereby granted to Committee as trustee), by judicial foreclosure or by any other method allowed by law. Each such Assessment shall also constitute the personal obligation of the Owner affected at the time that the Assessment becomes due; and shall pass to the successors and assigns of an Owner. Notwithstanding anything contained in this Agreement to the contrary, no lien shall be created against or shall attach to any property right or interest owned by the Public Entity, but the Committee shall retain all other rights and remedies against such Owners as are permitted in this Agreement. A Unit Owner's acceptance of interest in a Unit constitutes a simultaneous conveyance of the Unit in trust, with power of sale, to Scott R. Sabey, Attorney at Law, as the designated trustee. The Condominium Association may appoint another qualified trustee by executing a substitution of trustee form.

In any such sale or foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, including reasonable attorneys' fees, and such costs and expenses shall be secured by the lien herein provided whether or not the same shall be specifically set forth therein. The Owner shall also be required to pay to the Condominium Association any Assessments against the Unit which shall become due during the period of foreclosure or sale, and all such Assessments shall be secured by the lien herein provided. The Condominium Association shall have the right and power to bid in any foreclosure or sale and, upon purchase thereof, to hold, lease, mortgage or convey the subject Unit. In the event a proceeding for the foreclosure of the lien granted hereby shall be commenced, while such proceeding shall be in process, the Condominium Association shall be entitled to the appointment of a receiver to collect the parking revenues being derived from said Unit.

(4) **Priority of Lien; Liability of Owner**. The lien for Assessments provided for herein shall have priority over any Mortgage recorded after a notice of assessment lien recorded by the Condominium Association. No foreclosure of a lien shall extinguish the personal liability of the Owner therefor unless the Condominium Association actually receives payment in full of amounts due. An Owner's personal liability for payment of Assessments shall be reduced by the amount actually paid at the foreclosure by the successful bidder that shall remain after allocation for payment of costs and expenses incurred by reason of such sale. No other sale or transfer shall relieve such Owner from liability for any Assessments which shall be due as of the date of foreclosure.

4.6.4 **Certificate of Assessment**. The Committee shall, upon written request, and for a reasonable charge, furnish a certificate signed by an officer of the Condominium Association, setting forth whether the Assessments on a specific Unit have been paid and said certificate may be conclusively relied upon by the party requesting same.

4.6.5 **Accrual of Interest**. Interest shall accrue on amounts required to be paid in accordance with the provisions of this Agreement from the date such payment is due until the required amount is received by the Committee. The term **"Interest Rate"** when used in this Agreement shall refer to a per annum rate of interest which shall be two percent (2.0%) per annum above the Reference Rate. The term **"Default Rate"** when used in this Agreement shall refer to a per annum rate of interest which shall be six percent (6.0%) per annum above the Reference Rate. The Interest Rate and the Default Rate shall be adjusted at the same time and in the same manner as there shall occur any change in the Reference Rate. The Reference Rate is the rate of interest established and made public from time to time by Zions First National Bank, NA (the **"Bank"**) and its successors and assigns, and used by the Bank as its reference point for pricing loans to substantial commercial borrowers, whether such rate shall be denominated as its reference rate, prime rate or other similar or dissimilar term (the **"Reference Rate"**). The Reference Rate shall be deemed also to refer to any subsequent reference point, however denominated, that may in the future be adopted by the Bank as the replacement for the Reference Rate which is currently being used by the Bank as its reference point. All calculations of interest hereunder shall be made as follows: (a) the Interest Rate or the Default Rate, as applicable, shall be multiplied by the amount due, (b) the product determined in clause (a) above shall be divided by three hundred sixty-five (365); and (c) the quotient obtained in clause (b) above shall be multiplied by the actual number of days in the period for which the calculation is being made.

4.6.6 **No Offset**. All Assessments shall be payable in the amounts specified in the levy thereof, and except for the offset permitted hereunder pursuant to Section 4.6.1, no offset or reduction thereof shall be permitted for any reason, including, without limitation, any claim that the Condominium Association, the Committee, the Manager or any employee, agent or representative thereof is not properly exercising its duties and powers under this Agreement.

4.6.7 **Inadequate Funds.** In the event that the Parking Expense Account or the Capital Reserve Account prove inadequate at any time for whatever reason, including nonpayment of any Monthly Assessment or Annual Assessment, the Committee may, on behalf of the Condominium Association, levy additional assessments in accordance with the procedure set forth in this Article IV, except that the vote therein specified shall be unnecessary.

ARTICLE V
PARKING STRUCTURE MAINTENANCE, REPAIR, INSURANCE AND SECURITY

5.1 **Maintenance Obligation and Payment**. The Condominium Association has agreed to perpetually operate, maintain, repair and replace of all aspects and components of the Parking Structure at the expense of the Unit Owners, and to fund Capital Improvements to the Parking Structure at the expense of the Unit Owners, all as set forth in Article IV including Section 4.4 herein. The cost of reasonable repair and maintenance of the portion of the Podium that provides the foundation for each Unit and which portion is included in such Unit and shall not be an obligation of the Condominium Association.

5.2 **Committee's Maintenance and Repair Duties**. The Committee, acting by and through the Manager, shall repair and maintain all of the Parking Structure in a first-class condition in a manner consistent with the standards of first-class parking projects which are used in connection with office facilities and/or hotels (whichever standard is higher) in the Salt Lake County area. Without limiting the foregoing, the Committee shall:

5.2.1 Maintain the asphalt, concrete and brick paved surfaces of the Parking Structure in a smooth and evenly covered condition with the type of surfacing material originally installed thereon, or such substitute material as shall be in all respects equal thereto in quality, appearance and durability;

5.2.2 Remove all paper, debris, filth and refuse from the Parking Structure and wash or thoroughly sweep paved areas as required;

5.2.3 Remove ice and standing water from the Parking Structure.

5.2.4 Replace and maintain parking entrance, exit and directional facilities and signs, markers and lights and light poles in the Parking Structure as shall be reasonably required to insure that the Parking Structure is adequately lighted and uniformly marked to facilitate convenient vehicular and pedestrian ingress and egress;

5.2.5 Clean, repair, replace and relamp lighting fixtures within the Parking Structure;

5.2.6 Repaint striping, markers and directional signs as necessary to maintain the Parking Structure in first class condition;

5.2.7 Employ courteous personnel for maintaining and operating the Parking Structure and, if necessary, to patrol all or a portion of the Parking Structure as is deemed necessary;

5.2.8 Maintain and keep in good operating and sanitary condition the ramps, stairways and elevators serving the Parking Structure;

5.2.9 Clean, repair and maintain all utility lines and facilities that serve the Parking Structure to the extent that the same are not cleaned, repaired and maintained by the applicable utility provider;

5.2.10 Maintain common storm drains in a free-flowing condition;

5.2.11 Repair damage to columns in the Parking Structure caused by vehicles using the Parking Structure;

5.2.12 Paint the Parking Structure, as needed, to preserve a first-class and well-maintained condition;

5.2.13 Operate toll and ticket booths at entrances and exits to the Parking Structure;

5.2.14 Maintain all toll and control gate equipment in an attractive and properly operating condition;

5.2.15 Establish and oversee the operation, repair and maintenance of a comprehensive security system serving the Parking Structure, as more fully provided in Section 5.6;

5.2.16 Make payment for all utility charges and other operating expenses related to the Parking Structure;

5.2.17 Enforce all Rules and Regulations;

5.2.18 Account for and make payment to each Owner of its respective share of net revenue; and

5.2.19 Repair, maintain and make Capital Improvements to the Parking Common Area with monies derived from the Capital Reserve Account.

The foregoing enumeration of the Committee's duties shall not limit or affect the right of the Members set forth elsewhere in this Agreement to approve specific actions by consent of a Majority or Super Majority Vote, as the case may be, of the Members.

5.3 **Other Duties Related to Maintenance and Repair**. To the extent feasible, all maintenance and repair of the Parking Structure shall be performed by the Manager at hours which will cause minimal interference with the normal daily use of the Parking Structure. Parking Structure shall be repaired and replaced with materials, apparatus and facilities of a quality at least equal to the quality of the item being repaired or replaced. The Parking Structure shall be inspected on a regular basis in order to detect needed repairs or malfunctioning within a reasonable period of time. Owners shall use their best efforts (i) to notify the Manager of any needed repairs or maintenance in the Parking Structure, and (ii) to cause their Permittees to comply with all Rules respecting the Parking Structure, including, without limitation, posted speed limits, directional signs and parking stall markings. Notwithstanding the provisions of this Section, if any maintenance responsibility of the Manager results in unusual or extraordinary expenses due to the grossly negligent use or operation of the Parking Structure by an Owner or its Permittees, then the Committee may surcharge such Owner for such extra costs. Manager shall not (x) cause or permit a violation of Environmental Laws to occur as a result of the performance of its duties under this Agreement, (y) modify or restrict the use of the easements granted pursuant to Article VII in any material way, without the consent of the affected Owner, except temporary restrictions in connection

with maintenance, repair or replacement responsibilities under this Agreement, nor (z) cause or permit a mechanic's, materialmen's or laborer's lien to attach to the Parking Structure for work performed on the Parking Structure pursuant to this Agreement, other than in connection with such Owner's failure to pay its share of expenses hereunder.

5.4 **Damage or Destruction/Condemnation.**

5.4.1 The Manager shall fully restore all Improvements to first-class condition promptly after damage to or destruction of such Improvements. The Committee shall cause the proceeds of the Property Insurance to be available to pay the cost of such restoration and, to the extent required, shall also make available for such purpose such portion of the Capital Reserve Account as shall equal the deductible limits of the Property Insurance. In the event the proceeds of the Property Insurance (including deductibles) are not sufficient to pay the cost of all required restoration, such proceeds shall be allocated to the Owners on an equitable basis taking into account the relative cost of completing restoration on each Parking Structure.

5.4.2 In the event all or any portion of a Parking Structure is taken pursuant to an exercise of the power of eminent domain by any lawful authority (or under threat of such taking), then the Owners of the Parking Levels that are condemned shall each be entitled to their pro-rata share of the award based on the number of hours of Parking Stall usage allocated to such claimant. This Agreement shall terminate as to the portion or portions of the Parking Structure taken, and all portions of the Parking Structure the use of which is materially impaired, as of the date possession is delivered to the condemning authority, but shall continue in effect as to all portions of the Parking Structure not taken.

5.4.3 A reasonable portion of the Assessments to each Owner as determined by the Committee may be abated during the period, if any, that the taking, damage, destruction or restoration materially and adversely interferes with regular access to or use of the affected Parking Level.

5.4.4 Notwithstanding any other provision of this Section, an Owner who, by his negligent or willful act, causes the Podium to be damaged shall bear the entire cost of furnishing repairs to the Podium. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.

5.5 **Capital Expenditures.** All items of maintenance and repair to the Parking Structure which involve a Capital Expenditure, including the payment of any deductible related to the Committee's insurance for the Parking Structure, shall be the responsibility of the Condominium Association and such work shall be performed and coordinated by the Committee by and through the Manager. The Committee shall enforce all warranties pertaining to the Improvements associated with the Parking Structure. The Manager will bid the work to contractors, contract for performance of the work and schedule the work. All such work shall constitute a Parking Expense. The Parking Structure shall at all times be repaired and maintained by the Manager so that it always functions in a first-class condition in a manner consistent with the standards of first-class parking facilities operated in conjunction with first-class office buildings in the Salt Lake County area and, where applicable, in accordance with the provisions of Section 5.2

5.6 **Insurance.** The Condominium Association, by and through the Manager, shall at all times maintain or cause to be maintained the following policies of insurance in respect of the Parking Structure:

5.6.1 Workers' compensation insurance required by the State of Utah and Employer's Liability Insurance with a limit of not less than One Million Dollars ($1,000,000);

5.6.2 Garage Keepers' Liability Insurance, including Commercial General Liability; and

5.6.3 Garage Keepers' Legal Liability Insurance (if the Manager is a person or entity other than one of the Owners).

5.6.4 The policy limits of the insurance described in Section 5.6.2 and 5.6.3 above shall initially be not less than Five Million Dollars ($5,000,000) in respect to bodily injury or death to any one person in any one accident, not less than Ten Million Dollars ($10,000,000) in respect to bodily injury or death to more than one person in any one accident and property damage in all instances in an amount not less than Two Million Dollars ($2,000,000). The policy limits of the insurance described in Section 5.6.2 and 5.6.3 above shall be periodically adjusted not less than once every three years to such minimum limits as shall then be customarily carried by owners of comparable parking facilities in Salt Lake County, Utah as determined by the Committee.

5.6.5 The Committee shall, at its own expense, at all times maintain Property Insurance providing coverage for all risk of physical loss or damage with respect to the Parking Structure, with policy limits sufficient to pay for the replacement costs of the Improvements in the Parking Structure. A maximum $5,000.00 deductible shall be permitted. Such Insurance shall include earthquake coverage and coverage for flood if and to the extent approved by a Super Majority Vote.

5.6.6 All insurance required under this Agreement shall be provided by responsible insurance companies qualified to do business in the State of Utah and having a Best's Financial Size Category Rating of at least "A VIII" (or, if a Best's rating is not then available, having a comparable rating by a similar nationally recognized institution); provided, however, that if any coverage required to be maintained hereunder is unavailable at a reasonable cost based upon the cost paid by owners of comparable parking facilities in Salt Lake County, Utah from insurance companies having such a rating, then coverage shall be obtained from insurance companies qualified to do business in the State of Utah with the highest rating available which are offering the coverage required at a reasonable rates. The Committee, upon approval of the Members acting by Super Majority Vote, may maintain insurance coverage with limits in excess of the minimum limits required by this Section.

5.6.7 If they request in writing, all Owners and all Mortgagees shall be named, to the extent possible, as an additional insured on each policy maintained by the Committee. The additional insureds shall be entitled to coverage to the same extent as the insured. If, for any reason, a Person cannot be named as an additional insured, then the Committee shall provide contractual liability insurance coverage in the face amount of the policy in which such party should have been named as an additional insured or loss payee naming the Owners and their respective Mortgagees as loss payees. Each policy of Property Insurance in which it would be appropriate shall contain a standard mortgage loss payable endorsement.

5.6.8 The Owners hereby waive their respective property insurers' rights of subrogation against all other Owners and the Permittees of each Owner. As used in this Agreement, the term "Property Insurers" shall mean the insurers providing the insurance described in this Article V and the term "Property Insurance" shall mean the policies of insurance described in this Article V. In the absence of the right to make such waiver on behalf of its insurer, the Committee shall obtain an appropriate clause in, or endorsement to, such Property Insurance providing that its Property Insurers waive their rights of subrogation against the Owners and their Permittees. No Owner shall make any claim against or seek to recover from any other Owner for any loss covered by such respective Property

Insurance purchased by or on behalf of such Owner, or which could have been covered had such respective Property Insurance policies been purchased by the Committee as contemplated by this Agreement.

5.6.9 All policies of insurance and similar programs required or permitted hereby shall provide, to the extent available, that they will not be canceled or modified to reduce the limits or scope of coverage unless at least thirty (30) days' prior written notice is given to each Person named as an additional insured. All insurance obtained by the Committee shall be primary to, and not contributory with, any insurance carried by any Owner.

5.6.10 The Committee shall, upon request from an Owner, obtain and deliver to such Owner and/or its Mortgagee a complete and certified copy of the policies of insurance, and other appropriate documents evidencing coverage for programs which do not involve insurance policies, in effect with respect to the Parking Structure.

5.7 **Security**. The Committee, by and through the Manager, shall provide security services to the Parking Structure. The Manager shall maintain, repair and replace any security equipment and systems, which security equipment and systems shall meet the specifications established by the Committee, acting upon the approval of its Members as a Super Majority Vote, with the result that all security equipment and systems shall be compatible and permit integrated security operations throughout the Parking Structure. The Committee, acting upon the approval of a Super Majority Vote, may from time to time determine to replace, upgrade, redesign or reconfigure the security equipment and systems in the Parking Structure at the cost of the Committee, payable pursuant to the Budget or from the Capital Reserve Account. Notwithstanding the foregoing, in the event that the cost of replacing security equipment and systems in higher than it otherwise would be for a parking facility operated in connection with an office building due to the special requirements of any Parking Level Owner, then the additional expense that is attributable to such special requirements shall be paid solely by the Owner of such Parking Level.

ARTICLE VI
RESTRICTIONS ON USE OF PARKING STRUCTURE

6.1 **Permitted Uses Generally**. The Parking Structure shall be used for the ingress and egress and parking of motor vehicles (including service vehicles) as provided in this Agreement. No portion of the Parking Structure shall be used for any purpose other than those permitted by this Agreement, or as expressed or contemplated by the Master Plan.

6.2 **Nuisances**. No person shall conduct any noxious or offensive trade or activity on any Parking Parcel or any part of the Parking Structure that may be, or become, an annoyance, nuisance or interference with quiet enjoyment, or that may increase the cost of insurance for any Owner. In this regard, all noises, sounds and vibrations emanating from a Parking Parcel, other than those associated with the security and other systems for the Parking Structure, shall be appropriately muffled so as not to be objectionable with respect to intermittent beat, frequency, shrillness or volume.

6.3 **Vehicles and Overnight Parking**. No motorized vehicle may be dismantled, rebuilt, abandoned, stored (for more than twenty-four (24) hours) or repainted on or about the Parking Structure and there shall be no overnight parking on any Level other than the Hotel Level.

6.4 **Hazardous Material**. No Owner or other Person shall produce, release, use, store, transport, handle or dispose of any Hazardous Material within the Parking Structure or otherwise

knowingly permit the presence of any Hazardous Material on, under or about the Parking Structure, except in accordance with all Environmental Laws. Any Owner who acquires knowledge that it is in breach of any of the Environmental Laws shall immediately notify the Committee. In the event an Owner shall breach the foregoing prohibition, the Committee shall have the right, but not the obligation, to cure such Owner's failure in that regard after the Committee shall have given such Owner reasonable notice and an opportunity to cure such failure. Any Owner whose acts or omissions give rise to a violation of this Section 8.4 shall indemnify, defend (with counsel acceptable to the indemnitee), hold harmless and protect CHCDRA, the Committee (including all Committee members), and all other Owners and Occupants from any and all Environmental Damages arising from such violation. Nothing contained in this Section 8.4 shall be deemed a limitation on, or a waiver of, any rights or remedies available to CHCDRA, the Committee or the Owners, at law or in equity for violation of Environmental Laws.

6.5 **Use of Designated Spaces.** No vehicles may be parked in the Parking Structure except in the designated parking spaces. There shall be no storage or parking of snowmobiles, trailers, mobile homes, recreational vehicles, or vehicles deemed to be too large for a parking space by the Manager or the owner of the applicable Parking Level. The Committee shall have the right to install devices and signage to restrict and control access to the Parking Structure in accordance with the terms of this Agreement and to otherwise regulate its use. The Committee shall further have the right to require users of the Parking Structure to sign a release or waiver of liability in connection with their use. Except for the Public Easement, the easements and leases granted are private and nothing herein should be construed as a public dedication.

ARTICLE VII
PUBLIC ENTITY PROTECTION

The Parking Structure, which constitutes a material enhancement to the entire Canyon Centre Project, and to the Hotel Unit and the Office Unit in particular, is or will be constructed in material part through public funding provided by or through the CHCDRA which will be repaid, if at all, only through tax increment as provided in the Development Agreement. In view of that public investment, in addition to the grant of the Public Easement, the Public Entity owner of the Public Easement shall be accorded unique treatment as provided below in this Article VII and elsewhere in this Agreement, the Public Easement, the Condominium Declaration and the Development Agreement, which unique treatment shall perpetually remain in effect:

7.1 **Effect of the Development Agreement**. In the event of any conflict or inconsistency between the Public Entity's rights and duties under this Agreement and its rights and duties under the Development Agreement or the Public Easement, the Development Agreement or the Public Easement, as applicable, shall control to the extent that the Public Entity's rights are thereby enhanced and/or the Public Entity's duties are thereby diminished.

7.2 **Continuing Limitations on Financial Responsibilities**. Notwithstanding anything in the Condominium Declaration or this Agreement to the contrary, the Public Entity shall not be responsible for, and shall be completely excused from, any obligation to pay, satisfy or be legally responsible for any Parking Expenses and Assessments of all types hereunder, replacement costs, repair costs, maintenance costs, or other charges, costs, fees, expenses, or impositions of whatever type or nature on or attributable to the Parking Structure except to the extent of any monies received through tax increment or revenues from Parking Fees related to the Public Stalls. No penalties, liens, causes of action, restrictions or other detriments shall accrue or be imposed on the Public Entity or the public's rights under the Public Easement by reason of the limitations on the Public Entity's financial responsibilities under this Section 7.2; provided that if there are insufficient funds obtained from Tax Increment or Parking Revenue from

the Public Stalls to cover 20% of the Parking Expenses and Capital Expenditures, then the delinquent amount shall be due and payable from and **only** from (a) any portion of the Tax Increment that is specifically designated in the "Distribution Chart" attached to the Development Agreement for use in operation and maintenance of the Parking Structure; or (b) Parking Fees revenues from the Public Stalls in subsequent years. The Condominium Association shall indemnify, defend and hold the Public Entity harmless from and against any and all actions, causes of action, claims, damages, fees (including attorneys' fees), costs and expenses constituting, arising from, or attributable to such delinquent amounts not available for payment.

7.3 **Further Limitations**. In no event shall the Public Entity be obligated (a) to maintain, repair, restore, replace or rebuild any of the Parking Structure except to the extent of any funds received from Tax Increment and Parking Fees; or (b) to itself carry insurance coverage of any type on or for the Parking Structure or the Public Stalls (with the exception of workers compensation insurance coverage for any employees of the Public Entity which may be assigned to work in the Parking Structure). The Condominium Association shall indemnify, defend and hold the Public Entity harmless from and against any and all actions, causes of action, claims, damages, fees (including attorneys' fees), costs and expenses constituting, arising from, or attributable to any use or operation of the Parking Structure up to the limit of liability for the insurance obtained by the Condominium Association.

7.4 **Priority of Public Easement**. In order for the Public Easement to clearly attach to the Condominium Project, it is intended that the Public Easement will be recorded after recording of the Master Declaration, the Condominium Plat and the Condominium Declaration in the office of the Recorder of Salt Lake County, Utah, but before recording of this Agreement and any conveyance of Units. **Notwithstanding any prior recording of the Master Declaration, the Condominium Declaration, the Condominium Plat and/or this Agreement before recording of the Public Easement, any and all parking and other rights of the Unit owners, occupants, invitees or others in and to the Parking Structure are forever subordinate and subject to the Public Easement from and after recording of the Public Easement materially in the form attached hereto as Attachment 3 in the office of the Recorder of Salt Lake County, Utah, to the same extent as if the Master Declaration, the Condominium Declaration and this Agreement had been recorded after recording of the Public Easement, provided that attachment of the Public Easement to, and enforceability of the Public Easement against, the Condominium Project shall be deemed to have occurred notwithstanding such subordination. To that end, if there is any conflict or inconsistency between this Agreement and the Public Easement, the Public Easement shall control. Nothing in this Section 7.4 shall be construed to impair the rights of the Hotel Unit and the Office Unit to park in the Parking Structure at the times and in the locations set forth in the Shared Parking Plan, subject to the public's right to use the Public Stalls as set forth in the Public Easement. The version of the Public Easement attached hereto as Attachment 3 may not be amended in a manner that materially, adversely affects any Unit Owner's right to use the Parking Stalls without consent of the Condominium Association and the owners of the Hotel Unit and the Office Unit.**

7.5 **No Contrary Amendment**. Notwithstanding anything in this Agreement to the contrary, the rights and privileges of the Public Entity under this Article VII may not be modified or amended without the prior written consent of the Public Entity.

ARTICLE VIII
GENERAL PROVISIONS

8.1 **Attorneys' Fees**. In any legal or equitable proceeding for the enforcement of, or to restrain the violation of, or otherwise pertaining to a dispute concerning, this Agreement or any provision

of this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs in such amount as may be fixed by the court in such proceedings.

8.2 **Failure to Enforce Not a Waiver of Rights**. The failure of the Committee or any Owner to enforce any covenant, condition or restriction herein contained, by reference or otherwise, shall in no event be deemed a waiver of the right to do so thereafter, nor of the right to enforce and other covenants, condition or restriction.

8.3 **Arbitration**. For disputes hereunder (other than disputes within the Committee which are arbitrated pursuant to Section 2.8 above) that are not resolved by the Members or an Owner, as the case may be, within ten (10) days after the Member(s) constituting a Majority of an Owner, gives notice to the other Members or Owners of a desire to arbitrate the dispute, the dispute shall be settled by binding arbitration by the American Arbitration Association in accord with its then-prevailing rules. Judgment upon the arbitration award may be entered in any court having jurisdiction. The arbitrators shall have no power to change the provisions of this Agreement. The arbitration panel shall consist of three arbitrators, one of whom must be a real estate attorney actively engaged in the practice of law for at least the last five (5) years. The Members and Owners, as the case may be, shall continue performing their obligations under this Agreement pending the decision in the arbitration proceeding. The arbitrators shall award the prevailing part(ies) reasonable expenses and costs including reasonable attorneys' fees.

8.4 **Constructive Notice and Acceptance**. Every Person who now owns or hereafter acquires any right, title or interest in or to any portion of the Parking Structure is and shall be conclusively deemed to have consented and agreed to every covenant, condition, restriction and easement contained in this Agreement, regardless of whether any reference to this Agreement is contained in the Instrument by which such Person acquired an interest.

8.5 **Mutuality: Reciprocity: Runs with Land**. All restrictions, conditions, covenants and easements contained herein, by reference or otherwise: (i) are made for the direct, mutual and reciprocal benefit of each and every Parking Level; (ii) shall create mutual, equitable servitudes upon each Parking Parcel in favor of every other Parking Level; (iii) shall create reciprocal rights and obligations between the respective Owners of all portions of or interests in the Parking Levels and privity of contract and estate between all grantees of such portions or interests therein, their heirs, successors and assigns; and (iv) shall, as to each Owner and the heirs, successors and assigns of such Owner, operate as covenants running with the land for the benefit of the Owners of each other Parking Level.

8.6 **Article and Section Headings**. The Article and Section headings used in this Agreement are inserted for convenience only and are not intended to be a part of this Agreement or in any way to define, limit or describe the scope and intent of the respective Articles and Sections to which they refer.

8.7 **Invalidity of Provisions**. If a court of competent jurisdiction should hold any provision of this Agreement, or the application of this Agreement to any Person or any circumstance, to be invalid, void or illegal, the remaining provisions of this Agreement and the application of this Agreement to any other Person and any circumstance, shall nevertheless remain in full force and effect to the maximum extent permitted by law and shall not be affected thereby.

8.8 **Amendments**. From and after the Effective Date, this Agreement may be amended with the written approval of a Super Majority Vote; provided, however, that Article VII may not be amended without consent of the Public Entity.

8.9 **Estoppel Certificate**. Within ten (10) working days after written request, the Committee and/or each Owner shall provide to any requesting Owner and/or its existing or prospective Mortgagee in estoppel certificate stating, to the actual knowledge of the certifying party (a) whether the certifying party knows of the existence of any breach, violation or event of default under this Agreement by any Owner, including the requesting Owner, and, if the certifying party has such knowledge, a reasonably detailed explanation thereof; (b) whether the rights or interest of the requesting Owner under this Agreement have been assigned, modified or amended in any way and, if so, the nature thereof; and (c) that this Agreement is in full force and effect as of the date of the estoppel certificate. For such statement, such certifying party shall be entitled to charge a fee, not to exceed the greater of (i) Two Hundred Dollars ($200) in 1997 and thereafter Adjusted Annually by the Cost of Living Index, or (ii) its actual administrative expenses in rendering the same, whichever is less.

8.10 **Notices**. Any notice, demand, communication, certification, approval, consent, invoice and/or request (individually referred to as "Notice"), required or allowed hereunder to be given to or by CHCDRA, Committee, the Committee, an Owner or a Mortgagee, shall be in writing and shall be delivered personally or by reliable, receipted courier service, overnight mail service, facsimile transmission, certified mail (with Postage Prepaid, return receipt requested), or another commercially recognized means of delivery. Notice shall be deemed given when actually received except that notice by facsimile transmission shall be deemed given at 10:00 a.m. on the next business day after receipt.

8.11 **Good Faith: Non-Discrimination**. The Committee shall at all times act in good faith and shall not take any action that is materially detrimental to one Owner while at the same time benefitting other Owner(s), without first obtaining the written consent of the Owner who is adversely affected.

8.12 **Force Majeure**. Each and every period set forth in this Agreement shall be extended for a period or periods of time equal to any period or periods of delay preventing the performance of any of the Owners' respective obligations, which delays are caused by strikes, lock-outs, fire or other casualty, inclement weather, the elements or acts of God, refusal or failure of governmental authorities to grant necessary approvals and permits, war, riot, insurrections, or shortages of or inability to obtain essential construction materials or the transportation thereof, or other causes, other than financial, beyond their reasonable control; provided, that the CHCDRA shall not be deemed to be a governmental agency for purposes of this Section 8.12.

8.13 **No Relationship of Principal and Agent**. This Agreement creates relationships of privity of contract and privity of estate between the Committee and the Owners. Neither the provisions of this Agreement nor any acts of the Committee or the Owners shall be deemed or construed to create any other relationship, including, without limitation, relationships of principal and agent, of limited or general partnership, of joint venture or of any other similar association between any of the Owners, Committee or CHCDRA.

8.14 **Governing Law**. This Agreement shall be construed, interpreted and applied in accordance with the laws of the State of Utah.

8.15 **Parking Easement**. This Agreement shall not modify the respective rights and obligations of the County, CHCDRA or Developer under the Public Easement.

IN WITNESS WHEREOF, Developer has executed this Agreement as of the date first above written.

CANYON CENTRE CAPITAL, LLC,
A Utah limited liability company

By: _____
Its: _____

STATE OF UTAH)
ss.
COUNTY OF _____)

On the ___ day of _____, 201_, personally appeared before me _____, who, being first duly sworn, declared that he is the _____ of Canyon Centre Capital, LLC, and that he signed the foregoing document.

_____
Notary Public

Attachment 1
Condominium Property Legal Description

AS OF FEBRUARY 27, 2018, THIS EXHIBIT HAS YET TO BE COMPLETED

Attachment 2
Shared Parking Plan

SEE "SHARED PARKING PLAN" ATTACHED TO

PUBLIC PARKING EASEMENT AGREEMENT

Attachment 3
Form of Public Easement

SEE "PUBLIC PARKING EASEMENT AGREEMENT"

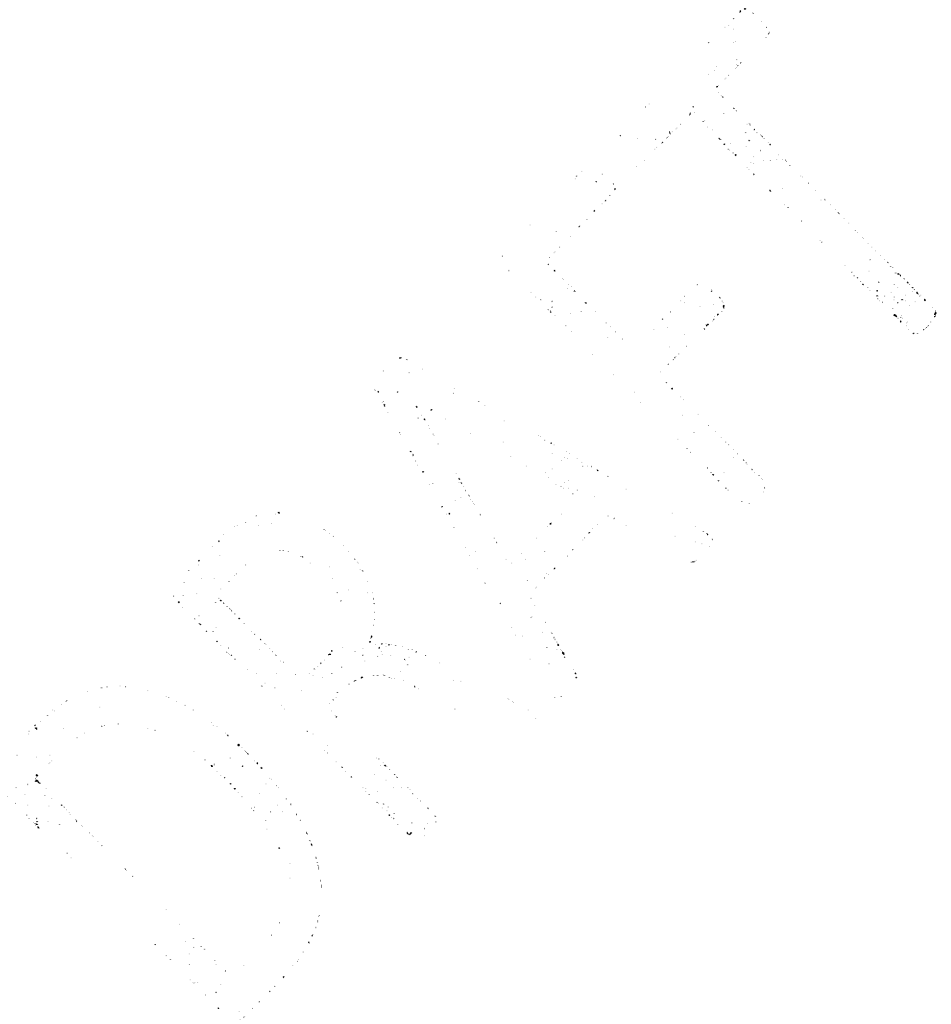

EXHIBIT D
Development Agreement

EXHIBIT D
Development Agreement

WST 2.20.2017 Clean Version

AFTER RECORDING RETURN TO:

COTTONWOOD HEIGHTS
Attn. Recorder
1265 East Fort Union Blvd., Suite 250
Cottonwood Heights, UT 84047

DEVELOPMENT AGREEMENT

CANYON CENTRE COMMUNITY DEVELOPMENT PROJECT AREA
COTTONWOOD HEIGHTS, UTAH

THIS DEVELOPMENT AGREEMENT (this "*Agreement*") is entered into effective __ _____ 2018 between the **COTTONWOOD HEIGHTS COMMUNITY DEVELOPMENT AND RENEWAL AGENCY**, a governmental entity organized under the laws of the state of Utah whose address is 2277 East Bengal Blvd., Cottonwood Heights, UT 84121, and **CANYON CENTRE CAPITAL, LLC**, a Utah limited liability company whose address is 9067 South 1300 West, Suite 105, West Jordan, Utah 84088-5582. Agency and Developer are sometimes singly referred to in this Agreement as a "*Party,*" or collectively as the "*Parties.*"

RECITALS:

A. In furtherance of the objectives of the "Limited Purpose Local Government Entities--Community Reinvestment Agencies Act," UTAH CODE ANN. Title 17C, Chapters 1 through 4 (including any future amendments or successors, the "*Act*"), Agency has undertaken a program for the development of the Project Area. All capitalized terms used herein without further definition shall have the meaning set forth in Article I below. The Project Area consists of the five Lots more particularly shown and described on the copy of the Subdivision Plat attached as **ATTACHMENT NO. 1.**

B. Agency has prepared, and City has approved, the CDA Plan providing for the development of real property located within the Project Area and the future uses of such land, which CDA Plan has been filed with both City and Agency. A copy of the approved CDA Plan is attached as **ATTACHMENT NO. 2.**

C. The Subdivision Plat has been recorded in the official records of the Recorder of Salt Lake County, Utah. The division of the Lots as shown on the Subdivision Plat contemplates the development of the separate uses in the Project Area as described in this Agreement.

D. The Project Area consists of approximately 10.89 acres which Developer has agreed to develop with certain Private Improvements and certain Public Improvements as provided in the CDA Plan and this Agreement. The Private Improvements and the Public Improvements are described in **ATTACHMENT NOS. 3 AND 4,** respectively, and are shown on the proposed Master Plan attached as **ATTACHMENT NO. 5.**

E. Developer has recorded the Master Declaration against the entire Project Area and will record the Condominium Declaration against Lot 2 of the Project Area in connection with the development of the Project Area as described in the CDA Plan and this Agreement.

F. Agency believes that the development of the Project Area, as provided in the CDA Plan and this Agreement, is vital and in Agency's best interest; is in the best interest of the health, safety and welfare of City's residents; and is in accord with the public purposes and provisions of the applicable state laws and requirements under which development of the Project Area is undertaken.

G. Agency heretofore has entered into the Interlocal Agreements with the Taxing Entities to fund the CDA Plan, and Agency has agreed to provide tax-increment financing related to the Public Improvements, on the terms and conditions set forth herein, through payment of Available Tax Increment. The Interlocal Agreements are described in **ATTACHMENT NO. 6.**

H. Agency desires to enter into this Agreement to, *inter alia*, achieve the objectives of the CDA Plan and to encourage the development of the Project Area by private enterprise for and in accordance with the uses specified in the CDA Plan.

I. Developer desires to enter into this Agreement to induce Agency to perform its respective obligations hereunder and on the terms and conditions specified in the CDA Plan.

AGREEMENT:

NOW, THEREFORE, for and in consideration of their mutual promises and for other good and valuable consideration, the receipt and legal adequacy of which is hereby acknowledged, the Parties covenant and agree as set forth herein.

ARTICLE 1 – DEFINITIONS

In addition to terms defined elsewhere in this Agreement, the following capitalized terms have the meanings and content set forth in this Article 1, wherever used in this Agreement, and the Parties agree to the provisions set forth within the following definitions:

"*Act*" has the meaning set forth in Recital "A" above.

"*Agency*" means the Cottonwood Heights Community Development and Renewal Agency, a public body organized and existing under the Act, including any successor public agency designated by or pursuant to law.

"*Assessed Taxable Value*" for any Tax Increment Year means the assessed taxable value as equalized and shown on the records of the Salt Lake County Assessor's Office for that Tax Increment Year for the Project Area.

"*Available Tax Increment*" means the portion of the Tax Increment monies which Agency actually receives from the Project Area pursuant to the Interlocal Agreements and Sections 17C-4-201 through 203 of the Act; provided, however, that unless (and only to the extent) otherwise provided by any of the Interlocal Agreements or any other agreement(s) between Agency and any

Taxing Entities, the following monies shall not be considered part of the Available Tax Increment nor paid as Tax Increment under any circumstances:

(a) For each Tax Increment Year of the Tax Increment Period, the first 5% of all the Tax Increment received by Agency, which 5% of Tax Increment shall be received and retained by Agency for administrative purposes occurring during the Tax Increment Period;

(b) Any Tax Increment monies which Agency receives at any time attributable to property other than the Project Area, or from other project areas (except the Project Area) which Agency and City have previously established, or which they may hereafter establish;

(c) The ad valorem property taxes regarding the Project Area paid prior to or after the Tax Increment Period;

(d) Any portion of the Tax Increment monies that Agency is required to refund, rebate or pay over to the Canyons School District or another taxing entity or third party pursuant to any of the Interlocal Agreements, which agreements shall not be materially modified in a manner that affects the amount or payment of Tax Increment monies absent the written consent of Agency, County and Developer; and

(e) Any Tax Increment monies which Agency receives pursuant to any provision, consent or agreement other than those of the current Interlocal Agreements, whether as a result of other provisions of the Act (or any successor law), or additional approvals or consent obtained from one or more taxing entities, or an amended or additional interlocal agreement or resolution of a taxing entity providing additional Tax Increment not set forth in the current Interlocal Agreements, except to the extent Agency in its sole discretion agrees to modify the terms of this Agreement in connection therewith.

The Tax Increment monies described in the above Subparagraphs (a) – (e), inclusive, above are reserved by Agency for uses and purposes other than payment in connection with the development of the Project Area.

The base tax year (as that term is defined or used in the Act and the Interlocal Agreements and applied to the Master Plan) is tax year 2016, which would be the tax rolls equalized as of 1 January 2016.

"*Agency Enforcement Methods*" means the methods, mechanisms and means by which Agency or County penalizes, discourages or prevents unauthorized non-Public Use of the Public Stalls in violation of the Public Easement, including, without limitation, methods such as ticketing, booting and towing offending vehicles. All monetary proceeds of any Agency Enforcement Methods shall belong to Agency or County, as applicable, and such enforcement methods shall be undertaken at the sole cost and expense of Agency or County, as applicable.

"*Association Enforcement Methods*" means the methods, mechanisms and means by which the Condominium Association penalizes, discourages or prevents unauthorized Public Use of the Parking Stalls in violation of the Shared Parking Plan and the Master Parking Agreement, including, without limitation, methods such as ticketing, booting and towing offending vehicles. All monetary proceeds of any Association Enforcement Methods shall belong to the Condominium

Association, and such enforcement methods shall be undertaken at the sole cost and expense of Condominium Association.

"*Available Use*" or "*Available Uses*" shall be limited to the uses authorized by City's code of ordinances, including permitted uses and conditional uses, under the Project Area's "Mixed Use" zoning designation. This Agreement does not relieve Developer from full compliance with City's code of ordinances in all aspects of its development of the Project, including obtaining any necessary conditional use permits, nor does it obligate City to approve any Available Uses sought by Developer or others in connection with the Project.

"*Capital Reserves*" has the meaning defined in the Master Parking Agreement.

"*CDA Plan*" (or "*Plan*") and "*CDA Budget*" (or "*Budget*") means the "2nd Amended Project Area Plan" dated _____ 2018 and the "Amended Project Area Budget" dated _____ 2018, which amends that certain community development plan entitled the "Amended Canyon Centre Community Development Plan," and its related budget, adopted by the City Council pursuant to its Ordinance No.182 dated 27 September 2011 and published on 22 November 2011, as heretofore amended. Such plan and budget are incorporated herein as **ATTACHMENT NO. 2** and made a part hereof as if set forth in full in this Agreement.

"*Certificate of Occupancy*" means, with respect to a building or other structure, a permanent certificate of occupancy for the building or other structure that is issued by City.

"*City*" means the city of Cottonwood Heights, Salt Lake County, Utah, a political subdivision of the state of Utah.

"*City Council*" means City's municipal council.

"*Closing*" means consummation of the acquisition by Agency and the Park Owner, respectively, from Developer of the Public Easement and the Park Lot as set forth in Article 5.

"*Commitment*" means the Commitment for title insurance covering a portion of Lot 2 of the Project that was issued by Old Republic National Title Insurance Company through Cottonwood Title Insurance Agency, Inc. under File Number 91811-AP with an effective date of April 5, 2017.

"*Condominium Association*" means the not-for-profit corporation to be created for the purpose of administering the portion of the Project Area that is subject to the Condominium Declaration.

"*Condominium Declaration*" means the condominium declaration to be recorded prior to the Closing against Lot 2 of the Project Area. The Condominium Declaration shall be in the form of **ATTACHMENT NO. 9** hereto or as otherwise agreed to by Agency in writing until Agency's acquisition of the Public Easement, and shall be subordinate to this Agreement, as such declaration may hereafter be supplemented or amended.

"*Condominium Plat*" means the condominium plat to be recorded before the Closing against Lot 2 of the Project Area to create the Condominium Units subject to the Condominium Declaration.

"*Condominium Project*" means the commercial condominium project created by filing the Condominium Declaration on Lot 2 of the Project.

"*Condominium Unit*" means any of the separately numbered and individually described units now or hereafter shown on the Condominium Plat.

"*Construction Loan,*" "*Construction Loan Agreement,*" "*Construction Loan Documents,*" "*Construction Note,*" and "*Construction Trust Deed*" each has the meaning set forth in Section 5.1(c) below.

"*County*" means Salt Lake County, Utah, a political subdivision of the state of Utah.

"*County Loan*" means $6.0 Million anticipated to be loaned or otherwise made available by County to Agency under the County Loan Interlocal pursuant to, *inter alia*, UTAH CODE ANN. 11-13-215. Developer acknowledges and agrees that County will require Agency to (a) repay the County Loan from Tax Increment from the Project, and (b) enter into various agreements concerning the County Loan (copies of which have been provided to Developer), including, without limitation, the Public Easement Agreement establishing the public parking rights described in this Agreement.

"*County Loan Interlocal*" means an interlocal agreement, and any documents contemplated by such interlocal agreement, between County and Agency whereunder County makes the County Loan to Agency on the terms and conditions specified therein.

"*Current Line*" has the meaning set forth in Section 2.1(a)(3) below.

"*Declarations*" means the Condominium Declaration and the Master Declaration, collectively.

"*Developer*" means Canyon Centre Capital, LLC, a Utah limited liability company.

"*Distribution Chart*" means the method and anticipated amounts by which the Tax Increment will be distributed to the Taxing Entities, Agency and Developer as shown in the "Incremental Property Tax Analysis" dated February 1, 2018 prepared by Lewis, Young, Robertson and Burningham, a copy of which is attached as **ATTACHMENT NO. 7**.

"*Exclusive Public Stalls*" has the meaning set forth in Section 2.1(c)(1)(ii).

"*Hotel Unit*" is identified in the Condominium Declaration as Unit 2A and 2A-1.

"*Improvements*" means the Private Improvements and the Public Improvements contemplated under this Agreement to be constructed and installed by Developer or Developer's successor owners within the Project Area pursuant to this Agreement. The Improvements are as described in this Agreement and its **ATTACHMENT NOS. 3 AND 4**.

"*Infrastructure*" means all rights of way (public and private), roadway improvements (such as curbs, gutters, sidewalks and asphalt street surface materials), sewer, water, power and natural gas lines, both public and private, with defined access to each Lot as depicted on the Subdivision Plat or the Master Plan of the Project Area and otherwise sufficient to meet the needs of the Project.

"*Interlocal Agreements*" means the interlocal agreements between Agency and the Taxing Entities which are described in **ATTACHMENT NO. 6**, as the same may be amended from time to time.

"*Lots*" means Lots 1-5 of the Project Area as shown on the Subdivision Plat.

"*Lots 3-5 Owners*" means the legal owners of Lots 3, 4 and 5.

"*Master Declaration*" means that certain Master Declaration of Covenants, Conditions and Restrictions for Canyon Centre Subdivision recorded 20 April 2015 as Entry No. 12033926 in Book 10316 at Pages 3767 through 3807, as such declaration may hereafter be supplemented or amended, including pursuant to the First Amendment to Master Declaration attached hereto as **ATTACHMENT NO. 10** (the "*First Amendment to Master Declaration*").

"*Master Parking Agreement*" means the agreement entered into pursuant to the Condominium Declaration for management and control of the Parking Structure.

"*Master Plan*" means the master plan for Canyon Centre dated _____, which is subject to Agency's prior written approval as well as any required approval by City under Title 19 of City's code of ordinances. Subject to any of those required approvals not heretofore granted, a copy of the Master Plan is attached hereto as **ATTACHMENT NO. 5**.

"*Nonexclusive Public Stalls*" *has the meaning set forth in Section 2.1(c)(1)(iii) below.*

"*Office Unit*" is identified in the Condominium Declaration as Unit 2B and 2B-1.

"*Park*" means the public park anticipated to be constructed by Park Owner on the Park Lot following its purchase by such entity.

"*Park Lot*" means Lot 1 of the Project Area as improved by Developer with the Park Base Improvements.

"*Park Base Improvements*" means the basic improvements required for future development of the Park as shown on the Master Plan, including the private access right-of-way improvements, preliminary grading, sidewalks, public utility services (including all appropriate sewer, water, electrical and storm sewer connections and other infrastructure needed to allow the Park to function as contemplated) stubbed into Lot 1. Developer is obligated to pay the full cost of the Park Base Improvements.

"*Park Optional Improvements*" include such additional improvements and amenities to the Park Lot beyond the Park Base Improvements as Park Owner may deem appropriate in its sole discretion, such as a summer amphitheater including a covered stage and related amenities,

enhanced landscaping, conversation-based fire pits and related patios, and other features. Developer is not obligated to pay any of the cost of any Park Optional Improvements.

"*Park Owner*" means the governmental entity that owns and operates the Park, whether Agency or City.

"*Parking Expenses*" means the future costs of operating, maintaining, repairing and replacing the Parking Structure following its initial construction by Developer, including Capital Expenditures as defined in the Master Parking Agreement, and as more specifically addressed in the Master Parking Agreement.

"*Parking Fees*" has the meaning set forth in Section 2.1(c)(3).

"*Parking Management Committee*" has the meaning set forth in Section 2.1(c)(2).

"*Parking Stalls*" has the meaning set forth in Section 2.1(c).

"*Parking Structure*" has the meaning set forth in Section 2.1(a)(1).

"*Parking Level*" means and refers to each of the three levels of the Parking Structure as depicted on the Shared Parking Plan, specifically Parking Level 1 (P1), Parking Level 2 (P2) and Parking Level 3 (P3).

"*Permitted Exceptions*" has the meaning set forth in Section 5.1(c)(3)(iii)(A).

"*Private Bond*" has the meaning set forth in Section 5.1(b)(3).

"*Private Improvements*" means the non-Public Improvements to the Project Area to be constructed by Developer and the Lots 3-5 Owners as required by this Agreement, including those more particularly described in this Agreement, referred to in **ATTACHMENT NO. 3** or shown on **ATTACHMENT NO. 5**, together with all off-site improvements and all private parking, internal drive lanes, sewer, water, storm sewer, curbs, gutters, sidewalks and landscaping within the Project Area, as required by City codes, rules and regulations and this Agreement. Agency and Developer anticipate that construction of the Private Improvements will enhance the Assessed Taxable Value of the Project Area, which will be used to calculate the Available Tax Increment under this Agreement.

"*Project*" has the meaning set forth in Section 2.1(a).

"*Project Area*" means the Canyon Centre Community Development Project Area located in Cottonwood Heights, Salt Lake County, Utah, as more fully described in the Plan and referenced by the legal description and other information shown on the Subdivision Plat attached hereto as **ATTACHMENT NO. 1**.

"*Public Easement Agreement*" means the written document granting the Public Easement, which shall be in such form attached hereto as **ATTACHMENT NO. 11**, together with such modifications thereto as Agency reasonably may direct and which are reasonably approved by

Developer before the Closing. The Public Easement Agreement shall be recorded in the office of the Salt Lake County Recorder after recordation of the Declarations but prior to conveyance of any of the Units. The Declarations shall, however, be expressly subordinate to the Public Easement Agreement and to the Public Easement created thereunder regardless of the actual recording sequence.

"*Public Easement*" means the perpetual, irrevocable and exclusive public parking easement, and associated ingress and egress rights, covering certain parking stalls and times of use in the Parking Structure, to arise pursuant to the Public Easement Agreement to be executed and delivered by Developer to Agency and County as of or before the Closing, as further described in Section 2.1 and elsewhere in this Agreement.

"*Public Improvements*" means the non-Private Improvements to the Project Area to be constructed by Developer and dedicated or purchased by Agency or its designee under this Agreement, including the Parking Structure subject to the Public Easement and the Park as improved with the Park Base Improvements.

"*Public Stalls*" has the meaning set forth in Section 2.1(c)(1)(iv) below.

"*Public Use*" means use of the Public Stalls by members of the general public while taking advantage of the Condominium Project amenities (i.e., the Restaurant/Retail improvements and public areas of the Hotel), when visiting the Park or when visiting ski resorts or other activities in the nearby canyons. Public Use of the Exclusive Public Stalls is limited to use of such stalls by members of the general public who are then visiting those canyons and shall not be available for use by owners, tenants, occupants, employees, customers or invitees of any Unit except to the extent, and for the duration, that such persons are then visiting those canyons; provided that Agency and County may modify the scope of permissible Public Use of the Exclusive Public Stalls beyond solely parking for canyon visitors by written resolutions enacted by both Agency and County. Public Use of the Nonexclusive Public Stalls does not include use of those stalls by owners, tenants, occupants or employees of any Unit or a business conducted within any Unit, but does include use of the Nonexclusive Public Stalls by visitors and invitees of the Units other than lodging guests of the Hotel Unit (who are provided with adequate parking under the Shared Parking Plan and the Master Parking Agreement).

"*Public Use Times*" has the meaning set forth in Section 2.1(c) below, as more fully set forth in the Shared Parking Plan.

"*Purchase Price*" means the purchase price to be paid Agency or its designee to Developer for purchase of the Public Easement, Lot 1 and the Public Improvements as more particularly set forth in Article 5 below.

"*Restaurant Unit*" is identified in the Condominium Declaration as Unit 2C.

"*Retail Units*" are identified in the Condominium Declaration as the two Units 2D and 2E.

"*Senior Lien*" means the deed of trust that is described in Exception 18 on Schedule B-II of the Commitment.

"*Shared Parking Plan*" means the shared parking plan for the Parking Structure that is attached hereto as **ATTACHMENT NO. 8**.

"*Storm Line Work*" has the meaning set forth in Section 2.1(a)(3) below.

"*Subdivision Plat*" means the subdivision plat for the Project recorded _____.

"*Tax Increment*" means, as defined in UTAH CODE ANN. 17C-1-102(47) (2017), the difference between: (a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which tax increment is to be collected, using the current assessed value of the property; and (b) the amount of property tax revenues that would be generated from that same area using the 2016 base year taxable value of the property. Tax Increment does not include taxes levied and collected under UTAH CODE ANN. 59-2-1602.

"*Tax Increment Period*" means the 25-year period commencing with the first Tax Increment Year for which Agency receives Tax Increment from the Project Area.

"*Tax Increment Year*" means a calendar year beginning January 1 (the "*Tax Lien Date*") when real property is deemed to be assessed for purposes of taxation by the Office of the Salt Lake County Assessor pursuant to law, and ending December 31 of the same calendar year.

"*Taxing Entities*" means Salt Lake County Library Services, County, Canyons School District, City, Central Utah Water Conservancy District, South Salt Lake Valley Mosquito Abatement District, and Cottonwood Heights Parks and Recreation Service Area.

"*Transferred RDA Funds*" means $1.750 Million in surplus funds arising from two project areas of County's redevelopment agency ("*County RDA*") which now are located within City's boundaries, and which heretofore were transferred by County RDA to Agency pursuant to UTAH CODE ANN. 17C-1-205.

"*Unauthorized use*" means use of a Parking Stall by a user or in a manner that is not specifically authorized by the Public Easement Agreement, the Shared Parking Plan and the Master Parking Agreement.

"*Unit*" means any of the condominium units created by the Condominium Declaration, specifically Units 2A and 2A-1, 2B and 2B-1, 2C, 2D and 2E.

"*Unit Stalls*" has the meaning set forth in Section 2.1(c)(1)(viii).

ARTICLE 2 – CONSTRUCTION AND INSTALLATION OF IMPROVEMENTS; PAYMENT OF TAXES; PROHIBITION AGAINST PARCEL SPLITTING; ETC.

2.1 Construction and Installation of Improvements.

(a) *Scope of the Project-Minimum Standards*. Developer shall construct or cause the Improvements to be constructed as set forth in Subsections 1 and 2 below; subject to

change as reasonably approved by Agency (and City, as applicable) through the public process. All of such Improvements may be referred to herein together as the "*Project.*" Except as otherwise expressly provided in this Agreement, an Agency-approved amendment to this Agreement shall be required before Developer may make any material change(s) to any of the following elements in the Project Area that have been approved by Agency (and City, as applicable): (1) type of development, (2) gross square footage, (3) estimated assessed value, or (4) completion timing.

(1) Lots 1-2. Initially, Developer shall construct or cause to be constructed, at Developer's cost, the portion of the Private Improvements to be constructed within Lot 2, as set forth in **ATTACHMENT NO. 3**. Developer shall also construct at its cost the parking structure on Lot 2 (the "*Parking Structure*"), consisting of approximately 151,761 square feet on three levels containing approximately 415 total parking stalls, the Park Base Improvements on Lot 1, and all Infrastructure, all as provided in this Agreement and in **ATTACHMENT NO. 4**. The Parking Structure will be the podium for the hotel and office building to be included in the Hotel Unit and the Office Unit respectively, and additional commercial space, and will be constructed by Developer (or its permitted successor) as set forth in the Condominium Declaration and this Agreement at its cost pursuant to building plans approved by City. The total assessed value of the Improvements on Lots 1 and 2 is anticipated to be approximately $44,774,152, including land, buildings and fixtures. Figure 2.1(a)(1), below, shows the minimum development standards and completion dates for the Improvements on Lots 1 and 2 of the Project Area. City's approval (through its public process for land use approvals) of the Hotel Unit by _____ 201_ is a condition precedent to the Parties' respective obligations under this Agreement; provided that such condition precedent shall be deemed waived by Developer from and after any monetary advance by Agency under the Construction Loan.

Figure 2.1(a)(1): Development Pro forma Table—Lots 1-2 (Minimum Development Standards)

TYPE OF DEVELOPMENT	SQUARE FOOTAGE / UNITS	ESTIMATED ASSESSED VALUE*	COMPLETION DATE
Hotel	No fewer than 125 rooms	$13,637,404	12/31/22
Class "A" Office	65,000 sq. ft.	16,175,719	12/31/22
Restaurant / Retail Space (3 Units)	11,000 sq. ft. in 3 buildings	5,869,442	12/31/22
Parking Structure	417 parking stalls	11,500,000	12/31/19**
Park	See plan	$0	As per Park Owner
Total:		**$47,182,565**	

**Assessed Value is subject to change, which if decreased is reasonably approved by Agency dependent upon final building condition and approved plans*

***This date will be extended to two years from the date of the Construction Note if the Construction Note is dated later than 31 December 2017.*

(2) Lots 3-5. Developer heretofore has sold Lots 3, 4 and 5 to the Lots 3-5 Owners, who shall by 31 December 2020 develop Lots 3-5 as described and shown in Figure 2.1(a)(2) and the Master Plan.

Figure 2.1(a)(2): Development Pro forma Table—Lots 3-5 (Minimum Development Standards)

TYPE OF DEVELOPMENT	LOT NO.	SQUARE FOOTAGE / UNITS	ESTIMATED ASSESSED VALUE*
Residential Rental Housing	Lot 4	112 units	$10,051,896
Restaurant	Lot 3	5,000 sq. ft.	$969,542
Single Family Residential Housing	Lot 5	17 units	$5,960,495
Total:			$16,981,933

**Assessed Value is subject to change, which if decreased is reasonably approved by Agency dependent upon final building condition and approved plans*

(3) Storm Water Line Along Wasatch. A 48" diameter corrugated metal, public, underground storm water line (the "*Current Line*") extends along the Project's frontage on the Westerly side of Wasatch Blvd. The Current Line may be adversely affected in connection with Developer's construction activities on Lot 2. Consequently, the Parties believe that it will be in their mutual best interests to cooperatively cause the Current Line to either be replaced with a new storm water line in the same location as the Current Line, or for the Current Line to be replaced with a new storm water line located on the Easterly side of Wasatch Boulevard, or for a sleeve to be placed within the Current Line (the "*Storm Line Work*"). The timing, location and nature of the Storm Line Work will be as Agency reasonably directs in consultation with City and Developer. Developer will contribute $250,000 to be applied toward the cost of the Storm Line Work, which shall be paid in cash to City by Developer or its successor hereunder no later than the Closing.

(b) *Ownership and Maintenance of Parking Structure and Park.*

(1) The Parking Structure shall be subject to the Condominium Declaration. The three floors of the Parking Structure may be included within the Hotel Unit and the Office Unit and referred to as Unit 2A and 2A-2(Parking Level P2) and Unit 2B and 2B-1 and 2B-3 (Parking Level P1 and Parking Level P3) or such other designation as otherwise reasonably determined by the Developer. The Parking Structure will be constructed by Developer at Developer's sole cost. As provided further in Section 5 and elsewhere in this Agreement, before any conveyance of a Unit by Developer or upon completion of construction of the Parking Structure, whichever occurs first, the Public Easement Agreement will be recorded as a perpetual encumbrance against the Parking Structure subject only to the Permitted Exceptions, thereby creating the public parking rights in the Parking Structure that are further described below in this Agreement. Neither Agency, County nor the public shall have any maintenance, repair or replacement obligations concerning the Parking Structure. Instead, the maintenance, repair and replacement of the Parking Structure will be governed by the Master Parking Agreement which will impose on either the Condominium Association or the owners of the Units (each, an "*Owner*") the duty to maintain, repair and replace the Parking Structure and all costs and expenses arising from such maintenance, repair and replacement; provided, however, that the portion of the Tax Increment that is specifically designated in the Distribution Chart for use in operation and

maintenance of the Parking Structure and Parking Fees from the Public Stalls shall be available to defray those and other Parking Expenses and funding of the Capital Reserve Account.

(2) Developer shall pay all costs relating to the design, construction and installation (all to City standards) of the Park Base Improvements as described in this Agreement and the Master Plan. Following completion of the Park Base Improvements, the Park Lot shall be conveyed to Park Owner as set forth in Section 5, below. Park Owner thereafter may, at its cost, further improve the Park Lot with such Park Optional Improvements as may be desired by Park Owner, which shall be substantially completed no later than one year after Developer's or its successor's cessation of use of the Park Lot for construction staging purposes. Such completion deadline shall be deemed a covenant running with the land constituting the Park. Park Owner shall be responsible for the operation, maintenance, repair and replacement of the Park.

(c) *Public Easement*. The Public Easement Agreement shall be subject only to the Permitted Exceptions. Among other provisions, pursuant to the Public Easement Agreement:

(1) The parking stalls in the Parking Structure (hereafter, the "*Parking Stalls*") shall be available for use only as follows:

(i) The Parking Structure shall contain three levels and an anticipated total of at least 415 Parking Stalls (the "*Total Stalls*"). Level P1 (comprising Unit 2B-1 and sometimes called "*Parking Level 1*") will contain approximately 217 Parking Stalls, Level P2 (comprising Unit 2A-2 and sometimes called "*Parking Level 2*") will contain approximately 145 Parking Stalls, and Level P3 (comprising Unit 2B-3 and sometimes called "*Parking Level 3*") will contain approximately 55 Parking Stalls. Each level within the Parking Structure will be owned by one of the Unit Owners, with the Owner of the Office Unit (comprising Unit 2B) owning Level P1 and Level P3, and the Owner of the Hotel Unit (comprising Unit 2A) owning Level P2. The use of all Parking Stalls will be monitored at the gates of the Parking Structure as vehicles exit. The Condominium Association will erect access gates, ticketing/payment booths or kiosks, or other similar improvements in the Parking Structure to aid in controlling access to and use of the Parking Structure as provided herein and in the Condominium Declaration.

(ii) 80 of the Total Stalls located on Parking Level 1 shall be designated for exclusive use by the general public 24 hours per day, 365 days per year (the "*Exclusive Public Stalls*"). Signage stating "CANYON PARKING ONLY. No Hotel/Office Parking," or other verbiage specified by Grantee, shall be placed by each of the Exclusive Public Stalls to clarify that such stalls may not be used by employees, customers or other users of the Office Unit or the Hotel Unit. Such signage, its size, color, letter font and placement, shall be subject to the prior reasonable approval of Grantee. The location of the 80 Exclusive Public Stalls may not be modified without Grantee's prior written consent; and

(iii) Other Total Stalls (the "*Nonexclusive Public Stalls,*" which term shall not include any of the Exclusive Public Stalls) shall be designated for use by the general public as follows:

(A) 137 of the Total Stalls located on Parking Level 1 shall be available for Public Use from 6:00 p.m. to midnight on business days and from 6:00 a.m.

to midnight on weekends and federal or state holidays (excluding Columbus Day and Veterans Day); and

(B) An additional 65 of the Total Stalls located on Parking Level 2 shall be available for Public Use on weekends and federal or state holidays (excluding Columbus Day and Veterans Day), with 40 of those stalls designated for Public Use from 6:00 a.m. to midnight, and the remaining 25 of those stalls designated for Public Use from 6:00 a.m. to 6:00 p.m.

The above-specified days and times for Public Use of Parking Stalls are collectively referred to herein as the "*Public Use Times.*"

(iv) The Exclusive Public Stalls, and the Nonexclusive Public Stalls during the Public Use Times, are referenced together herein as the "*Public Stalls.*" The location and grouping of the Public Stalls is depicted in the Shared Parking Plan.

(v) In order to reduce congestion in Big Cottonwood Canyon and Little Cottonwood Canyon (the "*Canyons*"), use of the Exclusive Public Stalls shall be reserved for members of the general public who are then visiting those canyons and shall not be available for use by owners, tenants, occupants, customers, guests or invitees of any Unit except to the extent, and for the duration, that such persons are then visiting the Canyons. To that end, signage stating "CANYON PARKING ONLY. No Office/Hotel Parking," or other verbiage specified by Agency and County, shall be placed by each of the Exclusive Public Stalls to clarify that such stalls may not be used by employees, customers or other users of the Office Unit or the Hotel Unit. Such signage, its size, color, letter font and placement, shall be subject to Agency's and County's prior reasonable approval. Agency or County also may, at its cost, erect access gates, ticketing/payment booths or kiosks, or other similar improvements in an appropriate location in the Parking Structure to further prevent or discourage unauthorized use of the 80 Exclusive Public Stalls, subject to the Condominium Association's input and prior approval, which may not be withheld, delayed or conditioned unreasonably. Finally, Agency and County also shall have the right to enforce against unauthorized use of the 80 Exclusive Public Stalls through Agency Enforcement Methods.

(vi) To further help reduce congestion in the Canyons, during the Public Use Times the Nonexclusive Public Stalls shall only be available for Public Use; provided that Agency or County may, in its sole discretion, grant in writing a Unit Owner's written request for a temporary license to use certain Nonexclusive Public Stalls for employee parking during certain Public Use Times. All users of the Public Stalls shall pay the same Parking Fees. The Condominium Association (or its replacement as the manager of the Parking Structure under the Condominium Declaration and/or the Master Parking Agreement), in consultation with Agency and County, shall take such steps as may be reasonably available to prevent and/or to penalize unauthorized use of the Nonexclusive Public Stalls; provided that if notwithstanding such steps Agency or County reasonably suspects a pattern of unauthorized use of the Nonexclusive Public Stalls, then Agency or County may so inform the Condominium Association in writing and, following at least ten days after the giving of such notice, Agency or County may institute Agency Enforcement Methods for its own benefit which are reasonably designed to cause offenders to avoid, remedy and/or cease unauthorized use of the Nonexclusive Public Stalls. Such use of Agency Enforcement Methods as to the Nonexclusive Public Stalls shall be undertaken in a phased

manner proceeding from least to most severe only as reasonably deemed necessary by Agency or County, in consultation with the Condominium Association, to accomplish Agency's or County's goal of eliminating unauthorized use of the Nonexclusive Public Stalls.

(vii) In order to protect the parking rights of the Unit owners and their tenants, occupants, customers, guests and invitees within the Parking Structure, and to prevent the overuse by the public under the Public Easement of the Parking Stalls that are not Public Stalls (the Total Stalls less the Public Stalls may be referred to hereunder as the "*Unit Stalls*"), the Condominium Association may, at its cost, erect access gates, ticketing/payment booths or kiosks, or other similar improvements in an appropriate location in the Parking Structure that do not reduce the number of parking stalls in the Parking Structure in order to enforce against unauthorized use of the Unit Stalls through Association Enforcement Methods with the resulting proceeds belonging solely to the Condominium Association.

Only the Public Stalls are available to the public. The Condominium Association or its replacement as the manager of the parking Structure under the Condominium Declaration and/or the Master Parking Agreement, shall take such steps as may be reasonably available to prevent and/or to penalize unauthorized use of the Unit Stalls; provided that if notwithstanding such steps the Condominium Association reasonably suspects a pattern of unauthorized use of the Unit Stalls, then the Condominium Association may so inform City or County, as applicable, in writing and, following at least ten days after the giving of such notice, the Condominium Association may institute Association Enforcement Methods for its own benefit which are reasonably designed to cause offenders to avoid, remedy and/or cease unauthorized use of the Unit Stalls. The Condominium Association's use of the Association Enforcement Methods as to the Unit Stalls shall be undertaken in a phased manner proceeding from least to most severe only as reasonably deemed necessary by the Condominium Association, in consultation with City or County, as applicable to accomplish the Condominium Association's goal of eliminating unauthorized use of the Unit Stalls.

(viii) The Public Stalls shall not be considered to be available to meet the parking needs of any Unit(s) of the Condominium Project, or of any other portions of the Project, when analyzing the availability of adequate parking to meet City's requirements in connection with any land use application concerning such other Unit(s) or portion To further reduce the possibility of non-public use of the Public Stalls by employees of the Office Unit, there shall be no uses or leases of the Office Unit requiring, in the aggregate taking into account all such uses and leases, use or allocation of over four and one-half (4.5) Parking Stalls per 1,000 square feet of leasable floor area, measured under applicable City parking standards.

(ix) The Unit Stalls shall be considered to be available to meet the parking needs of any Unit(s) of the Condominium Project when analyzing the availability of adequate parking to meet City's requirements in connection with any land use application concerning such Unit(s). To further reduce the possibility of public use of the Unit Stalls, the Condominium Association may erect signage indicating the Public Use Times as deemed necessary by the Condominium Association.

(x) The Condominium Association shall cause the Hotel Unit and the Office Unit to adopt and consistently follow policies and procedures whereby the owners,

tenants, occupants, customers, guests and invitees of those Units regularly are given clear instructions on when and where to park in the Parking Structure in a manner that will not impair the public's rights to exclusive use of the 80 Exclusive Public Stalls at all times or of the Nonexclusive Public Stalls during the Public Use Times. The Condominium Association may also develop, adopt and consistently follow policies and procedures whereby the public is regularly given clear instructions on when and where to park in the Parking Structure in a manner that will not impair the rights of the Unit owners to utilize the Unit Stalls at the times set forth in the Shared Parking Plan.

(xi) It is anticipated that the Public Easement Agreement will be recorded following recording of the Master Declaration, the Condominium Declaration and the Condominium Plat in the office of the Recorder of Salt Lake County, Utah. Regardless of the recording sequence, the Master Declaration, the Condominium Declaration and the Condominium Plat will be treated as subordinate to the Public Easement Agreement, provided that attachment of the Public Easement to, and enforceability of the Public Easement against, the Condominium Project shall be deemed to have occurred notwithstanding such subordination. The Declarations shall include such subordination provisions as the Agency reasonably may direct and shall expressly provide that, any and all parking and other rights of the Unit Owners or others in and to the Total Stalls are subject and subordinate to the Public Easement and to the public's rights in and to the Public Stalls as described in the Public Easement Agreement in the form attached hereto; provided, however, that the foregoing provisions shall not be construed to impair the rights of the Hotel Unit and the Office Unit to park in the Unit Stalls at the times specified herein and in the locations set forth in the Shared Parking Plan.

(2) If the Condominium Association creates any committee, board or other body under the Master Parking Agreement, under the Condominium Declaration, or otherwise, for the purpose of managing the Parking Structure (the "*Parking Management Committee*"), Agency or its designee shall permanently have a voting membership seat on such body. If the Condominium Association does not delegate such management function to a Parking Management Committee, then Agency or its designee shall be entitled to receive prior notice of, and the right to attend and give input in, all Condominium Association meetings where operation of the Parking Structure and the public use thereof is to be discussed.

(3) The fees for public parking in the Parking Structure (*the "Parking Fees")* shall be set from time to time by the Condominium Association or the Parking Management Committee in a manner that promotes, rather than discourages, public parking in the Parking Structure and in an amount that results in income from the Public Stalls in an amount sufficient to pay up to 20% of Parking Assessment pursuant to the Master Parking Agreement. Notwithstanding the foregoing, the fees charged for public use of any Public Stall may not at any time exceed the lesser of (i) the average fee for public parking in three comparable parking structures outside the central business district (i.e., 400 West to 200 East, inclusive, between North Temple and 600 South, inclusive) of downtown Salt Lake City, as reasonably designated by Agency, or (ii) 75% of the average fee for public parking in three comparable parking structures within the central business district of downtown Salt Lake City, as reasonably designated by Agency, or (iii) $1.50 per hour, adjusted for any changes in the Consumer Price Index between the date of this Agreement and the date of the proposed adjustment to such public parking fees. As used herein, "*Consumer Price Index*" shall mean the consumer price index published by the United States Department of

Labor, Bureau of Labor Statistics, U.S. City Average, All Items and Major Group Figures for Urban Wage Earners and Clerical Workers (1982-84=100). Should the Bureau of Labor Statistics discontinue the publication of said index, or publish the same less frequently, or alter the same in some other manner, then the Agency shall use as a reference a substitute index or substitute procedure which reasonably reflects and monitors consumer prices. Further, if the base year "(1982-84=100)" or other base year used in computing the Consumer Price Index is changed, the figures used in making the rental adjustments required herein shall be changed accordingly so that all increases in the Consumer Price Index are taken into account notwithstanding any such change in the base year. The designation of "comparable parking structures" pursuant to (i) and (ii) above will be subject to prior notice to and input from the Condominium Association. The provisions of this Section 2.1(c)(3) shall not impair Agency's and County's right to employ Agency Enforcement Methods and to retain the proceeds thereof for their own use and benefit, nor shall they impair the rights of the Condominium Association to employ the Association Enforcement Methods and retain the proceeds thereof for the use and benefit of the Condominium Association.

2.2 **Construction and Installation of the Parking Structure**. Developer shall timely design the Parking Structure to the standards and requirements of City's code and shall submit said designs to City and Agency for approval. Developer shall timely complete the construction and installation of the Parking Structure by the times set forth in **ATTACHMENT NO. 4** and in accordance with the other requirements of this Agreement. Developer shall design, construct and install all of the Parking Structure without expense to Agency, except for Agency's payment of the Purchase Price.

2.3 **Developer's Payment of Ad Valorem Taxes**. Developer, the Lots 3-5 Owners and each successor owner shall, during the Tax Increment Period, pay or cause to be paid the ad valorem taxes for each parcel owned by such owner within the Project Area based on the Assessed Taxable Value.

(a) For Improvements constructed and installed in the Project Area through calendar year 2017, in order to be included on County's final tax assessment rolls for Tax Increment Year 2018 and thus generate a Tax Increment for Tax Increment Year 2019, such Improvements must be constructed, installed and completed on or before 31 December 2018. Improvements constructed, installed and completed during calendar year 2018 will appear on the 2019 tax assessment roll having a Tax Lien Date of 1 January 2020 and continuing in that manner until the Improvements for the Project Area are fully constructed.

(b) Tax Increment resulting from property taxes paid by 30 November 2019, will be received by Agency from County in the spring of 2020, when the County Treasurer pays to Agency the Tax Increment monies which are available for distribution in accordance with the Interlocal Agreements.

2.4 **Restriction Against Parcel Splitting**. Until the end of the Tax Increment Period, and except for the planned condominiumization of the building on Lot 2, Developer shall not, without prior written approval of Agency (and City, as applicable), diminish or augment the land pertaining to the Project, or construct or install or allow to be constructed or installed any building or structure pertaining to the Project in such a way that the Project, or any of its buildings or structures, would extend outside the Project Area or between Lots of the Project, as shown on

County's tax identification system for numbering individual parcels of real property. Developer understands the importance of honoring the Project Area boundaries and shall take no action in the construction or installation of buildings or structures or in the conveyance of real property located within the Project Area that would result in the "splitting" or "joining" of a parcel of real property or the improvements thereon, or would make it difficult for the County Assessor or County Auditor to calculate the amount of Tax Increment in the Project Area. Nothing in the foregoing language shall, however, prevent Developer from seeking Agency's (and City's, as applicable) approval to adjust the boundaries of one or more Lots within the Project Area to accommodate reasonable adjustments in order to further reasonable development objectives.

2.5 **De-Annexation (Disconnection)**. Developer, the Lots 3-5 Owners and their respective successors and assigns shall not cooperate with any person, group, county or municipality in any effort to remove, de-annex, disconnect or disincorporate any portion of the Project Area from City's municipal boundaries until after the Tax Increment Period. During the Tax Increment Period, Developer, etc., also shall use its best efforts to resist any efforts to remove, disconnect, de-annex or disincorporate any of the Project Area from City by any existing or future municipality or county. If any of the Project Area is disconnected, de-annexed or disincorporated from City by any existing or future local municipality or county, Agency's right to receive Tax Increment from the Project Area may cease. In such event, Agency's obligation to pay the Tax Increment to Developer shall immediately and automatically cease and terminate.

2.6 **Payment of Taxes and Assessments**.

(a) Subject to Developer's or a successor owner's right to protest or appeal as provided below, for each Tax Increment Year during the Tax Increment Period, all ad valorem taxes and assessments levied or imposed on the Project Area, any of the Improvements, and any personal property on the Project Area shall be paid annually by Developer or other current owner on or before the legal due date (currently, November 30th).

(b) Developer or the successor owner of any Lot may protest or appeal the amount of Assessed Taxable Value and taxes levied against the Project Area by the County Assessor, State Tax Commission or any entity legally authorized to determine the ad valorem assessment against the Project Area, the Improvements, personal property on the Project Area, or any portion thereof in the same manner as any other taxpayer; provided that Agency shall have no obligation to make up from any other funds which may be available to Agency any resulting shortfall in Tax Increment. Developer or such successor owner shall, however, notify Agency in writing within ten calendar days following the filing of any protest or appeal to such assessment determination or taxes and provide a copy to Agency of any protest or appeal of such assessment and information submitted as part of the protest or appeal. In addition, Developer or such successor owner shall give written notice to Agency at least 15 calendar days prior to the time and date that such protest or appeal is to be heard. Agency shall have the right, without objection by Developer or such successor owner, to appear in such protest or appeal and to present oral or written information or evidence in support of or objection to the amount of assessment or taxes which should or should not be assessed against the real or personal property of the Project Area and the amount of Agency's obligations.

ARTICLE 3 – CONSTRUCTION REQUIREMENTS, ETC.

3.1 **Issuance of Permits**. Developer and its successor owners of the Project Area's Lots shall be solely responsible for obtaining all necessary permits and approvals to construct and install the Improvements and shall make application for such permits and approvals directly to City and other appropriate agencies and departments. Developer shall pay all impact fees, permit fees and similar fees relating to construction of the Project; provided, however, that Developer does not waive its right to protest any such fees pursuant to applicable law.

3.2 **Times for Construction**. Developer shall commence development of the Project as soon as reasonably possible after the date of this Agreement and thereafter shall diligently prosecute such construction and installation of the Improvements so that the Project is completed no later than the dates set forth in Section 2.1(a), above, subject to force majeure under Section 11.3; provided, however, that notwithstanding the foregoing obligation, Developer is not required to commence construction of the Parking Structure until Agency has possession of the County Loan funds and the Transferred RDA Funds and is authorized to disburse such funds as part of the Construction Loan and Purchase Price, and Developer may terminate this Agreement as set forth in Section 5.1 below if such funds are not received and disbursement is not authorized on or before _____. Time is the essence of this Agreement because, *inter alia*, unless the Improvements are timely constructed, installed and completed and become part of County's final assessment tax roll, the Available Tax Increment would be less than the amounts shown on the Distribution Chart.

3.3 **Access to Project Area**. The Improvements and construction of the Improvements within the Project Area shall be subject to inspection by representatives of Agency (and City, as applicable). Developer shall permit access to the Project Area by Agency (and City, as applicable) for purposes of inspection, and, to the extent necessary, to carry out the purposes of this Agreement. Inspections shall be made during reasonable business hours and shall be made in accordance with standard project safety guidelines.

ARTICLE 4 – LAND USES

4.1 **Covenants**. Developer covenants and agrees for itself and its successors and assigns to any of the Project Area as follows:

(a) The Project Area shall be devoted only to the Available Uses specified in the CDA Plan and this Agreement, unless otherwise approved by Agency and City through the public process.

(b) Subject to Section 11.3 concerning force majeure, the Improvements shall be constructed in the manner and on the timetable specified in this Agreement.

(c) Prior to the completion of the Improvements on Lot 2 and the Park Lot, issuance of the applicable Certificates of Occupancy, and conveyance and recording of the Public Easement Agreement, Developer shall have no power to convey any of Lot 2 or the Park Lot without prior written consent from Agency and City; provided, however, that the foregoing shall not impair Developer's right to:

(1) Encumber Lot 2 and/or the Park Lot with a mortgage or a trust deed required to obtain funds necessary to acquire such Lots and/or to construct and install the Improvements thereon, but only in compliance with subsection 5.1(c)(3), below, to assure that Agency or its designee shall receive the Public Easement subject only to the Permitted Exceptions and unencumbered fee simple absolute title to the Park Lot promptly upon payment (through loan advance or otherwise) of the Purchase Price;

(2) Convey the Hotel Unit, the Retail Unit and/or the Office Unit within Lot 2 to a capable, financially qualified end user or developer of such Condominium Unit (i) who is obligated to construct the building thereon, or (ii) following Developer's completion of the Improvements on such Condominium Unit, provided that such conveyances shall be subject to the Public Easement Agreement and this Agreement, both of which shall be recorded in the office of the Salt Lake County Recorder before the occurrence of any conveyance(s) of a Unit;

(3) Effect a conveyance of the Public Improvements under Article 5 or as authorized in Section 9.3 of this Agreement;

(4) Convey part or all of the Project, with prior written consent from Agency, to a new proposed developer whom Agency deems to be at least as qualified as the transferor Developer and otherwise acceptable under the requirements of Section 9.3, pursuant to a written agreement containing the applicable terms and conditions of this Agreement binding upon the new proposed developer; or

(5) Until no later than five (5) years from commencement of construction of the Parking Structure, utilize the Park Lot as a staging area for construction of the Improvements on Lot 2.

As a condition of granting its written consent to a conveyance of any of Lot 2 prior to the completion of the Improvements and the issuance of the applicable Certificates of Occupancy, Agency may require that (i) any proposed transferee enter into a written agreement with Agency, in such form as Agency may require, to assume Developer's obligations under this Agreement and to be bound by the terms of this Agreement with respect to the portion of the Project Area being conveyed, (ii) the proposed transfer be expressly subject to this Agreement and the Public Easement Agreement, both of which shall be recorded in the office of the Salt Lake County Recorder before such transfer may occur, and (iii) the transferor Developer will guaranty the full and timely payment and performance of all of the transferee Developer's obligations under this Agreement. Such approval by Agency shall not be unreasonably withheld, conditioned, or delayed.

(d) Not to discriminate against any person or group on any unlawful basis in the sale, lease, rental, sublease, transfer, use, occupancy, tenure or enjoyment of the Project Area or any improvements erected or to be erected thereon, or any part thereof.

4.2 **Enforcement of Covenants**.

(a) The agreements and covenants provided in this Article 4 shall be covenants running with the land constituting the Project Area and also shall be, to the fullest extent legally possible, enforceable by Agency and City against Developer, its successors and assigns, and any

party in possession or occupancy of any of the Project Area. Agency and City each shall be deemed a beneficiary of the agreements and covenants under Section 4.1.

(b) The covenant and agreement contained in Subsection 4.1(a) shall terminate at the end of the Tax Increment Period, except that the termination of such covenant shall in no way be construed to release Developer or its successors from the obligation to comply with City's zoning or other ordinances.

(c) The covenants and agreements contained in Subsections 4.1(b) and 4.1(c) shall terminate as to each Improvement within a Unit on Lot 2 on the date City has issued the Certificate(s) of Occupancy as to such Improvement; provided that no such termination shall impair the priority of the public easements and rights contained, or to be contained, in the Public Easement Agreement over the competing rights of any Owner or occupant of a Unit. Issuance of Certificate(s) of Occupancy shall be evidence that the particular portion of construction or installation of the Improvements has been completed.

(d) The covenant contained in Subsection 4.1(d) shall not terminate.

ARTICLE 5 – PURCHASE OF CERTAIN PUBLIC RIGHTS AND IMPROVEMENTS

5.1. **Purchase by Agency**. Agency agrees to purchase the Public Easement on the completed Parking Structure and fee simple title to the Park Lot from Developer on the terms and conditions set forth in this Article 5.

(a) *Public Improvement*. Developer owns Lot 1 and 2 of the Project Area, and intends to construct the Park Base Improvements and the Parking Structure thereon, which together constitute a portion of the Public Improvements as more particularly set forth in this Agreement and its attachments.

(b) *Purchase Price*. The total purchase price (the "*Purchase Price*") for the grant of the Public Easement on the completed Parking Structure and fee simple title to the Park Lot improved with the Park Base Improvements is anticipated to be $9.5 Million arising from (by way of limitation) the following payment sources:

(1) The amount of the County Loan to Agency, which is anticipated to be $6.0 Million; and

(2) $1.75 Million of the Transferred RDA Funds, provided that Agency reasonably determines that such Transferred RDA Funds are legally available for use in the Project Area as provided in this Agreement.

(3) The proceeds of a privately placed bond of the Agency (the *"Private Bond")* bearing terms, conditions, provisions and payments as specified on **ATTACHMENT NO. 7** and which proceeds are disbursed to Developer or its designee. It is anticipated that the Private Bond will be in the amount of $1.75 Million; provided that if there is a shortfall in either funding source under 5.1(b)(1) or 5.1(b)(2), above, then Developer may direct that the amount of the Private Bond be increased accordingly, in which event the Purchase Price shall remain $9.5 Million. Agency shall have no out of pocket costs in issuing the Private Bond, and Agency shall

have no obligation to locate any buyer(s) of the Private Bond, all of which costs and risks are upon Developer. The sole source of repayment of the Private Bond shall be Tax Increment from the Project, and if such Tax Increment proves to be inadequate to satisfy the Private Bond on the same prorated basis shown on the Distribution Chart, then neither the Agency, the City, the County nor any related person or entity shall have any liability for such shortfall, the risk of which shall be expressly assumed by Developer.

If the anticipated $9.5 Million in funding under subsections 5.1(b)(1)-(3) does not become available to Agency through no material fault of its own, then either (A) Developer may elect to reduce the Purchase Price accordingly on a dollar-for-dollar basis, the parties agreeing that Agency has absolutely no obligation to fund any such shortfall from any other sources, or (B) Developer may terminate this Agreement upon written notice to Agency before any payment by Agency of the Purchase Price or any funding by Agency of the Construction Loan, whereupon the Parties shall be mutually relieved of all of their respective obligations under this Agreement, the Declarations, or otherwise. The cost of constructing the Parking Structure in excess of the Purchase Price shall be paid by Developer at its cost.

The Purchase Price shall be allocated $8 Million (or 80% of the Purchase Price) to the grant of the Public Easement on the completed Parking Structure and $1.5 Million (or 20% of the Purchase Price) to the Park Lot improved with the Park Base Improvements.

(c) *Construction Financing*. To facilitate construction of the Public Improvements, Agency shall make construction financing (the "*Construction Loan*") available to Developer on the following basis:

(1) The Construction Loan shall be utilized for the sole purpose of construction of the Parking Structure and the Park Base Improvements so that Public Easement on the completed Parking Structure and fee simple title to the Park Lot may be conveyed to Agency as provided herein. No portion of the Construction Loan shall be available or advanced until Developer has invested at least $4 Million of its own, separate funds (such as from third-party loans) in construction of the Parking Structure.

(2) The maximum amount of the Construction Loan shall be equal to the Purchase Price, but only to the extent that the approximately $9.5 Million in funds described in subsections 5.1(b)(1)-(3), above, are actually received by Agency and able to be used by Agency for purposes of the Construction Loan. If those received funds are less, then the Purchase Price and the Construction Loan shall be correspondingly reduced. In no event shall Agency, City, the County or any other governmental entity or officer be obligated to Developer or its successors for any reduction in the Purchase Price or the Construction Loan due to Agency's failure to actually receive from the sources identified above any portion of the Purchase Price through no material fault of its own.

(3) The Construction Loan shall be evidenced and secured by such loan documents (the "*Construction Loan Documents*") as are reasonably specified by Agency, including:

(i) A promissory note (the "*Construction Note*") from Developer to Agency in the principal amount of the actual portion of the Purchase Price advanced under the Construction Loan Agreement, bearing non-default interest at the rate of 0% per annum and default interest at the rate of 6% per annum, payable upon the earlier of (a) completion of the Public Improvements, or (b) two years following the date of the Construction Note;

(ii) A construction loan agreement (the "*Construction Loan Agreement*") providing for advances under the Construction Note in accordance with the progress of construction of the Parking Structure and the Park Base Improvements, as reasonably requested by Developer, certified by the Project architect, and reasonably approved by Agency and any qualified construction consultant retained by Agency (and reasonably compensated at Agency's cost to monitor and gauge the quality and sufficiency of construction); and

(iii) A trust deed (the "*Construction Trust Deed*") securing the full and timely payment and performance of Developer's obligations under the Construction Note and the Construction Loan Agreement. The Construction Trust Deed shall be either:

(A) A first-priority financial lien on Lots 1 and 2, and shall be subject only to this Agreement, the Declarations approved by Agency (to the extent that the Declarations are subordinate to this Agreement and the Public Easement Agreement, whether by virtue of recording priority or the effect of express subordination provisions in the Declarations), the Public Easement Agreement and exceptions 9-16 of Schedule B-II of the Commitment (collectively, the "*Permitted Exceptions*"), with such priority insured by a lender's policy of title insurance in the amount of the Construction Note provided at Developer's cost by Landmark Title Company or another qualified title insurer reasonably selected by Agency ("*Agency's Title Insurer*"); or

(B) If desired by Developer, a second-priority financial lien on Lots 1 and 2, subject only to the Permitted Exceptions and the Senior Lien, with such priority insured by a lender's policy of title insurance in the amount of the Construction Loan provided at Developer's cost by Agency's Title Insurer, but only so long as before Agency advances (or is obligated to advance) any monies under the Construction Loan:

(1) This Agreement, the Condominium Declaration, the Condominium Plat and the Public Easement Agreement are recorded in the office of the Recorder of Salt Lake County, Utah and the Public Easement Agreement is, either by virtue of its recording priority or through express subordination(s) reasonably acceptable to Agency, subject only to the Permitted Exceptions, and

(2) A good and sufficient release or reconveyance (as applicable) of the Senior Lien as to the Park Lot, in such form as may be reasonably acceptable to Agency (the "*Release*"), is deposited into escrow (the "*Escrow*") with Cottonwood Title Insurance Agency, Inc. or another title company, a bank, or other independent, qualified third party reasonably acceptable to Agency ("*Escrow Agent*"), and

(3) A good and sufficient subordination agreement whereby the Senior Lien is subordinated to the Public Easement Agreement, in such

form as may be reasonably acceptable to Agency and the holder of the Senior Lien (the "*Subordination*"), is deposited into the Escrow; and

(4) Such Escrow is subject to written escrow instructions reasonably acceptable to and binding on the holder(s) of the Senior Lien (the "*Escrow Instructions*") whereby the Release and the Subordination will be released from the Escrow and immediately recorded against the Park Lot and the Parking Structure at Closing; provided that Agency has advanced (through the Construction Loan or otherwise) funds equaling the Purchase Price to Developer or its successor owner(s) of fee title to the Parking Structure and/or the Park Lot, as applicable; and

(5) The requirement of such release and recording of the Release and the Subordination upon such payment by Agency is specified within the recorded Senior Lien or an amendment thereto, such that Agency and/or its designee, as applicable, shall receive (a) unencumbered fee simple absolute title to the Park Lot, and (b) the Public Easement, subject only to the Permitted Exceptions, promptly upon payment (through loan advance under the Construction Loan or otherwise) of the Purchase Price.

The form and content of the Construction Loan Documents otherwise shall be as reasonably specified by Agency and reasonably agreed to by Developer. Further, the Agency anticipates cooperating in the possible creation of an intercreditor agreement among the holder of the Senior Lien, Agency as the anticipated holder of a second-priority lien, and an anticipated junior lienholder so long as Agency reasonably determines that its interests under this Agreement, the Construction Loan Documents and the Declarations will be adequately protected even though Agency's right to pursue certain legal remedies may be delayed to allow time for the Condominium Project to be constructed.

5.2 **Construction of Public Improvements**. The Public Improvements shall be constructed by Developer as required hereunder. The construction of and permitting for the Public Improvements will be managed by Developer, with all costs, fees, charges and other sums to be paid by Developer at its sole cost.

5.3 **Conditions Precedent**. Agency's obligation to close its purchase of the Public Easement on the Parking Structure and fee simple title to the Park Lot is subject to the following conditions precedent, in addition to any others specified in this Agreement:

(a) *Full Completion*. Confirmation that the Public Improvement then being purchased has been constructed or improved, as applicable, in accordance with this Agreement and Agency (and City, as applicable) approved plans and specifications, and City's issuance of a Certificate of Occupancy for the Parking Structure.

(b) *Declarations*. The full execution, delivery and recording of the Declarations and the Public Easement Agreement in the forms approved by Agency. **Agency hereby objects to, and shall not be bound by, any provision(s) of the Declarations which (i) requires Agency, County or City to pay any fees, costs, assessments or other sums due to ownership or use of the Public Easement on the Parking Structure and/or ownership of fee simple title to the Park Lot, except the portion of the Tax Increment described in Section 2.1(b)(1), above, and**

payment of all Parking Fees for Public Stalls into the account for Parking Expenses administered by the Parking Management Committee, (ii) imposes any duties or obligations on Agency, County or City not expressly specified in this Agreement or any other agreement to which the Agency, County or City is a party, or (iii) is contrary to the terms of this Agreement or the Public Easement Agreement, and Developer and its successor owner(s) of Lot 1 and/or Lot 2 shall, or shall cause, express releases of such obligations as set forth in subsections (i), (ii) or (iii). Such release may take the form of appropriate amendments to the Declarations in such form(s) as Agency may direct, to be recorded against title to the Parking Structure and the Park Lot before the first to occur of (A) any advances by Agency of the proceeds of the Construction Note, or (B) closing of acquisition of the Public Easement and/or the Park Lot by Agency and the Park Owner, as applicable.

(c) *Funds*.

(1) Full conveyance and funding of the Transferred RDA Funds to Agency, and Agency's determination that the Transferred RDA Funds are legally available for use in the Project Area as provided in this Agreement; and

(2) Full conveyance and funding of the County Loan to Agency pursuant to the County Loan Interlocal; and

(3) Agency has issued the Private Bond for the purposes specified in this Agreement.

(d) *Title Insurance*. Issuance through Agency's Title Insurer of the standard coverage owner's policies of title insurance described in Section 5.4(c), below.

5.4 **Closing**.

(a) *Escrow Agent*. Promptly following full execution and delivery of this Agreement, Agency and Developer shall open an escrow with Escrow Agent. A copy of this Agreement shall be provided to Escrow Agent to advise Escrow Agent of the terms and conditions hereof.

(b) *Closing*. Closing shall occur no later than ten days following written notice to Escrow Agent by Developer and Agency that the conditions precedent set forth above in Section 5.3 have been waived or satisfied. If Closing does not occur by 30 June 2020, however, then Agency may terminate its obligation to purchase the Public Easement on the Parking Structure and fee simple title to the Park Lot at any time thereafter upon at least six months' prior written notice and opportunity to cure to Developer, in which event any sums previously advanced under the Construction Loan shall be deemed due and payable and Agency thereafter may pursue its remedies under the Construction Loan Documents. At Closing:

(i) Developer shall (A) convey to Agency or its designee the Public Easement pursuant to the Public Easement Agreement and unencumbered fee simple absolute title to the Park Lot by special warranty deed, all free and clear of financial liens and encumbrances and subject only to the Permitted Exceptions, and (B) deliver to Agency or its designee such other

documents as are reasonably required by Escrow Agent or Agency or its designee. If at the time of Closing the Public Easement Agreement already has been conveyed to Agency and recorded due to, for example, a prior transfer by Developer of one of the Units as provided elsewhere in this Agreement, Agency may require Developer to execute, deliver and record such written confirmation of the prior grant of the Public Easement or other documents or instruments as Agency reasonably may require to confirm Agency's and County's ownership of the Public Easement subject only to the Permitted Exceptions.

(ii) Agency or its designee shall pay the Purchase Price to Developer through cancellation of the Construction Note and reconveyance of the Construction Trust Deed, with any balance of the applicable Purchase Price not previously advanced under the Construction Note (i.e., funds actually received by Agency from the two sources specified above, less any portion of such funds previously advanced to Developer under the Construction Note) to be paid and/or delivered by Agency or its designee in cash-equivalent, immediately-available funds.

(iii) At Closing of Agency's purchase of the Park Lot, title to the Park Lot shall be made subject to a restrictive covenant in favor of the Condominium Association whereunder the Park Lot may not be used for any purpose other than a public park or other open space.

(c) *Closing Costs*. Developer shall pay the cost of recording the special warranty deed and the Public Easement Agreement at Closing. Any escrow fees pertaining to the Closing shall be paid equally by Developer and Agency. General real property taxes shall be prorated as of the date of Closing. At Closing, Developer shall provide to (i) Agency and County, a standard owner's policy of title insurance for the Public Easement on the Parking Structure pursuant to the Public Easement Agreement, insuring title thereto free and clear of all liens and encumbrances other than the Permitted Exceptions, and (ii) Park Owner a standard owner's policy of title insurance for the Park Lot, insuring fee simple title thereto, free and clear of all liens and encumbrances other than the Permitted Exceptions. The total coverage amount of those owners policies of title insurance shall be the Purchase Price, allocated proportionately between the Public Easement and the Park Lot on the basis of 80% to the Public Easement title coverage and the balance to the Park Lot title coverage. The title insurer is Cottonwood Title Insurance Agency, Inc., subject to Agency's prior reasonable approval, and the title insurance premium for each such policy shall be paid by Developer.

ARTICLE 6 – CONDITIONS PRECEDENT TO THE PAYMENT OF TAX INCREMENT BY AGENCY

6.1 **Conditions Precedent to Eligibility for Tax Increment**. Except as set forth below, the following are express conditions precedent to Agency's obligation to pay the Tax Increment as more fully described in Articles 7 and 10:

(a) *Acquisition and Development of Infrastructure*. Developer must have completed the Infrastructure for the Project Area by the deadline for completion of the Parking Structure.

(b) *Completion of the Parking Structure*. Developer shall have timely completed to the satisfaction of Agency the design, construction and installation (all to City code standards) of the Parking Structure as described in this Agreement and in **ATTACHMENT NO. 4.**

(c) *Completion of the Park Lot*. Developer shall have timely completed to the satisfaction of Agency the design, construction and installation (all to City code standards) of the Park Lot as described in this Agreement and in **ATTACHMENT NO. 4.**

(d) *Purchase of Public Improvements*. Agency and the Park Owner, respectively, shall have closed its purchase of the grant of the Public Easement on the Parking Structure and fee simple title to the Park Lot from Developer as provided in Article 5 and a Certificate of Occupancy for the Public Improvements shall have been issued.

(e) *Compliance With This Agreement*. Developer (or its successor owners, as applicable) shall have timely performed each and every other material term, covenant and condition of this Agreement, including the timely payment when due of all ad valorem taxes on or relating to the Project Area.

6.2 **Developer's Failure to Meet the Conditions Precedent.** If, during any Tax Increment Year, Developer, or any successor owner, as applicable, fails to perform any material term, covenant or condition precedent described in Sections 6.1 (with the sole exception of failure to time pay ad valorem taxes, in recognition of the fact that such taxes ultimately will be recovered through payment in subsequent tax years or a tax sale under applicable law) following any applicable notice and cure period and 30 days' additional prior written notice and opportunity to cure to Developer and the owners of all Condominium Units, then during the pendency of such default Agency shall have no obligation to pay any of the available Tax Increment to anyone besides the Taxing Entities (including County under the County Loan) in their proportions shown on the Distribution Chart, with any undisbursed balance of such Tax Increment amount being retained by Agency and used at its discretion.

6.3 **Tax Increment Period**. Subject to the satisfaction of the conditions precedent described in Section 6.1, and subject to Developer's compliance with all its other obligations under this Agreement, the payees under the Distribution Chart shall only be eligible for the Tax Increment during the Tax Increment Period.

ARTICLE 7 – TAX INCREMENT PAYMENTS

The Tax Increment to be paid hereunder shall, following Closing of the purchase of the conveyance of the Public Easement and Park Lot by Agency and Park Owner, respectively, from Developer, be distributed as provided in the Distribution Chart. Any remaining Tax Increment will be deposited into the accounts administered by the Parking Management Committee for Parking Expenses or deposited into the Capital Reserve Account pursuant to the Master Parking Agreement.

ARTICLE 8 – APPROVAL OF DEVELOPMENT

The ability of Agency and Developer to perform under this Agreement is conditioned on Agency's (and City's, as applicable) approval of the amended CDA Plan shown on **ATTACHMENT**

NO. 2. If Agency (and City, as applicable) fail to approve such amended Plan, then this Agreement shall be voidable by any Party upon at least ten days' prior written notice to the other Parties.

ARTICLE 9 – ANTI-SPECULATION AND ASSIGNMENT PROVISIONS

9.1 **Acknowledgement of Prior Sales of Lots 3-5**. The Parties acknowledge that Developer previously has sold and conveyed Lots 3-5 to the Lots 3-5 Owners, who will either be the end users of those Lots or will develop those Lots as provided in this Agreement for the benefit of their end users. **Before the first to occur of (a) any advances by Agency of the proceeds of the Construction Note, or (b) closing of acquisition of the Public Easement and/or the Park Lot by Agency and the Park Owner, as applicable, Developer shall cause the First Amendment to Master Declaration to be executed, delivered and recorded in the official records of the Recorder of Salt Lake County, in the form attached hereto as ATTACHMENT NO. 10.** Subject to the foregoing, Developer's representations, warranties and commitments in this Article 9 shall be deemed limited to Developer's remaining interests in the Project as the fee owner of Lots 1-2 and under the Declarations.

9.2 **Representation as to Development Intent**. Developer represents and agrees for itself and its successors that its use of the Project, and Developer's other undertakings pursuant to this Agreement, are and shall be only for the purpose of development of the Project and not for speculation in land holding. Except as otherwise set forth herein, Developer further represents that Developer has not heretofore made or created, and that prior to the proper completion of the Improvements, Developer will not make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance, or lease (other than to an owner who would be an end user of a Project Area building constructed or to be constructed), or any trust, power or transfer in any other mode or form of or in respect to this Agreement or the Project Area, or any part thereof or any interest therein, or any contract or agreement to do any of the same, without Agency's prior written approval.

9.3 **Prohibition Against Transfer and Assignment**.

(a) Developer acknowledges:

(1) The importance of the development of the Project Area to the general welfare of the community;

(2) The public subsidy that has been or will be made available for the purpose of making such development possible; and

(3) That a change in the ownership or with respect to the identity of the parties in control of Developer or the degree thereof, until the Public Improvements are completed, except as expressly set forth otherwise herein, will constitute, for practical purposes, a transfer or disposition of the Project.

Consequently, subject to Sections 9.3(c) and (d) below and except as otherwise provided in this Agreement, no change in the ownership of the Project, or change in the majority ownership or control of Developer, or with respect to the identity of the parties in control of Developer, shall be permitted without Agency's prior express written consent until all of the Improvements have been

constructed and installed on the Project and Certificates of Occupancy have been issued for such Improvements. Agency's decision to approve or disapprove a transfer or assignment shall be based on Agency's reasonable evaluation of the ability of the proposed successor to construct, install, maintain and operate satisfactory improvements on the Project and provide benefits to the community from the Project which are comparable to those benefits intended to be provided from Developer's construction, installation, maintenance and operation of its Improvements as described in this Agreement.

(b) Except for the actions in Section 4.1(c) that do not require consent from Agency, Agency may require as conditions to any such approval of a transfer or assignment before construction and installation of the Improvements that:

(1) The proposed transferee shall demonstrate that they have the qualifications, experience and financial responsibility, as reasonably determined by Agency, necessary and adequate to fulfill the transferor Developer's obligations under this Agreement;

(2) The proposed transferee shall have expressly assumed in writing all of the transferor Developer's obligations under this Agreement and agreed to be subject to all of the conditions and restrictions to which the transferor Developer is subject, with all written instruments effecting such transfer and assumption being subject to Agency's prior review and reasonable approval;

(3) The proposed transferee shall have expressly agreed that its interest in the Project shall be subordinate and subject to the Public Easement and this Agreement; and

(4) Developer and any subsequent transferee shall comply with such other conditions as Agency may reasonably require to achieve and safeguard the purposes of the Act, the CDA Plan and this Agreement. Unless otherwise specifically agreed in writing by Agency, no such transfer (whether or not approved by Agency) shall relieve either the transferor Developer or the transferee Developer from any term, covenant or condition of this Agreement, including the obligation to timely and properly construct and install the Improvements as provided in this Agreement.

Subject to compliance with the foregoing conditions, Agency's approval to the proposed transfer or assignment before completion of the Improvements shall not unreasonably be withheld, conditioned or delayed.

(c) This Section 9.3 does not prohibit Developer or its successor(s) from (1) granting typical mortgage, trust deed or similar liens on the Project to obtain financing necessary to enable Developer and its successors to construct the Improvements, (2) transferring the Public Easement in the Parking Structure and the Park Lot to Agency and Park Owner, respectively; (3) selling any portion of the Project Area to a subsequent owner who covenants to construct the required Private Improvements thereon (provided, however, that no such conveyance shall excuse Developer from its obligation to assure the timely construction of all of the Improvements as provided in this Agreement); or (4) admit a new member or manager of Developer in order to increase the financial strength of Developer, so long as each such grant, transfer, sale or admission

is expressly subject to, and does not in any way impair, the Public Easement to be granted hereunder.

(d) The provisions of this Section 9.3 shall terminate with respect to (1) each of the Public Improvements when it is purchased by (as to the Park Lot) or conveyed to (as to the Public Easement) Agency or its designee, and (2) each building within the Private Improvements upon the issuance of a Certificate of Occupancy for each such building.

(e) The provisions of this Section 9.3 shall not be applicable in the event of the death of any member of Developer or in the event of a transfer of a member's interest in Developer for reasonable estate planning purposes, so long as the transferee of a lifetime transfer is a trust or other entity that remains in the legal or practical control of the transferor member of Developer.

9.4 **Reports and Notices – Changes in Ownership**. Developer agrees that during the period between execution of this Agreement and the issuance of the applicable Certificate(s) of Occupancy:

(a) Developer will promptly notify Agency of: (1) a change in Developer's Project manager; (2) any act or transaction that would result in any change in control or change in over 50% of the ownership (legal or beneficial) of Developer, whether singly or in concert with all other such acts or transactions occurring since the date of this Agreement; or (3) any other change in the identity of the parties in control of Developer or their degree of control.

(b) Promptly upon Agency's request from time to time, Developer shall furnish Agency with a complete statement, subscribed and sworn to by the manager or other appropriate officer of Developer, identifying (1) each holder of an ownership interest in Developer, and (2) each holder of an ownership interest in any holder of an ownership interest in Developer; and (3) the relative ownership interests of each such holder.

9.5. **Application to All Forms of Entities**. The provisions of this Article shall apply without exception to all forms of business organization, including limited liability companies, corporations, sole proprietorships, joint ventures and partnerships, both general and limited.

ARTICLE 10 – AGENCY OBLIGATIONS AND UNDERTAKINGS

10.1 **Tax Increment**.

(a) In consideration of Developer's promises and performance hereunder (including the timely construction and installation of the Improvements as provided in this Agreement and its attachments); subject to the conditions, terms and limitations set forth in this Agreement (including the limitations on making payment under Section 10.5, below); contingent on Developer otherwise being eligible and entitled under this Agreement; except as may be limited by the County Loan or the Interlocal Agreements; and further limited by the extent to which any recipient of Tax Increment payment under the Distribution Chart is entitled and eligible under the conditions, terms and provisions of this Agreement to receive Tax Increment payments, Agency agrees to pay the Available Tax Increment during each Tax Increment Year of the Tax Increment Period as shown on the Distribution Chart. Any remaining Tax Increment will be retained by

Agency for the purposes and objectives of the CDA Plan and the Budget within the Project Area until the Tax Increment Period ends.

(i) Agency will "trigger" or commence the taking of Tax Increment monies from the Project Area for the Tax Increment Year that begins after the conditions precedent set forth in Sections 6.1 and 6.2 have been satisfied.

(ii) Payments of any Tax Increment shall be paid within 30 days following Agency's receipt from the County Treasurer of ad valorem taxes paid by taxpayers for the Project Area for the applicable Tax Increment Year. Agency anticipates receipt of such funds in the spring of each year from the ad valorem taxes paid by property owners which are due and paid by the prior November 30th.

(b) Agency makes no representation to Developer, City or to any other person or entity to any effect that:

(1) Agency is absolutely entitled to or will actually receive the contemplated Available Tax Increment from the Project Area; or

(2) The portion of the anticipated Available Tax Increment monies to be received by Agency from the Project Area for the Tax Increment Period will be adequate to pay the Tax Increment as shown on the Distribution Chart. Instead, Agency has not computed, nor can it compute, the exact amount of anticipated Available Tax Increment monies which may be available from the Project Area for the Tax Increment Period. Agency has relied upon Developer's representations that Developer or its permitted assignees will construct and install, or cause to be constructed and installed, Improvements on the Project Area which will create sufficient Available Tax Increment monies to fulfill the anticipated benefits to Developer contemplated by this Agreement.

10.2 **Priority of Payment of the Available Tax Increment**. Except as otherwise provided in this Agreement, each year during the Tax Increment Period that Agency receives Available Tax Increment money from the Project Area, Agency shall use and distribute the Available Tax Increment monies in accordance with the Distribution Chart.

10.3 **Tax Increment Monies Are Sole Source of Agency's Funding**. The only source of monies available to Agency to pay its obligations (including the anticipated Tax Increment payments shown on the Distribution Chart) is the Tax Increment monies actually received by Agency from the ad valorem taxes arising from the Improvements to be constructed and installed by Developer and others in the Project Area. Only the Available Tax Increment monies from the Project Area, less any negative Tax Increment from the Project Area deducted by the County Assessor's office, will be available to and usable by Agency to meet said obligations.

10.4 **Contingencies of Tax Increment Payments; Assumption of Risks By Developer**.

(a) Developer understands that, based upon the Act, Agency anticipates being the recipient of certain Tax Increment monies from the Project Area which are expected to be paid to Agency by County as the collector of ad valorem taxes, conditioned upon several factors, one

of which is timely completion by Developer or its permitted assignees and the Lots 3-5 Owners of Improvements upon the Project Area having a sufficient amount of assessed valuation to generate the contemplated Tax Increment monies. The Parties anticipate that the construction or installation of the Improvements will cause the assessed value of the Project Area to increase to a point which is greater than the assessed value of the Project Area as contained in the "base year" established at the time of the adoption of the Interlocal Agreements. Developer further understands that the Available Tax Increment monies can become available to Agency only if and when the Improvements to be constructed and installed on the Project Area, or a portion thereof as provided in this Agreement, are completed and have a current year assessed value which is greater than the "base year" assessed valuation of the Project Area.

(b) Developer further understands and agrees that:

(1) Agency is not a taxing entity under state law;

(2) Agency has no power to levy a property tax on real or personal property located within the Project Area;

(3) Agency has no power to set a mill levy or rate of tax levy on real or personal property;

(4) The Available Tax Increment monies shall become available to Agency only if and when the Improvements to be constructed and installed in the Project Area are completed and have sufficient Assessed Taxable Value;

(5) Agency is only entitled to receive Tax Increment funds from the Project Area for the period established by law pursuant to the provisions of the Act and in accordance with the Interlocal Agreements;

(6) Developer has investigated the provisions of applicable laws governing tax funds, community development and renewal agencies and Tax Increment, and assumes all risk regarding whether:

(i) The CDA Plan, the Project Area and the Interlocal Agreements were properly approved and adopted;

(ii) The anticipated Tax Increment monies derived from the Improvements to be constructed and installed by Developer or its permitted assignees and the Lots 3-5 Owners in the Project Area in material conformance with the CDA Plan and this Agreement will actually be paid to Agency, and, even if paid, whether the amount of Tax Increment funds will be sufficient to pay the obligations or indebtedness of Agency under this Agreement;

(iii) The Available Tax Increment from the Project Area will be paid to Agency during the entire Tax Increment Period; and

(iv) Changes or amendments to applicable state or federal laws will hereafter be made which would affect or impair:

(A) Agency's right to receive Tax Increment monies and to pay Agency's obligations;

(B) The length of time said Tax Increment monies can be received by Agency; or

(C) The percentage or the amount of Tax Increment monies received or anticipated to be received by Agency based upon the current statutes; and

(7) The Utah State Legislature considers proposals which reduce the taxes which the state of Utah, or other taxing entities, imposes on all real and personal property within the State. Such proposals, if enacted, could materially reduce the amount of Tax Increment generated within the Project Area and currently anticipated to be paid to Agency. In the event of such reduction, the amount of the Tax Increment to be paid hereunder automatically shall likewise be reduced by the amount of such reduction.

10.5 **Limitations on Making Payments**. The following additional provisions regarding limitations and reductions on entitlement to and eligibility for Tax Increment payments shall govern and be applied in addition to any other term or provision of this Agreement:

(a) The payees designated on the Distribution Chart shall only be paid the Tax Increment from the Available Tax Increment monies, if any, which are paid to Agency by County as a direct result of the value of the Improvements (including the value of both the real property and personal property aspects of the Project Area) constructed or installed within the Project Area. If, for any reason, the Tax Increment monies anticipated to be received by Agency as a direct result of the Improvements to be constructed and installed on the Project Area are reduced, curtailed, or limited in any way by enactments, initiative referendum, or judicial decree or other reasons, Agency's obligation to pay the Tax Increment as provided in the Distribution Chart shall likewise be reduced, curtailed, or limited. Agency shall have no obligation to pay the anticipated Tax Increment to anyone from other sources or monies that Agency has or might hereafter receive from other project areas or from sources other than from the Available Tax Increment monies that Agency actually receives from the Project Area.

(b) Subject to the limitations in this Agreement, the Tax Increment shall be paid by Agency as contemplated by the Distribution Chart only during the Tax Increment Period, conditioned, however, upon the recipient being legally eligible and entitled thereto, including complying with all applicable conditions precedent.

(c) The Tax Increment payments to be made by Agency hereunder are secured solely by Agency's pledge of the above-specified portion of the Available Tax Increment actually received by Agency from the Project Area for the Tax Increment Period. Developer shall have no other recourse to Agency, and no recourse whatever to City, County, the Taxing Entities or any other party, for payment of the Tax Increment.

ARTICLE 11 – REMEDIES

11.1 **Default by Developer**. If Developer defaults or breaches any of its obligations under this Agreement (such as the obligation to timely complete the construction and installation

of the Improvements), and does not timely cure such default or breach as provided in this Agreement, or if Developer makes it known that it does not intend to construct and install the Improvements, then Agency's obligation to purchase the Public Improvements under Article 5 and (subject to Section 6.2, above) all obligations of Agency to pay any Tax Increment payments to anyone other than the Taxing Entities and pursuant to the County Loan, or to perform any of Agency's other duties under this Agreement, shall automatically cease and terminate.

11.2 **General Remedies**. Subject to the other provisions of this Article 11, or longer notice and cure periods specified in this Agreement, in the event of any default or breach of this Agreement or any of its terms, covenants or conditions by any Party, such Party shall, upon written notice from the other Party, proceed immediately to cure such default or breach within 30 calendar days after receipt of such notice. Failing timely cure of a Party's default hereunder, the non-defaulting Party may pursue any and all remedies that are available at law or in equity. Any delay by Agency in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Article shall not operate as a waiver of such rights.

11.3 **Force Majeure**. If a Party is prevented from complying with a duty hereunder due to causes occurring beyond its control and without its fault or negligence, including, without limitation, appeal of decisions made by Agency, acts of God, acts of the public enemy or terrorists, wrongful acts of the other Party, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, wars and unusually severe weather or delays of subcontractors due to such causes, then the time for that Party to fulfill such duty shall be correspondingly extended; provided, however, that in order to obtain the benefit of this Section, the Party seeking such "force majeure" extension shall, within 15 calendar days after becoming aware of any such delay, notify the other Parties in writing stating the cause(s) for the delay and the probable duration of the delay.

11.4 **Extensions by Agency**. Agency may in writing extend the time for performance of any of Developer's duties under this Agreement, or permit Developer to cure any default, upon such terms and conditions as may be mutually agreeable to Agency; provided, however, that any such extension or permissive curing of any particular default shall not operate to release any of Developer's obligations nor constitute a waiver of Agency's rights with respect to any other obligation or default of Developer under this Agreement.

11.5. **Remedies Cumulative; Non-Waiver**. The Parties' respective rights and remedies shall be construed cumulatively, and none of such rights and remedies shall be exclusive of, or in lieu or limitation of, any other right, remedy or priority allowed by law. Any waiver by a Party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of, or consent to, any subsequent breach of this Agreement.

ARTICLE 12 – MISCELLANEOUS PROVISIONS

12.1 **No Personal Liability**. No elected or appointed officer, member, official, employee, consultant, agent, attorney or representative of Agency or City shall be personally liable to Developer, County or their respective successors or assigns in the event of any default or breach by Agency under this Agreement.

12.2 **No Personal Liability – Developer**. Absent fraud or intentional misconduct, no member, official, employee, consultant, agent, attorney or representative of Developer shall be personally liable to City, Agency or County or their respective successors or assigns in the event of any default or breach by Developer under this Agreement.

12.3 **Notices**. All notices provided for in this Agreement shall be in writing and shall be either personally delivered or given by first class mail, certified or registered, postage prepaid, addressed to the Parties at their respective addresses set forth above or at such other address(es) as may be designated by a Party from time to time in writing. Notices shall be deemed received upon such hand delivery or on the first business day that is at least three days after such mailing.

Notwithstanding the foregoing, Agency may make inquiries from time to time regarding the status and schedule of the Project to the following representative of Developer:

Canyon Centre Capital, LLC
c/o CW Management Corporation, Manager
9071 South 1300 West, Suite 100
West Jordan, Utah 84088-5582
Telephone: (801) 984-5770

With a copy to:

Fabian Van Cott
215 South State Street, Suite 1200
Salt Lake City, Utah 84111-2323
Telephone: (801) 531-8900
Attn: Scott R. Sabey
Attn: Diane H. Banks

12.4 **Attachments/Recitals**. All Attachments referred to in this Agreement as being attached or to be attached hereto, shall be deemed attached to and incorporated in this Agreement, whether or not such items are, in fact, attached, the Parties being satisfied that the correct documents can be supplied from the records of the Parties. The Recitals to this Agreement are incorporated herein and made a part of this Agreement.

12.5 **Headings**. The headings used in this Agreement are inserted for reference purposes only and shall not be deemed to define, limit, extend, describe, or affect in any way the meaning, scope or interpretation of any of the terms or provisions of this Agreement or the intent hereof.

12.6 **Successors and Assigns**. This Agreement shall be binding upon Developer and its successors and assigns. Where the term "Developer" is used in this Agreement, it shall mean and include the permitted successors and assigns of the original Developer hereunder, except that Agency shall have no obligation under this Agreement to any unapproved successor or assignee of Developer where Agency's approval of a successor or assignee is required by this Agreement.

12.7 **Interpretation**. This Agreement shall be interpreted, construed and enforced according to the substantive laws of the state of Utah. Any litigation arising from this agreement shall occur in the Third District Court of Salt Lake County, Utah. This Agreement is the result of collaborative drafting by the parties to it, all of whom are sophisticated in business affairs and were

represented by their own legal counsel. Consequently, this Agreement shall be interpreted in an absolutely neutral manner, with no regard to whether any party was the "drafter" of this Agreement. In the event of any conflict or inconsistency between this Agreement and the Declarations, this Agreement shall control. In the event of any conflict or inconsistency between this Agreement and/or the Declarations, on the one hand, and the Interlocal Agreements, on the other hand, the Interlocal Agreements shall control.

12.8 **Counterparts**. This Agreement may be signed in any number of counterparts with the same effect as if the signatures upon any counterpart were upon the same instrument. All signed counterparts shall be deemed to be one original.

12.9 **Time**. Time is the essence of this Agreement and its Attachments.

12.10 **Binding Agreement**. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective Parties hereto.

12.11 **Severability.** The provisions of this Agreement are severable and, should any provision hereof be void, voidable, unenforceable or invalid, such void, voidable, unenforceable or invalid provision shall not affect the other provisions of this Agreement.

12.12 **Amendment**. This Agreement may not be modified except by an instrument in writing signed by the Parties.

12.13 **Waiver of Jury Trial**. Each of the Parties irrevocably waives any right to trial by jury in any lawsuit concerning this Agreement.

12.14 **Execution and Delivery**. This Agreement may be executed and delivered electronically by facsimile, email, or similar means, with the same legal effect as manual execution and physical delivery.

12.15 **Immunity Act**. Agency is a governmental entity under the "Governmental Immunity Act of Utah" (UTAH CODE ANN. § 63G-7-101, *et seq.*) (the "*Immunity Act*"). Agency does not waive any immunities or defenses otherwise available under the Immunity Act nor does Agency waive any limits of liability provided by the Immunity Act.

12.16 **Covenants Run with Land**. This Agreement shall be a covenant running with the land constituting the Project Area and also shall be, to the fullest extent legally possible, enforceable by Agency against Developer, its successors and assigns, and any party in possession or occupancy of any of the Project Area.

12.17 **Recording**. This Agreement shall be recorded in the office of the Recorder of Salt Lake County, Utah, promptly upon its full execution and delivery such that it shall be subject only to the Permitted Exceptions.

[*Signature pages follow.*]

DATED effective the date first-above written.

AGENCY:

COTTONWOOD HEIGHTS COMMUNITY DEVELOPMENT AND RENEWAL AGENCY

By_____
Michael J. Peterson, Chairman

ATTEST:

_____
Paula Melgar, Secretary

Approved as to form:

_____
Wm. Shane Topham, Agency Counsel

STATE OF UTAH)
:ss.
COUNTY OF SALT LAKE)

On this ___ day of _____ 2018, personally appeared before me **Michael J. Peterson**, who duly acknowledged to me that they signed the foregoing agreement as the Chairman and the Secretary, respectively, of the **Cottonwood Heights Community Development and Renewal Agency**.

_____
Notary Public

DEVELOPER:

CANYON CENTRE CAPITAL, LLC,
a Utah limited liability company

By: **CW MANAGEMENT CORPORATION,**
a Utah corporation, its Manager

By:_____
Chris McCandless, President

STATE OF UTAH)
:ss.
COUNTY OF SALT LAKE)

On this ___ day of _____ 2018, personally appeared before me **Chris McCandless**, who duly acknowledged to me that he signed the foregoing agreement as the President of **CW Management Corporation**, a Utah corporation acting in its capacity as the manager of **Canyon Centre Capital, LLC**.

_____
Notary Public

ATTACHMENT NO. 1

RECORDED SUBDIVISION PLAT INCLUDING
LEGAL DESCRIPTION OF PROJECT AREA

AS OF FEBRUARY 27, 2018, THIS EXHIBIT HAS YET TO BE FINALIZED

ATTACHMENT NO. 2

AMENDED CANYON CENTRE COUNTY
DEVELOPMENT PLAN AND BUDGET

SEE "2nd AMENDED PROJECT AREA PLAN" AND "AMENDED PROJECT AREA BUDGET" ATTACHED TO AMENDMENT NO. 1 TO THE INTERLOCAL COOPERATION AGREMENT BETWEEEN COUNTY AND AGENCY DATED NOVEMBER 8, 2011

ATTACHMENT NO. 3

DESCRIPTION OF PRIVATE IMPROVEMENTS, SQUARE FOOTAGE, ESTIMATED ASSESSED VALUES AND CONSTRUCTION DEADLINES

IMPROVEMENT	LOT NO.	SQUARE FOOTAGE	ESTIMATED ASSESSED VALUE	CONSTRUCTION DEADLINE
1. Office Building	2	No less than 65,000 s.f.	$16,175,719*	12/31/2022
2. Hotel	2	No fewer than 125 Rooms	$13,637,404*	12/31/2022
3. Restaurant / Retail (3 Buildings)	2	No less than 11,000 s.f.	$ 5,869,442*	12/31/2022
4. Plazas and Walkways	Project	N/A	Included above	12/31/2022
5. Landscaping of Common Areas	Project	N/A	Included above	12/31/2022
6. Infrastructure	Project	N/A	Included above	12/31/2022
7. Surface Parking *Includes Land Value	2	No fewer than 116 stalls	Included above	12/31/2022
8. Residential Rental Housing	—	112 Units	$10,051,896	12/31/2022
9. Restaurant	—	5,000 s.f.	$969,542	12/31/2022
10. Single Family Housing	—	17 Units	$5,960,495	12/31/2022

ATTACHMENT NO. 4

DESCRIPTION OF PUBLIC IMPROVEMENTS AND DEADLINES FOR CONSTRUCTION AND INSTALLATION

IMPROVEMENT	LOT NO.	SQUARE FOOTAGE	CONSTRUCTION DEADLINE
1. Parking Structure	2	415 Stalls 151,761 s.f.	12/31/2019*
2. Park Lot	1	48,895 s.f.[adjust per plat]	60 months from the date of the Construction Note

* The later of 12/31/2019 or two years from the date of the Construction Note

ATTACHMENT NO. 5

MASTER PLAN

AS OF FEBRUARY 27, 2018, THIS EXHIBIT HAS YET TO BE FINALIZED

ATTACHMENT NO. 6

DESCRIPTION OF INTERLOCAL AGREEMENTS

(List Interlocal Agreements and amendments concerning the Development between Agency and the Taxing Entities, consisting of Salt Lake County & Library, Salt Lake County, Canyons School District, City, Central Utah Water Conservancy District, South Salt Lake Valley Mosquito Abatement District, and Cottonwood Heights Parks and Recreation Service Area)

AS OF FEBRUARY 27, 2018, THIS EXHIBIT HAS YET TO BE FINALIZED

ATTACHMENT NO. 7

TAX INCREMENT DISTRIBUTION CHART

The Amended Distribution Plan indicating a private bond amount of $1.75 Million should be attached. It shall include the verbiage that repayment of the bond will be only through net available tax increment and that if such net available tax increment is not available there will be no repayment.

AS OF FEBRUARY 27, 2018, THIS EXHIBIT HAS YET TO BE FINALIZED

ATTACHMENT NO. 8

SHARED PARKING PLAN

SEE "SHARED PARKING PLAN" ATTACHED TO PUBLIC PARKING EASEMENT AGREEMENT

ATTACHMENT NO. 9
CONDOMINIUM DECLARATION

AS OF FEBRUARY 27, 2018, THIS EXHIBIT HAS YET TO BE FINALIZED

ATTACHMENT NO. 10

FORM OF AMENDMENT TO MASTER DECLARATION

AS OF FEBRUARY 27, 2018, THIS EXHIBIT HAS YET TO BE FINALIZED

ATTACHMENT NO. 11

FORM OF PUBLIC EASEMENT AGREEMENT

SEE "PUBLIC PARKING EASEMENT AGREEMENT"