

FINAL DRAFT TO TOWN FOR 8/29/24 MEETING

08/20/24

**MASTER DEVELOPMENT AGREEMENT
FOR
THE COVE AT SILVER REEF PLANNED COMMUNITY**

_____, 2024

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[May not be 100% correct]

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WHEN RECORDED, RETURN TO:

**MASTER DEVELOPMENT AGREEMENT
FOR
THE COVE AT SILVER REEF PLANNED COMMUNITY**

THIS MASTER DEVELOPMENT AGREEMENT is made and entered as of the ___ day of _____, 2024, by and between the Town of Leeds, a political subdivision of the State of Utah, Silver Reef Investment Holdings, Inc., a Utah corporation and Eugene Gordon Inc., LLC a Utah limited company.

RECITALS

- A. The capitalized terms used in these Recitals are defined in Section 1.2, below.
- B. Owner owns the Property.
- C. Master Developer is under a contract with Owner to purchase the Property.
- D. Development of the Project as a master planned community pursuant to this MDA is acknowledged by the Parties to be consistent with LUDMA, the Town’s General Plan, and the Zoning Ordinance and to operate to the benefit of the Town, Owner, Master Developer, and the general public.
- E. The Town Council has reviewed this MDA and determined that it is consistent with the Act, the Zoning Ordinance and the Zoning of the Property.
- F. The Parties acknowledge that development of the Project pursuant to this MDA will result in significant planning and economic benefits to the Town and its residents by, among other things requiring orderly development of the Project as a master planned community and increasing property tax and other revenues to the Town based on improvements to be constructed

on the Project.

G. Development of the Project pursuant to this MDA will also result in significant benefits to Owner and Master Developer by providing assurances to Master Developer that it will have the ability to develop the Project in accordance with this MDA.

H. Owner, Master Developer and the Town have cooperated in the preparation of this MDA.

I. The Parties desire to enter into this MDA to specify the rights and responsibilities of Owner and Master Developer to develop the Total Property as parts of the Project as expressed in this MDA and the rights and responsibilities of the Town to allow and regulate such development pursuant to the requirements of this MDA.

J. The Parties understand and intend that this MDA is a “development agreement” within the meaning of, and entered into pursuant to the terms of, Utah Code Ann. §10-9a-102 (2024).

K. This MDA and all of its associated “legislative”, “broad, competing policy-considerations” and “generally applicable” decisions regarding the development of the Project as those terms are discussed in *Baker v Carlson*, 2018 UT 59 were considered by the Planning Commission on September, __, 2024 pursuant to Utah Code Ann. § Section 10-9a-532(2)(iii) (2024), in making a recommendation to the Town Council.

L. The Town believes that this MDA and the Zoning of the Property constitute the completion of the “legislative”, “broad, competing policy-considerations” and “generally applicable” decisions by the Town Council regarding the development of the Project as those terms are discussed in *Baker v Carlson*, 2018 UT 59.

M. The Town intends that the implementation of those “legislative”, “broad, competing policy-considerations” and “generally applicable” decisions through the provisions and processes

of this MDA relating to “fixed criteria” are “administrative” in nature.

N. This Town’s entry into this MDA is authorized by the adoption of Ordinance # _____ on October, __, 2024.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby conclusively acknowledged, the Town, Owner and Master Developer hereby agree to the following:

TERMS

1. Incorporation of Recitals and Exhibits/ Definitions.

1.1. **Incorporation.** The foregoing Recitals and Exhibits “A” – “__” are hereby incorporated into this MDA.

1.2. **Definitions.** As used in this MDA, the words and phrases specified below shall have the following meanings:

1.2.1. *Administrative Modifications* means those modifications to this MDA that can be approved by the Administrator pursuant to Section 14.

1.2.2. *Administrator* means the person designated by the Town as the Administrator of this MDA.

1.2.3. *Applicant* means a person or entity submitting a Development Application.

1.2.4. *ARC* means the Architectural Review Committee created by the HOA.

1.2.5. *Buildout* means the completion of all of the development on all of the Project in accordance with the approved plans.

1.2.6. *Community Plan* means the plan for the look and feel of the development of the Project a copy of which is attached as Exhibit “C”.

1.2.7. *Council* means the elected Town Council of the Town.

1.2.8. **Default** means a material breach of this MDA.

1.2.9. **Denial/Denied** means a formal denial issued by the final decision-making body of the Town for a particular type of Development Application but does not include review comments or “redlines” by Town staff.

1.2.10. **Development** means the development of any improvement, whether public or private, on the Project pursuant to an approved Development Application, including, but not limited to, any Public Infrastructure or Subdivision

1.2.11. **Development Application** means an application to the Town for development of a portion of the Project including a Subdivision or any other permit, certificate or other authorization from the Town required for development of the Project.

1.2.12. **Development Report** means a report containing the information specified in Sections 3.8 submitted to the Town by Master Developer for a Development by Master Developer or for the sale of any Parcel to a Subdeveloper or the submittal of a Development Application by a Subdeveloper pursuant to an assignment from Master Developer.

1.2.13. **Dispute** means and disagreement between the Parties regarding the administration or implementation of the MDA, including but not limited to Denial or a Default.

1.2.14. **Environmental Plan** means that plan for addressing any environmental issues related to the Project as specified in Exhibit “D”.

1.2.15. **Final Plat** means the recordable map or other graphical representation of land prepared in accordance with Utah Code Ann. § 10-9a-603 (2024), or any successor provision, and approved by the Town, effectuating a Subdivision of any portion of the Project.

1.2.16. **Homeowner Association(s) (or “HOA(s)”**) means one or more associations formed pursuant to Utah law to perform the functions of an association of property Owner.

1.2.17. **LUDMA** means the Land Use, Development, and Management Act, Utah Code Ann. §§ 10-9a-101, *et seq.* (2024).

1.2.18. **Master Developer** means Eugene Gordon Inc., LLC, a Utah limited liability company, and its assignees or transferees as permitted by this MDA.

1.2.19. **MDA** means this Master Development Agreement including all of its Exhibits.

1.2.20. **Master Plan** means the general layout of the types and areas of development of the Project as illustrated on Exhibit “B”.

1.2.21. **Maximum Residential Dwelling Units** means the development on the Property of one hundred forty-four (144) Residential Dwelling Units.

1.2.22. **Notice** means any notice to or from any party to this MDA that is either required or permitted to be given to another party.

1.2.23. **Owner** means Silver Reef Investment Holdings, Inc., a Utah corporation, which owns the Property.

1.2.24. **Outsourc[e]/[ing]** means the process of the Town contracting with Town Consultants or paying overtime to Town employees to provide technical support in the review and approval of the various aspects of a Development Application as is more fully set out in this MDA. Outsourcing shall be at the sole discretion of the Town.

1.2.25. **Parcel** means a portion of that is created by the Master Developer to be sold to a Subdeveloper as a Subdivision that is not an individually developable lot as specified in Section 3.10.

1.2.26. **Parties** means Owner, Master Developer and the Town.

1.2.27. **Party** means either Owner, Master Developer or the Town individually.

1.2.28. **Phase** means the development of a portion of the Project at a point in a logical sequence as determined by Master Developer.

1.2.29. **Private Improvements** means those elements of infrastructure needed for the completion of a Development which are not planned to be dedicated to the Town.

1.2.30. **Project** means the total development to be constructed on the Total Property pursuant to this MDA with the associated Public Infrastructure, Private Improvements, Maximum Residential Units, Open Space, Phases and all of the other aspects approved as part of this MDA.

1.2.31. **Property** means that approximately one hundred forty-four (144) acres of real property owned by Owner more fully described in Exhibit "A".

1.2.32. **Public Infrastructure** means those elements of infrastructure that are planned to be dedicated to the Town as a condition of the approval of a Development Application including, but not limited to, the roads, overall grading plan and backbone utilities.

1.2.33. **Residential Dwelling Unit ("RDU")** means a single unit intended to be occupied for residential living purpose.

1.2.34. **Subdeveloper** means a person or an entity not "related" (as defined by Internal Revenue Service regulations) to Master Developer which purchases a Parcel for development.

1.2.35. **Subdivision** means the division of any portion of the Project into developable lots pursuant to State Law and/or the Zoning Ordinance.

1.2.36. **Subdivision Application** means the application to create a Subdivision.

1.2.37. **Town** means the Town of Leeds, a political subdivision of the State of Utah.

1.2.38. **Town Consultants** means those outside consultants employed by the Town in various specialized disciplines such as traffic, hydrology or drainage for reviewing certain aspects of the development of the Project.

1.2.39. **Town's Future Laws** means the ordinances, policies, standards, procedures and processing fee schedules of the Town which may be in effect as of a particular time in the future when a Development Application is submitted for a part of the Project and which may or may not be applicable to the Development Application depending upon the provisions of this MDA.

1.2.40. **Town's Vested Laws** means the ordinances, policies, standards and procedures of the Town in effect as of the date of the execution of this MDA a digital copy of which is attached as Exhibit "E"¹.

1.2.41. **Zoning** means the uses and standards for developing the Project as specified in this MDA.

2. **Effect of MDA.** Except as specified herein, this MDA shall be the sole agreement between the parties related to the Project and the Total Property.

3. **Development of the Project.**

3.1. **Compliance with this MDA.** Development of the Project shall be in accordance with the Town's Vested Laws, the Town's Future Laws (to the extent that these are

¹ We think that we have seen everything that would be included in this but, obviously we have to make sure that we have.

applicable as otherwise specified in this MDA), the Zoning and this MDA including, but not limited to, the Master Plan, the Community Plan, and the Environmental Plan.

3.2. Land Uses within Planned Community, Configuration. The Master Plan reflects the general location and configuration of the Residential Dwelling Units, Public Infrastructure and Private Improvement within the Project.

3.3. Maximum Residential Dwelling Units. At Buildout of the Project, Master Developer shall be entitled to have developed the Maximum Dwelling Residential Units as specified in and pursuant to this MDA. Accessory dwelling units and buildings ancillary to a primary residential use shall not be counted as a Residential Dwelling Unit for purposes of the Maximum Residential Dwelling Units.

3.4. Phasing. The Town acknowledges that Owner and Master Developer may develop the Project in Phases. No sequential phasing is implied by the numbering of the Master Plan. The Parties acknowledge that the most efficient and economic development of the Project depends on numerous factors, such as fulfillment of the Environmental Plan, market conditions and demand, infrastructure planning, competition, the public interest and other similar factors. The Development Application for each Phase shall establish that the needs of future phases for Public Infrastructure and compliance with the Environmental Plan are properly accounted for. The Development Application for any Phase shall comply with the Master Plan and the Environmental Plan and shall provide for future Phases access and infrastructure connectivity and compatibility. The development of the Project in Phases shall be in the sole discretion of Master Developer.

3.5. Master Developers' Discretion. Notwithstanding anything to the contrary herein, nothing in this MDA shall obligate the Master Developer to construct the Planned

Community or any particular portion or Phase therein, and the Master Developer shall have the discretion to determine whether to construct a particular portion or Phase based on such Master Developer's business judgment. Once construction has begun on an approved Development Application, the relevant Master Developer or Subdeveloper(s) shall have the obligation to complete the public and private road, storm drain, water, and other improvements associated with such approved Development Application, including all associated community benefits (including parks and open space as required by this MDA) as described and scheduled within the approved Development Application, and those other improvements that may be outside of the approved Development Application but which are reasonably necessary to complete the improvements within the approved Development Application. Such improvements shall be completed within the time agreed upon by the Town and Master Developer. If no time for completion of the improvements can be mutually agreed upon, the matter shall be subject to the dispute resolution procedures defined in Section 12.

3.6. Required Process.

3.6.1. *Approval Required Before Development.* No improvements shall be constructed within the Project without Master Developer or a Subdeveloper first obtaining approval of the Development Application for such Development from the Town. No Development Application shall be approved without first submitting the Development Application for review as set forth herein. Upon approval by the Town of any Development Application, the Development related to such approval may be improved in accordance with the approved Development Application, subject to the terms, conditions, and provisions of the Development Application.

3.6.2. *Environmental Plan.* All Development Applications shall specify how the

proposed Development complies with the Environmental Plan.

3.6.3. **Fees.** Master Developer or a Subdeveloper shall pay to the Town the standard fees applicable to any submittal of a Development Application under the Town's fee schedule in effect at the time of the application.

3.6.4. **Town Cooperation and Approval.** The Town shall cooperate reasonably and in good faith in promptly processing and reviewing all Development Applications in accordance with the procedures identified in this MDA. Development Applications shall be approved by the Town if such Development Applications comply with the Town's Vested Laws and this MDA.

3.6.5. **Outsourcing of Processing of Development Applications.** Within fifteen (15) business days after receipt of a Development Application and upon the request of Master Developer, the Town and Master Developer will confer to determine whether the review of any aspect of the Development Application should be Outsourced to ensure that it is processed on a timely basis. If the Town or Master Developer determines in either of their discretion that Outsourcing is appropriate then the Town shall promptly estimate the reasonably anticipated differential cost of Outsourcing in the manner selected by the Master Developer or Subdeveloper in good faith consultation with the Master Developer or Subdeveloper (either overtime to Town employees or the hiring of a Town Consultant). If the Master Developer or a Subdeveloper notifies the Town that it desires to proceed with the Outsourcing based on the Town's estimate of costs then the Master Developer or Subdeveloper shall deposit in advance with the Town the estimated differential cost and the Town shall then promptly precede with having the work Outsourced. Upon completion of the Outsourcing services and the provision by the Town of an invoice (with such

reasonable supporting documentation as may be requested by Master Developer or Subdeveloper) for the actual differential cost (whether by way of paying a Town Consultant or paying overtime to Town employees) of Outsourcing, Master Developer or the Subdeveloper shall, within ten (10) business days pay or receive credit (as the case may be) for any difference between the estimated differential cost deposited for the Outsourcing and the actual cost differential. The Town shall accept the results of any outsourced decision under this section without any further review by the Town.

3.6.6. *Acceptance of Certifications Required for Development Applications.* Any Development Application requiring the signature, endorsement, or certification and/or stamping by a person holding a license or professional certification required by the State of Utah in a particular discipline shall be so signed, endorsed, certified or stamped signifying that the contents of the Development Application comply with the applicable regulatory standards of the Town.

3.6.7. *Acknowledgement of Third-Party Service Providers.* The Town acknowledges that Ash Creek Special Service District is the body politic that will provide sewer service and the Town accepts Ash Creek Special Service District's willingness, capacity, and ability to serve the Development. The Town acknowledges that Rocky Mountain Power will provide electrical service and the Town accepts Rocky Mountain Power's willingness, capacity, and ability to serve the Development. The Town acknowledges that LDWA is the body politic that will provide culinary service and the Town accepts LDWA's willingness, capacity, and ability to serve the Development.

3.6.8. *Acknowledgement of Access Into County Jurisdiction.* The Town

acknowledges that some or all of the potentially required secondary accesses to the Project and a potential southern access as illustrated on the Master Plan connect to property that is under the jurisdiction of Washington County. The Town shall cooperate with the County in facilitating such constructions except that the Town shall not be required to incur any unreimbursed expenses as a result of such cooperation.

3.6.9. ***Intent of One-Time Review.*** The Town shall endeavor to make all of its redlines, comments or suggestions at the time of the first review of the Development Application unless any changes to the Development Application raise new issues that need to be addressed.

3.6.10. ***Town Denial of a Development Application.*** If the Town denies a Development Application the Town shall provide with the denial a Notice advising the Applicant of the reasons for denial including specifying the reasons the Town believes that the Development Application is not consistent with this MDA, the Master Plan and/or the Town's Vested Laws (or, if applicable, the Town's Future Laws).

3.6.11. ***Dispute Resolution.*** The Town's denial of any Development Application, or approval with conditions to which the Applicant disagrees, shall be subject to the dispute resolution provisions of Section 12.

3.6.12. ***Town Denials of Development Applications Based on Denials from Non-Town Agencies.*** If the Town's denial of a Development Application is based on the denial of the Development Application by a Non-Town Agency, Master Developer shall appeal any such denial through the appropriate procedures for such a decision and not through the processes specified below.

3.6.13. ***Construction Prior to Completion of Infrastructure.*** Master Developer may apply for and obtain Building Permits and/or temporary Certificates of Occupancy for uninhabited model homes, home shows, sales offices, construction offices or similar uses prior to the installation of all Public Infrastructure or Private Improvements required to be eventually completed so long as such installation is secured consistent with the Town's Vested Laws including the requirements for fire protection. No permanent Certificate of Occupancy shall be issued by the Town, except in compliance with the Town's Code.

3.6.14. ***Outsourcing of Inspections.*** Within fifteen (15) business days after receipt of a request from Master Developer to Outsource the inspections of the construction of any Development, the Town and Master Developer will confer to determine whether to Outsource the inspections to ensure that they are processed on a timely basis. If the Town or Master Developer determines in either of their discretion that Outsourcing is appropriate then the Town shall promptly estimate the reasonably anticipated differential cost of Outsourcing in the manner selected by the Master Developer or Subdeveloper in good faith consultation with the Master Developer or Subdeveloper (either overtime to Town employees or the hiring of a Town Consultant). If the Master Developer or a Subdeveloper notifies the Town that it desires to proceed with the Outsourcing based on the Town's estimate of costs then the Master Developer or Subdeveloper shall deposit in advance with the Town the estimated differential cost and the Town shall then promptly precede with having the work Outsourced. Upon completion of the Outsourcing services and the provision by the Town of an invoice (with such reasonable supporting documentation as may be requested by Master Developer or Subdeveloper) for the actual differential cost

(whether by way of paying a Town Consultant or paying overtime to Town employees) of Outsourcing, Master Developer or the Subdeveloper shall, within ten (10) business days pay or receive credit (as the case may be) for any difference between the estimated differential cost deposited for the Outsourcing and the actual cost differential. The Town shall accept the results of any outsourced decision under this section without any further review by the Town.

3.7. Accounting for Residential Dwelling Units for Developments by Master

Developer. At the recordation of a Final Plat or other approved and recorded instrument for any Development developed by Master Developer, Master Developer shall provide the Town a Development Report showing any Residential Dwelling Units used with the Development and the Residential Units remaining with Owner and Master Developer and for the entire remaining Project.

3.8. Development Report. With any Development Application, whether filed by Master Developer or a Sub-Developer, Master Developer shall file a Development Report showing:

3.8.1. ***Ownership.*** The ownership of the property subject to the Development Application;

3.8.2. ***Residential Units Transferred or Developed.*** The portion of the Maximum Residential Dwelling Units transferred with the Parcel(s);

3.8.3. ***Residential Dwelling Units Transferred or Remaining.*** The amount of the Maximum Residential Dwelling Units remaining with Owner and Master Developer; and,

3.8.4. ***Other Material Effects.*** Any material effects of the sale on the Master Plan or the Environmental Plan.

3.9. Accounting for Residential Dwelling Units for Parcels Sold to Subdevelopers.

Any Parcel sold by Owner to a Subdeveloper shall include the transfer of a specified portion of the Maximum Dwelling Residential Unit. At the recordation of a Final Plat or other document of conveyance for any Parcel sold to a Subdeveloper, Master Developer and Owner shall provide the Town a Development Report showing the ownership of the Parcel(s) sold, the portion of the Maximum Residential Dwelling Units transferred with the Parcel(s), the amount of the Maximum Residential Dwelling Units remaining with Owner and Master Developer and any material effects of the sale on the Master Plan or the Environmental Plan.

3.9.1. *Return of Unused Residential Dwelling Units.* If any portion of the Maximum Residential Dwelling Units transferred to a Subdeveloper are unused by the Subdeveloper at the time the Parcels transferred with such Residential Dwelling Units receives approval for a Development Application for the final portion of such transferred Parcels, the unused portion of the transferred Residential Dwelling Units shall automatically revert back to Owner and Master Developer and they shall file with the Town a Development Report updating the remaining portion of the Maximum Residential Dwelling Units and the Intended Uses.

3.10. Parcel Sales. The Town acknowledges that the precise location and details of the public improvements, lot layout and design, and any other similar item regarding the development of a particular Parcel may not be known at the time of the creation of or sale of a Parcel. Master Developer may obtain approval of a Parcel as is provided in Utah Code Ann. § 10-9a-103(65)(c)(v) (2024) that does not create any individually developable lots in the Parcel without being subject to any requirement in the Town's Vested Laws to complete or provide security for any Public Infrastructure at the time of

the creation of the Parcel. The responsibility for completing and providing security for completion of any Public Infrastructure in the Parcel shall be that of the Master Developer or a Subdeveloper upon a subsequent Subdivision of the Parcel that creates individually developable lots.

4. **Zoning and Vested Rights.**

4.1. **Vested Rights Granted by Approval of this MDA.** To the maximum extent permissible under the laws of Utah and the United States and at equity, the Town, Owner and Master Developer intend that this MDA grants Owner and Master Developer all rights to develop the Project in fulfillment of this MDA and all of its Exhibits and the Town's Vested Laws except as specifically provided herein. The Parties intend that the rights granted to Owner and Master Developer under this MDA are contractual and also those rights that exist under statute, common law and at equity. The Parties specifically intend that this MDA and all of its Exhibits grant to Master Developer "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code Ann. § 10-9a-509 (2024).

4.2. **Exceptions.** The restrictions on the applicability of the Town's Future Laws to the Project as specified in Section 4.2 are subject to only the following exceptions:

4.2.1. **Master Developer Agreement.** Town's Future Laws that Master Developer agrees in writing to the application thereof to the Project;

4.2.2. **State and Federal Compliance.** Town's Future Laws which are generally applicable to all properties in the Town and which are required to comply with State and Federal laws and regulations affecting the Project;

4.2.3. **Codes.** Town's Future Laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar

construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual on Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare including , but not limited to, any such environmental regulations;

4.2.4. **Taxes.** Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the Town to all properties, applications, persons and entities similarly situated; or,

4.2.5. **Fees.** Changes to the amounts of fees (but not changes to the times provided in the Town’s Vested Laws for the imposition or collection of such fees) for the processing of Development Applications that are generally applicable to all development within the Town (or a portion of the Town as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law.

4.2.6. **Compelling, Countervailing Interest.** Laws, rules or regulations that the Town’s land use authority finds, on the record, are necessary to avoid jeopardizing a compelling, countervailing public interest pursuant to Utah Code Ann. § 10-9a-509(1)(a)(i) (2024).

4.3. **Reserved Legislative Powers.** The Parties acknowledge that under the laws of the State of Utah (including Utah Code Ann. § 10-9a-532 (2024) and the United States, the Town’s authority to limit its police power by contract has certain restrictions. As such, the limitations, reservations, and exceptions set forth herein are intended to reserve to the Town those police powers that cannot be so limited. Notwithstanding the retained power of the Town to enact such legislation under the police powers, such legislation shall only

be applied to modify the vested rights of the Master Developer and Owner under the terms of this MDA based upon the policies, facts, and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine in the State of Utah. Any such proposed legislative changes affecting the vested rights of the Master Developer under this MDA shall be of general application to all development activity in the Town and, unless the Town declares an emergency, Master Developer and Owner shall be entitled to prior written notice and an opportunity to be heard with respect to any proposed change and its applicability to the Project under the compelling, countervailing public interest exception to the vested rights doctrine.

5. **Term of Agreement.** The term of this MDA shall be until December 31, 2035. If, as of that date, Owner or Master Developer have not been declared to be in Default as provided in Section 11, and if any such declared Default is not being cured as provided therein, then this MDA shall be automatically extended until December 31, 2045. This MDA shall also terminate automatically at Buildout.

6. **Application Under Town's Future Laws.** Without waiving any rights granted by this MDA, Master Developer may at any time, choose to submit a Development Application for some or all of the Project under the Town's Future Laws in effect at the time of the Development Application so long as Master Developer is not in current breach of this Agreement. Any Development Application filed for consideration under the Town's Future Laws shall be governed by all portions of the Town's Future Laws related to the Development Application. The election by Master Developer at any time to submit a Development Application under the Town's Future Laws shall not be construed to prevent Master Developer from relying for other Development Applications on the Town's Vested Laws. Subdevelopers may not submit a

Development Application under the Town's Future Laws without the consent of the Master Developer and Owner.

7. **Public Infrastructure.**

7.1. **Construction by Master Developer.** Master Developer shall have the right and the obligation to construct or cause to be constructed and installed all Public Infrastructure reasonably and lawfully required as a condition of approval of the Development Application. All Public Infrastructure shall be constructed to the standards of the Town's Vested Laws except as modified in the Community Plan.

7.1.1. **Public Infrastructure Financing.** The Town will consider adopting Public Infrastructure Districts to pay for part or all of the Public Infrastructure. Master Developer's obligation to construct the Public Infrastructure within the Planned Community shall not be negated or become invalid as a result of insufficient financing through such Public Infrastructure Districts.

8. **Trails.** The Master Plan indicates the approximate location of a trail network in the Project. At the time of the recordation of a plat for the first phase of the Project Owner shall dedicate to the Town an easement for public access to the trail network. Use of the trail shall be limited to pedestrians, horses, dogs, bicycles and electrically powered bicycles. Devices with more than two wheels and anything powered by an internal combustion engine shall be prohibited. The trail shall be initially in its native state and neither Master Developer nor Owner shall be required to improve the trail in any way. The dedication shall provide that the Town may improve the trail at its sole cost and expense to a maximum of twelve feet (12') in width. Any such improvements shall be maintained by the Town in its sole cost and expense.

8.1. **Trailhead Parking Spaces.** The trailhead parking spaces illustrated on Exhibit "B" shall be dedicated to the Town at the recordation of the final plat for Buildout.

9. **Provision of Municipal Services.** The Town shall provide all Town services to the Project that it provides from time-to-time to similarly situated residents and properties within the Town including, but not limited to, police, fire and other emergency services. Such services shall be provided to the Project at the same levels of services, on the same terms and at the same rates as provided to similarly situated residents and properties in the Town.

10. **On-Site Processing of Natural Materials.** Master Developer may use the natural materials located on the Project such as sand, gravel and rock, and may process such natural materials into construction materials such as aggregate, topsoil, concrete or asphalt for use in the construction of infrastructure, homes or other buildings or improvements located in the Project and for sale to and use on other locations outside the Project. Master Developer's extraction activities shall not include mining materials which are deeper than as necessary for the future development of the Project.

11. **Default.**

11.1. **Notice.** If Master Developer or a Subdeveloper or the Town fails to perform their respective obligations hereunder or to comply with the terms hereof, the party believing that a Default has occurred shall provide Notice to the other party. If the Town believes that the Default has been committed by a Subdeveloper then the Town shall also provide a courtesy copy of the Notice to Master Developer.

11.2. **Contents of the Notice of Default.** The Notice of Default shall:

11.2.1. ***Specific Claim.*** Specify the claimed event of Default;

11.2.2. ***Applicable Provisions.*** Identify with particularity the provisions of any applicable law, rule, regulation or provision of this MDA that is claimed to be in Default;

11.2.3. ***Materiality.*** Identify why the Default is claimed to be material; and

11.2.4. **Optional Cure.** If the Town chooses, in its discretion, it may propose a method and time for curing the Default which shall be of no less than thirty (30) days duration.

11.2.5. **Dispute Resolution.** Upon the issuance of a Notice of Default the parties shall engage in the Dispute Resolution processes specified in Section 12.

11.3. **Remedies.** If the parties are not able to resolve the Default by the Dispute Resolution processes in Section 12 then the parties may have the following remedies:

11.3.1. **Law and Equity.** All rights and remedies available at law and in equity, including, but not limited to, injunctive relief and/or specific performance.

11.3.2. **Security.** The right to draw on any security posted or provided in connection with the Project and relating to remedying of the particular Default.

11.3.3. **Future Approvals.** The right to withhold all further reviews, approvals, licenses, building permits and/or other permits for development of the Project in the case of a default by Master Developer, or in the case of a default by a Subdeveloper, development of those Parcels owned by the Subdeveloper until the Default has been cured. No building permits may be withheld from any Subdeveloper for a Default of Master Developer.

11.4. **Public Meeting.** Before any remedy in Section 11.3 may be imposed by the Town the party allegedly in Default shall be afforded the right to attend a public meeting before the Town Council and address the Town Council regarding the claimed Default.

11.5. **Emergency Defaults.** Anything in this MDA notwithstanding, if the Town Council finds on the record that a default materially impairs a compelling, countervailing interest of the Town and that any delays in imposing such a default would also impair a compelling, countervailing interest of the Town then the Town may impose the remedies

of Section 11.3 without the requirements of Sections 11.4. The Town shall give Notice to the Developer and/or any applicable Subdeveloper of any public meeting at which an emergency default is to be considered and the Developer and/or any applicable Subdeveloper shall be allowed to address the Town Council at that meeting regarding the claimed emergency Default.

11.6. **Extended Cure Period.** If any Default cannot be reasonably cured within thirty (30) days then such cure period shall be extended so long as the defaulting party is pursuing a cure with reasonable diligence.

11.7. **Default of Assignee.** A default of any obligations assumed by an assignee shall not be deemed a default of Master Developer.

12. **Dispute Resolution.** Unless otherwise provided in the MDA, any Dispute shall be resolved as follows:

12.1. **Meet and Confer regarding Development Application Denials.** The Town and Applicant shall meet within fifteen (15) business days of any Dispute to resolve the issues specified in the Dispute.

12.2. **Mediation of Disputes.**

12.2.1. **Issues Subject to Mediation.** Disputes that are not subject to arbitration provided in Section 12.3 shall be mediated.

12.2.2. **Mediation Process.** If the Town and Applicant are unable to resolve a Dispute that is subject to mediation, the parties shall attempt within ten (10) business days to appoint a mutually acceptable mediator with knowledge of the legal or factual issue of the Dispute. If the Parties are unable to agree on a single acceptable mediator they shall each, within ten (10) business days, appoint their own representative.

These two representatives shall, between them, choose the single mediator. Applicant

shall pay the fees of the chosen mediator. The chosen mediator shall within fifteen (15) business days, review the positions of the parties regarding the Dispute and promptly attempt to mediate the Dispute between the parties. If the parties are unable to reach agreement, the mediator shall notify the parties in writing of the resolution that the mediator deems appropriate. The mediator's opinion shall not be binding on the parties.

12.3. Arbitration of Disputes.

12.3.1. ***Issues Subject to Arbitration.*** Issues regarding a Dispute that are subject to resolution by scientific or technical experts such as traffic impacts, water quality impacts, pollution impacts, etc. are subject to arbitration.

12.3.2. ***Mediation Required Before Arbitration.*** Prior to any arbitration the parties shall first attempt mediation as specified in Section 12.2.

12.3.3. ***Arbitration Process.*** If the Town and Applicant are unable to resolve an issue through mediation, the parties shall attempt within ten (10) business days to appoint a mutually acceptable expert in the professional discipline(s) of the Dispute. If the parties are unable to agree on a single acceptable arbitrator they shall each, within ten (10) business days, appoint their own individual appropriate expert. These two experts shall, between them, choose the single arbitrator. Applicant shall pay the fees of the chosen arbitrator. The chosen arbitrator shall within fifteen (15) business days, review the positions of the parties regarding the arbitration issue and render a decision. The arbitrator shall ask the prevailing party to draft a proposed order for consideration and objection by the other side. Upon adoption by the arbitrator, and consideration of such objections, the arbitrator's decision shall be final and binding upon both parties. If the arbitrator determines as a part of the decision that the

Town's or Applicant's position was not only incorrect but was also maintained unreasonably and not in good faith then the arbitrator may order the Town or Applicant to pay the arbitrator's fees.

12.4. **District Court.** If the Dispute is not subject to arbitration then, after exhausting the Meet and Confer and Mediation processes above the Parties may seek relief in the Fifth District Court.

13. **Notices.** All notices required or permitted under this Amended Development Agreement shall, in addition to any other means of transmission, be given in writing by certified mail and regular mail to the following address:

To the Master Developer:

Eugene Gordon Inc., LLC
Attn: Mr. Jared Westhoff
321 N Mall Drive Suite O-202
St George Utah 84790
jwesthoff@egimgmt.com

With a copy to:

Bruce R. Baird, Esq.
Bruce R. Baird PLLC
2150 South 1300 East, Fifth Floor
Salt Lake Town, UT 84106
bbaird@difficultdirt.com

To the Owner:

Silver Reef Investment Holdings, Inc
Attn: Mr. Gary Crocker
2825 East Cottonwood Parkway, Suite 300
Salt Lake City, UT 84121
gary@crockerventures.com

With a copy to:

Janelle Bauer, Esq.
Curtis R. Ward, PC
68 South Main Street, Suite 800

Salt Lake City, UT 84101
jbauer@crwpc.com

To the Town:

Town of Leeds
Attn: Mayor
218 N. Main Street
PO Box 460879
Leeds, UT 84746

With a copy to:

Mr. H. Craig Hall, Esq.
Bennett Tueller Johnson & Deere
3165 Millrock Drive, Suite 500
Salt Lake City, UT 84121
chall@btjd.com

13.1. **Effectiveness of Notice.** Except as otherwise provided in this MDA, each Notice shall be effective and shall be deemed delivered on the earlier of:

13.1.1. **Hand Delivery.** Its actual receipt, if delivered personally, by courier service, or by facsimile provided that a copy of the facsimile Notice is mailed or personally delivered as set forth herein on the same day and the sending party has confirmation of transmission receipt of the Notice). If the copy is not sent on the same day, then notice shall be deemed effective the date that the mailing or personal delivery occurs.

13.1.2. **Electronic Delivery.** Its actual receipt if delivered electronically by email provided that a copy of the email is printed out in physical form and mailed or personally delivered as set forth herein on the same day and the sending party has an electronic receipt of the delivery of the Notice. If the copy is not sent on the same day, then notice shall be deemed effective the date that the mailing or personal delivery occurs.

13.1.3. **Mailing.** On the day the Notice is postmarked for mailing, postage prepaid,

by First Class or Certified United States Mail and actually deposited in or delivered to the United States Mail. Any party may change its address for Notice under this MDA by giving written Notice to the other party in accordance with the provisions of this Section.

14. **Administrative Modifications.**

14.1. **Allowable Administrative Applications:** The following modifications to this MDA may be considered and approved by the Administrator.

14.1.1. Infrastructure. Modification of the location and/or sizing of the infrastructure for the Project that does not materially change the functionality of the infrastructure including but not limited to monument location and entrance feature construction standards, exact layout of streets, and street lights.

14.1.2. Community Plan. Modifications of the Community Plan.

14.1.3. Minor Amendment. Any other modifications deemed to be minor modifications by the Administrator.

14.2. **Prohibited Administrative Applications:** The following modifications to this MDA may not be considered and approved by the Administrator.

14.2.1. Setbacks.

14.2.2. Building heights.

14.3. **Application to Administrator.** Applications for Administrative Modifications shall be filed with the Administrator.

14.4. **Administrator's Review of Administrative Modification.** The Administrator shall consider and decide upon the Administrative Modification within a reasonable time not to exceed fifteen (15) days from the date of submission of a complete application for an Administrative Modification. If the Administrator approves the Administrative

Modification, the Administrator shall record notice of such approval shall be against the applicable portion of the Property in the official Town records.

15. **Legal Challenges to this MDA.** The Parties acknowledge that the effectiveness of this MDA and other aspects related to the annexation of the Property into the Town, the Zoning, and any other related legislative actions of the Town Council may be subject to a citizen-initiated referendum under Utah Code Ann. § 20A-7-601 et seq., or a legal challenge under Utah Code Ann. § 10-9a-801. The Town and Master Developer each acknowledge that it would not be in their individual or mutual best interests to this MDA become effective if legal challenges to the zoning or this MDA are still unresolved by a final unappealable decision of a court or if a referendum is pending as of _____, 2025.

15.1. Referendum.

15.1.1. **Initiation of Referendum.** If no referendum is sought within the seven (7) day period as provided in Utah Code Ann. § 20A-7-601(5) (2024) after enactment of the final legislative action necessary to effectuate the Zoning, this MDA, or any related approval, then Master Developer and Owner acknowledge that the MDA shall become effective.

15.1.2. **Pending Referendum.** If a referendum has been sought as provided in Utah Code Ann. § 20A-7-601 (2024) and remains actively pending then Master Developer and/or Owner, each in their sole discretion, may terminate this MDA, the Zoning, and any other related legislative action at any time within forty-five (45) days after the certification that the referendum will be on the ballot. The Town shall take such steps as are necessary to ensure that the Town Recorder does not record this MDA .

15.2. Legality Challenge.

15.2.1. **Initiation of Litigation.** If no complaint or petition challenging this MDA, the

Zoning, or any other related legislative action is filed within the thirty (30) day period as provided in Utah Code Ann. § 10-9a-801(5) (2024) after enactment of the final legislative action necessary to effectuate the Zoning, this MDA, or any related legislative or administrative approval, then Master Developer and Owner acknowledge that the MDA shall become effective.

15.2.2. Pending Litigation. If a complaint or petitions has been filed as provided in Utah Code Ann. § 10-9a-801 (2024) and remains actively pending, then Master Developer and/or Owner, each in their sole discretion, may terminate this MDA, the Zoning, and any other related legislative action at any time during the pendency of the litigation. The Town shall take such steps as are necessary to ensure that the Town Recorder does not record this MDA .

16. **Estoppel Certificate.** Upon twenty (20) days prior written request by Master Developer or a Subdeveloper, the Town will execute an estoppel certificate to any third party certifying that Master Developer or a Subdeveloper, as the case may be, at that time is not in default of the terms of this Agreement.

17. **Attorney's Fees.** In addition to any other relief, the prevailing party in any action, whether at law, in equity or by arbitration, to enforce any provision of this MDA shall be entitled to its costs of action including a reasonable attorneys' fee. This shall not apply to mediation in accordance with Section 12.2.

18. **Headings.** The captions used in this MDA are for convenience only and a not intended to be substantive provisions or evidence of intent.

19. **No Third-Party Rights/No Joint Venture.** This MDA does not create a joint venture relationship, partnership or agency relationship between the Town, Owner and Master Developer. Further, the Parties do not intend this MDA to create any third-party beneficiary

rights. The Parties acknowledge that this MDA refers to a private development and that the Town has no interest in, responsibility for or duty to any third parties concerning any improvements to the Property unless the Town has accepted the dedication of such improvements at which time all rights and responsibilities, except for warranty bond requirements under Town's Vested Laws and as allowed by State law, for the dedicated public improvement shall be the Town's.

20. **Assignability.** The rights and responsibilities of Owner and/or Master Developer under this MDA may be assigned in whole or in part by Owner and/or Master Developer with the consent of the Town as provided herein.

20.1. **Sale of Lots.** Owner and Master Developer's selling or conveying lots in any approved Subdivision or Parcels to builders, users, or Subdevelopers, shall not be deemed to be an "assignment" subject to the above-referenced approval by the Town unless specifically designated as such an assignment by Owner and Master Developer.

20.2. **Related Entity.** Owner' transfer of all or any part of the Property to any entity "related" to any Owner (as defined by regulations of the Internal Revenue Service), Owner or Master Developer's entry into a joint venture for the development of the Project or Owner' pledging of part or all of the Project as security for financing shall also not be deemed to be an "assignment" subject to the above-referenced approval by the Town unless specifically designated as such an assignment by Owner. Owner and Master Developer shall give the Town Notice of any event specified in this sub-section within ten (10) days after the event has occurred. Such Notice shall include providing the Town with all necessary contact information for the newly responsible party.

20.3. **Notice.** Owner and Master Developer shall give Notice to the Town of any proposed assignment and provide such information regarding the proposed assignee that

the Town may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the Town with all necessary contact information for the proposed assignee.

20.4. Time for Objection. Unless the Town objects in writing within twenty (20) business days of notice, the Town shall be deemed to have approved of and consented to the assignment.

20.5. Partial Assignment. If any proposed assignment is for less than all of Owner or Master Developer's rights and responsibilities then the assignee shall be responsible for the performance of each of the obligations contained in this MDA to which the assignee succeeds. Upon any such approved partial assignment, Owner and/or Master Developer shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned.

20.6. Denial. The Town may only withhold its consent if the Town is not reasonably satisfied of the assignee's financial ability to perform the obligations of Owner or Master Developer, as the case may be, proposed to be assigned or there is an existing breach of a development obligation owed to the Town by the assignee or related entity that has not either been cured or in the process of being cured in a manner acceptable to the Town.

20.7. Dispute Resolution. Any refusal of the Town to accept an assignment shall be subject to the Dispute Resolution processes specified in Section 12.

20.8. Assignees Bound by MDA. Any assignee shall consent in writing to be bound by the assigned terms and conditions of this MDA as a condition precedent to the effectiveness of the assignment.

21. **Binding Effect.** If Owner sells or conveys Parcels of lands to Subdevelopers or related

parties, the lands so sold and conveyed shall bear the same rights, privileges, Intended Uses, configurations, and Density as applicable to such Parcel and be subject to the same limitations and rights of the Town when owned by Owner and as set forth in this MDA without any required approval, review, or consent by the Town except as otherwise provided herein.

22. **No Waiver.** Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such Party to exercise at some future date any such right or any other right it may have.

23. **Severability.** If any provision of this MDA is held by a court of competent jurisdiction to be invalid for any reason, the Parties consider and intend that this MDA shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this MDA shall remain in full force and affect.

24. **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay or stoppage.

25. **Time is of the Essence.** Time is of the essence to this MDA and every right or responsibility shall be performed within the times specified.

26. **Appointment of Representatives.** To further the commitment of the parties to cooperate in the implementation of this MDA, the Town, Owner and Master Developer each shall designate and appoint a representative to act as a liaison between the Town and its various departments and Owner and Master Developer. The initial representative for the Town shall be

_____. The initial representative for Master Developer shall be Jared Westhoff. The initial representative for Owner shall be Gary Crocker. The Parties may change their designated representatives by Notice. The representatives shall be available at all reasonable times to discuss and review the performance of the Parties to this MDA and the development of the Project.

27. **Rights of Access.** The Town Engineer and other representatives of the Town shall have a reasonable right of access to the Project, and all areas of development or construction done pursuant to this MDA during development and construction, to inspect or observe the work on the improvements and to make such inspections and tests as are allowed or required under the Town regulations.

28. **Mutual Drafting.** Each party has participated in negotiating and drafting this MDA and therefore no provision of this MDA shall be construed for or against either party based on which party drafted any particular portion of this MDA.

29. **Applicable Law.** This MDA is entered into in Washington County in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah's choice of law rules.

30. **Venue.** Any action to enforce this MDA shall be brought only in the Fifth District Court for the State of Utah, Washington County.

31. **Entire Agreement.** This MDA, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all Parties.

32. **Conflicts.** This MDA and the Master Plan shall control in case of differences with the Town's Vested Laws.

33. **Recordation and Running with the Land.** This MDA shall be recorded in the chain of

title for the Property. This MDA shall be deemed to run with the land. The data disk of the Town's Vested Laws, Exhibit "E", shall not be recorded in the chain of title. A secure copy of Exhibit "E" shall be filed with the Town Recorder and each Party shall also have an identical copy.

34. **Authority.** The Parties to this MDA each warrant that they have all of the necessary authority to execute this MDA. Specifically, on behalf of the Town, the signature of the Mayor of the Town is affixed to this MDA lawfully binding the Town pursuant to Ordinance No. _____ adopted by the Town Council on October ____, 2024.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives as of the day and year first herein above written.

OWNER
Silver Reef Investment Holdings, Inc.

By: _____
Its: _____

MASTER DEVELOPER
Eugene Gordon Inc., LLC

TOWN
Town of Leeds

By: _____
Its: _____

By: _____,
Its: Mayor

Approved as to form and legality:

Attest:

Town Attorney

Town Recorder

TOWN ACKNOWLEDGMENT

STATE OF UTAH)
 :ss.
COUNTY OF WASHINGTON)

On the _____ day of October, 2024, personally appeared before me William Hoster who being by me duly sworn, did say that he is the Mayor of the Town of Leeds, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the Town by authority of its Town Council and said Mayor acknowledged to me that the Town executed the same.

NOTARY PUBLIC

My Commission Expires: _____

Residing at: _____

MASTER DEVELOPER ACKNOWLEDGMENT

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

On the _____ day of October, 2024, personally appeared before me _____, who being by me duly sworn, did say that he is the Manager of Eugene Gordon Inc., LLC, a Utah limited liability company and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

NOTARY PUBLIC

My Commission Expires: _____

Residing at: _____

OWNER ACKNOWLEDGMENT

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

On the ____ day of October, 2024, personally appeared before me _____,
who being by me duly sworn, did say that he is the _____ of Silver Reef Investment
Holdings, Inc., a _____ and that the foregoing instrument was duly authorized by the
company at a lawful meeting held by authority of its operating agreement and signed in behalf of
said company.

NOTARY PUBLIC

My Commission Expires: _____

Residing at: _____

TABLE OF EXHIBITS

Exhibit "A"	Legal Description of Property
Exhibit "B":	Master Plan
Exhibit "C"	Community Plan
Exhibit "D"	Environmental Plan
Exhibit "E":	Town's Vested Laws (on file with Town Recorder's Office)