

Mayor
Colten Johnson
City Council
Arlon Chamberlain
Scott Colson
Chris Heaton
Boyd Corry
Peter Banks



City Manager
Kyler Ludwig
City Attorney
Kent Burggraaf
City Recorder
Celeste Cram
City Treasurer
Danielle Ramsay

NOTICE OF MEETING OF THE KANAB CITY COUNCIL

Notice is hereby given that the Kanab City Council will hold a special council meeting on the **21th day of October 2025**, in the City Council chambers at the Kanab City Office, **26 N 100 E, Kanab, Utah**. The Council Business Meeting will convene at **6:30pm**. The agenda will be as follows:

BUSINESS MEETING

- 1) CALL TO ORDER AND ROLL CALL**
- 2) PUBLIC COMMENT PERIOD:** Members of the public are invited to address the Council. Participants are asked to keep their comments to 3 minutes and follow the rules of civility outlined in Kanab Ordinance 3-601.
- 3) CONSENT ITEMS:**
No consent items for consideration.
- 4) BOARD COMMISSION, COMMITTEE APPOINTMENTS:**
No appointments proposed.
- 5) PRESENTATIONS:**
No presentations scheduled.
- 6) PUBLIC HEARING ITEMS:**
 - A) Public Hearing, discussion, and consideration of an ordinance creating the Hidden Canyon Public Infrastructure District, approving governing documents for the District, and establishing a Board of Trustees (Jim Guthrie- 6 year term, Juli Graham- 4 year term, Jared Grahm- 6 year term).
- 7) ACTION ITEMS READY FOR VOTE:**
No additional action items.
- 8) ITEMS FOR DISCUSSION:**
No discussions items.
- 9) REVIEW AND DISCUSSION OF FUTURE MEETINGS:**
No updates prepared.

– A Western Classic –

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KANAB
— UTAH —

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DATE: October 21, 2025
TO: Mayor and City Council
SUBJECT: Hidden Canyon PID
PREPARED BY: City Manager, Kyler Ludwig

Background:

The City of Kanab has received a petition for the creation of a Public Infrastructure District (PID) for the Hidden Canyon development, located on the east side of Kanab, north of U.S. Highway 89. The proposal seeks approval to form a PID under Utah Code Title 17D, Chapter 4, known as the Public Infrastructure District Act, which authorizes limited-purpose governmental entities to finance public infrastructure through assessments levied on property within a defined district.

Hidden Canyon's Development Agreement with the City was approved on August 27, 2024. The agreement included plans of development for:

- Approximately 705 residential units (356 single-family, 269 multifamily)
- An 80-room hotel
- 7+ acres of commercial storage

The developer—Jim Guthrie, in coordination with JJJ Development, Inc.—has obtained 100% written consent from all property owners and registered voters within the proposed district boundaries, satisfying the legal requirements for PID formation under Utah law.

Analysis:

A Public Infrastructure District (PID) is a special-purpose local government entity formed to finance infrastructure improvements within a defined area. PIDs are governed by state statute and function independently from the municipality in which they are located.

Key Attributes of a PID:

- Independent Governance: A PID is legally and financially separate from the City. It is governed by a Board of Trustees and operates as its own public entity.

— A Western Classic —

- No City Liability: Bonds issued by a PID are not backed by the City's full faith and credit, do not appear on the City's balance sheet, and pose no financial risk to the City.
- Financing Tool: PIDs finance infrastructure through the issuance of bonds repaid by special assessments levied on benefited lots. These assessments are prepaid by the developer before lots are sold, minimizing long-term obligations for homeowners.

If approved, the Hidden Canyon PID would be authorized to issue up to \$45 million in special assessment bonds. The proposed governance structure includes a three-member Board of Trustees, to be appointed by the City:

- Jim Guthrie – 6-year term
- Juli Graham – 4-year term
- Jared Graham – 6-year term

All nominees have submitted the required conflict of interest disclosure forms, in compliance with state law and City policy.

The Hidden Canyon Development Agreement expressly anticipates the formation of a PID and outlines the following provisions:

- Permitted Use: The Developer may utilize a PID to fund oversized or extended public improvements that benefit not only the development, but also future adjacent growth.
- City Discretion: The City retains full legislative discretion in approving or denying the formation of a PID and is under no obligation to approve one.
- Reimbursement Mechanisms: If a PID is formed and completes eligible infrastructure improvements, the PID may qualify for impact fee credits, as determined by the City Engineer and aligned with the City's Capital Facilities Plan.

Legal:

The governing documents have been created with assistance from Gilmore & Bell and reviewed by Kanab's legal counsel.

Financial:

The PID is a self-financing entity. The City does not guarantee or assume any responsibility for the repayment of PID-issued bonds.

Recommendations/Actions: It is recommended the City Council:

Approve Resolution _____ R A Resolution providing for the creation of the Hidden Canyon Public Infrastructure District and approving a governing document and interlocal agreement; Approving the appointment of a board of trustees, authorizing other documents in connection therewith, and related matters.

NOTICE OF PUBLIC HEARING REGARDING THE CREATION OF A PUBLIC INFRASTRUCTURE DISTRICT BY KANAB CITY, UTAH

October 7, 2025

This notice is furnished to you by the City Council (the “Council”) of Kanab City, Utah (the “City”) to provide notice of a public hearing to be held by the Council on **October 21, 2025 at or after 6:30 P.M.** The public hearing is regarding the proposed creation of Hidden Canyon Public Infrastructure District (the “Proposed District”) and to allow for public input on (i) whether the requested service (described below) is needed in the area of the applicable Proposed District, (ii) whether the service should be provided by the City or the Proposed District, and (iii) all other matters relating to the Proposed District.

Because consent to the creation of the Proposed District and waiver of the protest period has been obtained from all property owners and registered voters within the boundaries of the Proposed District, pursuant to Section 17D-4-201 of the Utah Code, the City may adopt a resolution creating the Proposed District immediately after holding the public hearing described herein or on any date thereafter. **Any withdrawal of consent to creation or protest of the creation of the Proposed District by an affected property owner must be submitted to the City prior to the public hearing described herein.**

Meeting Information:

Held By: The City Council of Kanab City, Utah

Date and Time: October 21, 2025 at or after 6:30 P.M.

Location:

Kanab City Council Chambers

26 North 100 East

Kanab, UT 84741

Proposed District Boundaries:

The legal description and map for the Proposed District is attached as Appendix A. In addition, it is anticipated that the Proposed District would be authorized to adjust their boundaries through withdrawal of properties, so long as such properties are within the proposed inclusion area, as shown on the map attached as Appendix B and certain requirements as established in a governing document have been met.

Summary of Proposed Resolutions:

The proposed resolutions regarding the creation of the Proposed District contain consideration of approval of the following items:

- Creation of the Proposed District with the initial boundaries as described herein
- Approval of the withdrawal from the boundaries of the Proposed District of any area within the proposed inclusion area of the Proposed District without additional approvals or hearings of the City, subject to the conditions of the Governing Document
- Establishment of a Board of Trustees for the District, comprised as follows:
 - Trustee 1 – Jim Guthrie, for an initial 6-year term;
 - Trustee 2 – Juli Grahm, for an initial 4-year term;
 - Trustee 3 – Jared Grahm, for an initial 6-year term
- Authorization for execution by the City of the Notice of Boundary Action and Final Entity Plat
- Approval of a Governing Document and Interlocal Agreement for the Proposed District:
 - A proposed aggregate debt limit for the Proposed District of \$45,000,000.00
 - Permitting the Proposed District to issue debt repayable from special assessments, and other revenues of the District

Proposed Service:

Hidden Canyon Public Infrastructure District is proposed to be created for the purpose of financing the construction of public infrastructure relating to the Hidden Canyon Development (the “Project”), as permitted under the Special District Act, Title 17B, Chapter 1, Utah Code Annotated 1953 and the Public Infrastructure District Act, Title 17D, Chapter 4, Utah Code Annotated 1953.

Sincerely,

The City Council of Kanab City,
Utah

APPENDIX A
PROPOSED DISTRICT BOUNDARIES
Legal Description (Initial District Boundaries)

BEGINNING AT THE SOUTH 1/4 (QUARTER) CORNER OF SECTION 26' TOWNSHIP 43 SOUTH, RANGE 6 WEST SALT LAKE BASE AND MERIDIAN: THENCE N01°17'46"E 1323.64 FEET; THENCE N01°17'01" E 1323.83 FEET TO THE CENTER OF SECTION 25; THENCE N44°27'36" E 1859.77; THENCE S00°14'16" W 664.12 FEET; THENCE N89°58'09"W 1308.08 FEET TO THE EAST SECTION LINE OF SECTION 26; THENCE S00°00'40"E 664.25 FEET TO THE EAST 1/4 (QUARTER) CORNER OF SECTION 26; THENCE S00°01'38"E 2650.40 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 26; THENCE N89°53'13"W 1334.46 FEET TO THE EAST 1/16 CORNER OF SECTION 26; THENCE S00°21'27"E 2299.67 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY OF HIGHWAY 89 AND A POINT OF CURVATURE WITH A 7537.79 FOOT RADIUS CURVE TO THE RIGHT (RADIUS BEARS N21°14'28"E); THENCE 1188.05 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 9°01'50"; THENCE N00°24'25"W 1786.05 FEET; THENCE N89°53'13"W 267.21 TO THE POINT OF BEGINNING.

APPENDIX B
Initial District Boundary Map

**GOVERNING DOCUMENT
FOR
HIDDEN CANYON PUBLIC INFRASTRUCTURE DISTRICT
KANAB, UTAH**

Prepared

by

Gilmore & Bell, P.C.
15 West South Temple, Suite 1400
Salt Lake City, Utah 84101

[____], 2025

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I. INTRODUCTION

A. Purpose and Intent.

The District is an independent unit of local government, separate and distinct from the City, and, except as may otherwise be provided for by State or local law or this Governing Document, its activities are subject to review by the City only insofar as they may deviate in a material matter from the requirements of the Governing Document. It is intended that the District will provide a part or all of the Public Improvements for the use and benefit of all anticipated inhabitants and taxpayers of the District. The primary purpose of the District will be to finance the construction of these Public Improvements. The District is not being created to provide any ongoing operations and maintenance services.

B. Need for the District.

There are currently no other governmental entities, including the City, located in the immediate vicinity of the District that consider it desirable, feasible or practical to undertake the planning, design, acquisition, construction installation, relocation, redevelopment, and financing of the Public Improvements needed for the Project. Formation of the District is therefore necessary in order for the Public Improvements required for the Project to be provided in the most economic manner possible.

C. Objective of the City Regarding District's Governing Document.

The City's objective in approving the Governing Document for the District is to authorize the District to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of the Public Improvements from the proceeds of Debt to be issued by the District. All Debt is expected to be repaid by Assessments and other legally available revenues of the District. Debt which is issued within these parameters and, as further described in the Financial Plan, will ensure there are no ongoing tax burdens to support the servicing of the Debt and will result in a timely and reasonable discharge of the Debt.

This Governing Document is intended to establish a limited purpose for the District and explicit financial constraints that are not to be violated under any circumstances. The primary purpose is to provide for the Public Improvements associated with development and regional needs. Operational activities are allowed, but only through an interlocal agreement with the City or other relevant public entity with written consent of the City.

It is the intent of the District to dissolve upon payment or defeasance of all Debt incurred or upon a determination that adequate provision has been made for the payment of all Debt.

The District shall be authorized to finance the Public Improvements that can be funded from Debt to be repaid from Assessments collected on District properties. It is the intent of this Governing Document that no property taxes are levied by the District for the repayment of Debt. Generally, the cost of Public Improvements that cannot be funded within these parameters are not costs to be paid by the District.

II. DEFINITIONS

In this Governing Document, the following terms shall have the meanings indicated below, unless the context hereof clearly requires otherwise:

Approved Development Plan: means a Preliminary Development Plan, Development Agreement, or other process established by the City for identifying, among other things, Public Improvements necessary for facilitating development for property within the District Area as approved by the City pursuant to the City Code and as amended pursuant to the City Code from time to time. An infrastructure plan approved by the City Manager or Planning Director shall constitute an Approved Development Plan for purposes of Section V.A.8. For purposes of this Governing Document, the Master Development Agreement (with PID) [_____], 2025, shall constitute an Approved Development Plan.

Assessment: means (i) the levy of an assessment secured by a lien on property within a District to pay for the costs of Public Improvements benefitting such property or (2) an assessment by a District levied on private property within such District to cover the costs of an energy efficient upgrade, a renewable energy system, or an electric vehicle charging infrastructure, each as may be levied pursuant to the Assessment Act.

Assessment Act: means collectively, (i) Title 11, Chapter 42, Utah Code as may be amended from time to time and (ii) the C-PACE Act.

Board: means the board of trustees of the District.

Bond, Bonds or Debt: means bonds or other obligations, including loans of any property owner, for the payment of which the District has promised to collect Assessments or other legally available revenues.

City: means Kanab, Utah.

City Code: means the City Code of Kanab, Utah.

City Council: means the City Council of the City.

C-PACE Act: means title 11, Chapter 42a of the Utah Code, as amended from time to time.

C-PACE Bonds: means bonds, loans, notes, or other structures and obligations of the District issued pursuant to the C-PACE Act, including refunding C-PACE Bonds.

C-PACE Assessments: means assessments levied under the C-PACE Act.

District: means the Hidden Canyon Public Infrastructure District.

District Act: means the Special District Act and the PID Act.

District Area: means the property within the Initial District Boundary Map.

End User: means any owner, or tenant of any owner, of any improvement within the District, who is intended to become the ultimate user of such improvement. By way of illustration, a resident homeowner, renter, commercial property owner, or commercial tenant is an End User. The business entity that constructs homes or commercial structures is not an End User.

Fees: means any fee imposed by the District for administrative services provided by the District.

Financial Plan: means the Financial Plan described in Section VIII which describes (i) the potential means whereby the Public Improvements may be financed; (ii) how the Debt is expected to be incurred; and (iii) the estimated operating revenue derived from property taxes for the first budget year.

Governing Document: means this Governing Document for the District approved by the City Council.

Governing Document Amendment: means an amendment to the Governing Document approved by the City Council in accordance with the City's ordinance and the applicable state law and approved by the Board in accordance with applicable state law.

Initial District Boundaries: means the boundaries of the area described in the Initial District Boundary Map and as particularly described in **Exhibit A-1**.

Initial District Boundary Map: means the map attached hereto as **Exhibit B**, describing the District's initial boundaries.

Residential Homeowner: means the owner of residential property intended for owner occupation.

Special District Act: means Title 17B of the Utah Code, as amended from time to time.

Municipal Advisor: means a consultant that: (i) advises Utah governmental entities on matters relating to the issuance of securities by Utah governmental entities, including matters such as the pricing, sales and marketing of such securities and the procuring of bond ratings, credit enhancement and insurance in respect of such securities; (ii) shall be an underwriter, investment banker, or individual listed as a public finance advisor in the Bond Buyer's Municipal Market Place; and (iii) is not an officer or employee of the District and has not been otherwise engaged to provide services in connection with the transaction related to the applicable Debt.

Project: means the development or property commonly referred to as the Hidden Canyon Development.

PID Act: means Title 17D, Chapter 4 of the Utah Code, as amended from time to time and any successor statute thereto.

Public Improvements: means a part or all of the improvements authorized to be planned, designed, acquired, constructed, installed, relocated, redeveloped and financed as generally described in the District Act to serve the future property owners and inhabitants of the District Area as determined by the Board, and includes Public Infrastructure and Improvements as defined in the PID Act.

Regional Improvements: means Public Improvements and facilities that benefit the District Area and which are to be financed pursuant to Section VII below.

State: means the State of Utah.

Trustee: means a member of the Board.

Utah Code: means the Utah Code Annotated 1953, as amended.

III. BOUNDARIES

The area of the Initial District Boundaries includes approximately 257 acres. A legal description of the Initial District Boundaries is attached hereto as **Exhibit A**. A map of the Initial District Boundaries is attached hereto as **Exhibit B**. It is anticipated that the District's boundaries may change from time to time as it undergoes withdrawals pursuant to Section 17D-4-201, Utah Code, subject to Article V below.

IV. PROPOSED LAND USE

The District Area consists of mostly undeveloped land. The 2024 estimated assessed valuation of the District Area within the Initial District Boundaries was \$896,456. This valuation is solely for purposes of this Governing Document, and at build out, is expected to be sufficient to reasonably discharge the Debt under the Financial Plan.

Approval of this Governing Document by the City does not imply approval of the development of a specific area within the District, nor does it imply approval of the number of units or the total site/floor area of commercial, residential, or industrial buildings identified in this Governing Document or any of the exhibits attached thereto, unless the same is separately approved by the City in accordance with the City Code.

V. DESCRIPTION OF PROPOSED POWERS, IMPROVEMENTS AND SERVICES

A. Powers of the District and Governing Document Amendment.

The District shall have the power and authority to provide the Public Improvements within and without the boundaries of the District as such power and authority is described in the District Act and other applicable statutes, common law and the Constitution, subject to any limitations set forth herein.

1. Improvements.

(a) The purpose of the District is to plan for, design, acquire, construct, install, relocate, redevelop and finance the Public Improvements. The District shall dedicate the Public Improvements to the City or other appropriate public entity or owners association in a manner consistent with the Approved Development Plan and other rules and regulations of the City and applicable provisions of the City Code. The District shall be authorized, but not obligated, to own, operate and maintain Public Improvements not otherwise required to be dedicated to the City or other public entity.

(b) Provision, ownership, and maintenance of such Public Improvements will be as provided by the Approved Development Plan, including relating to the pavilion, parking structures, and trails.

2. Reserved.

3. Construction Standards Limitation. The District will ensure that the Public Improvements are designed and constructed in accordance with the standards and specifications of the City and of other governmental entities having proper jurisdiction. The District will obtain the City's approval of civil engineering plans and will obtain applicable permits for construction and installation of Public Improvements prior to performing such work. Public Improvements shall be subject to the ordinary inspection and approval procedures of the City and other governmental entities having proper jurisdiction.

4. Procurement. The District shall be subject to the Utah Procurement Code, Title 63G, Chapter 6a. Notwithstanding this requirement, the Districts may acquire completed or partially completed improvements for fair market value as reasonably determined by a engineer that such District employs or engages to perform the necessary engineering services for and to supervise the construction or installation of the improvements.

5. Privately Placed Debt Limitation. Prior to the issuance of any privately placed Debt, the District shall obtain the certification of a Municipal Advisor substantially as follows:

We are [I am] a Municipal Advisor within the meaning of the District's Governing Document.

We [I] certify that (1) the net effective interest rate to be borne by [insert the designation of the Debt] does not exceed a reasonable current [tax-exempt] [taxable] interest rate, using criteria deemed appropriate by us [me] and based upon our [my] analysis of comparable high yield securities; and (2) the structure of [insert designation of the Debt], including maturities and early redemption provisions, is reasonable considering the financial circumstances of the District.

6. Withdrawal.

(a) The City, approval of this Governing Document, has consented to the withdrawal of any area within the District Boundaries from the District. Such area may only

be withdrawn upon the District obtaining any consents required under the PID Act and the passage of a resolution of the Board approving such withdrawal.

(b) Any withdrawal shall be in accordance with the requirements of the PID Act.

(c) Upon any withdrawal, the District shall provide the City a description of the revised District Boundaries.

(d) Withdrawal of any area in accordance with V.A.6(a) and (b) shall not constitute an amendment of this Governing Document.

7. Reserved.

8. Initial Debt Limitation. On or before the effective date of approval by the City of an Approved Development Plan, the District shall not: (a) issue any Debt; nor (b) impose a mill levy for the payment of Debt by direct imposition or by transfer of funds from the operating fund to the Debt service funds; nor (c) impose and collect any Assessments used for the purpose of repayment of Debt.

9. Total Debt Issuance Limitation. The District shall not issue Assessment Debt in excess of an aggregate amount of [] Dollars (\$[]). This amount excludes any portion of bonds issued to refund a prior issuance of Assessment debt by the District. In addition, any C-PACE Bonds do not count against the foregoing limitation and there is no limit to the amount of C-PACE Bonds the District may issue so long as such issuances are in accordance with the provisions of the applicable Assessment Act.

10. Bankruptcy Limitation. All of the limitations contained in the Governing Document, including, but not limited to, those pertaining to the Maximum Bond Term and the Fees have been established under the authority of the City to approve a Governing Document with conditions pursuant to Section 17D-4-201(5), Utah Code. It is expressly intended that such limitations:

(a) Shall not be subject to set-aside for any reason or by any court of competent jurisdiction, absent a Governing Document Amendment; and

(b) Are, together with all other requirements of Utah law, included in the “political or governmental powers” reserved to the State under the U.S. Bankruptcy Code (11 U.S.C.) Section 903, and are also included in the “regulatory or electoral approval necessary under applicable nonbankruptcy law” as required for confirmation of a Chapter 9 Bankruptcy Plan under Bankruptcy Code Section 943(b)(6).

Any Debt, issued with a pledge or which results in a pledge, that exceeds the Maximum Bond Term, shall be deemed a material modification of this Governing Document and shall not be an authorized issuance of Debt unless and until such material modification has been approved by the City as part of a Governing Document Amendment.

11. Governing Document Amendment Requirement.

(a) This Governing Document has been designed with sufficient flexibility to enable the District to provide required facilities under evolving circumstances without the need for numerous amendments. Actions of the District which violate the limitations set forth in V.A.1-9 above or in VIII.B-G. shall be deemed to be material modifications to this Governing Document and the City shall be entitled to all remedies available under State and local law to enjoin such actions of the District.

(b) Subject to the limitations and exceptions contained herein, this Governing Document may be amended by passage of a resolutions of the City Council and the District Board approving such amendment.

B. Preliminary Engineering Survey.

The District shall have authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, maintenance, and financing of the Public Improvements within and without the boundaries of the District, as specified application materials relating to the District and as may be further defined in an Approved Development Plan. An estimate of the costs of the Public Improvements which may be planned for, designed, acquired, constructed, installed, relocated, redeveloped, maintained or financed was prepared based upon a preliminary engineering survey and estimates derived from the zoning on the property in the District Area and is approximately [_____ Dollars (\$_____)].

All of the Public Improvements will be designed in such a way as to assure that the Public Improvements standards will be compatible with those of the City and/or any other applicable public entity. All construction cost estimates are based on the assumption that construction conforms to applicable local, State or Federal requirements.

VI. THE BOARD OF TRUSTEES

A. Board Composition. The Board shall be composed of three Trustees who shall be appointed by the City Council pursuant to the PID Act. Trustees 1, 2, and 3 shall be at large seats. Trustee terms shall be staggered with initial terms as follows: Trustees 1 and 3 shall serve an initial term of six (6) years; Trustee 2 shall serve an initial term of four (4) years. In accordance with the PID Act, appointed Trustees shall not be required to be residents of the District.

(a) The respective board seats for the Board shall transition from appointed to elected seats according to the following milestones:

(i) Trustee 1. Trustee 1 shall transition to an elected seat upon the earlier to occur of [____] Registered Voters within the District, or January 1, 20[____].

(ii) Trustee 2. Trustee 2 shall transition to an elected seat upon [____] Registered Voters within the District.

(iii) Trustee 3. Trustee 3 shall not transition to an elected seat, and shall continue to be appointed by owners of commercial property within the District as provided in B below.

(b) Registered Voters: For purposes of this Section VI “Registered Voters” shall mean registered voters whose “principal place of residence,” as that term is defined under Utah Code Section 20A-2-105(1)(a), as may be amended, is in the District.

B. Reelection and Reappointment. Upon the expiration of a Trustee’s respective term, any seat which has not transitioned to an elected seat shall be appointed by the City Council pursuant to the PID Act. In the event that no qualified candidate files to be considered for appointment or files a declaration of candidacy for a seat, such seat may be filled pursuant to the Special District Act and in accordance with the Special District Act. Any owner of land constituting more than 50% of the commercial taxable value within a District shall be entitled to nominate for appointment Trustee 3 of the Board, otherwise the City Council may choose Trustee 3 from nominations of any owners of non-permanent residential property within the District.

C. Vacancy. Any vacancy on the Board shall be filled pursuant to the Special District Act and in accordance with the PID Act.

D. Compensation. Unless otherwise permitted by the PID Act, only Trustees who are residents of the District may be compensated for services as Trustee. Such compensation shall be in accordance with State Law.

E. Conflicts of Interest. Trustees shall disclose all conflicts of interest. Any Trustee who discloses such conflicts in accordance with 17D-4-202 and 67-16-9, Utah Code, shall be entitled to vote on such matters.

VII. REGIONAL IMPROVEMENTS

The District shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment and a contribution to the funding of the Regional Improvements and fund the administration and overhead costs related to the provisions of the Regional Improvements.

VIII. FINANCIAL PLAN

A. General.

The District shall be authorized to provide for the planning, design, acquisition, construction, installation, relocation and/or redevelopment of the Public Improvements from their revenues and by and through the proceeds of Debt to be issued by the District. In addition, the District shall be permitted to finance the prepayment of impact fees for the Project. The Financial Plan for the District shall be to issue such Debt as the District can reasonably pay within the Maximum Bond Term from revenues derived from the Fees, Assessments and other legally available revenues. All Debt shall be permitted to be issued on a schedule and in such year or years as the District determines shall meet the needs of the Financial Plan referenced above and phased to serve development as it occurs. All Bonds and other Debt issued by the District may be payable from any and all legally available revenues of the District, including Assessments. The District is not permitted to impose any ad valorem property taxes. The District will also rely upon various other revenue sources authorized by law. These will include the power to assess Fees, penalties or charges, including as provided in Section 17D-4-304, Utah Code, as amended from time to time.

B. Applicable Debt Requirements.

Debt, when issued, will comply with all relevant requirements of this Governing Document, State law and Federal law as then applicable to the issuance of public securities.

C. Prepayment of Assessments.

All Assessments (other than Assessments under the C-PACE Act) imposed by the District on a parcel anticipated to be owned by a Residential Homeowner shall be payable at or before conveyance to a Residential Homeowner with respect to such parcel. Any Assessments issued under the C-PACE Act may be repayable in accordance with the provisions of such act. Assessments on property which is not intended for Residential Homeowner occupation and C-PACE Assessments may be repayable in accordance with the provisions of such act, and no prepayment requirements shall apply.

D. Maximum Bond Term.

Each Bond issued by the District shall mature within thirty-one (31) years from the date of issuance of such Bond (the "Maximum Bond Term").

E. Debt Repayment Sources.

The District may impose Assessments as a primary source of revenue for repayment of debt service, at rates to be determined by each District. The District may also rely upon various other revenue sources authorized by law. At the District's discretion, these may include the power to assess Assessments, penalties, or charges, including as provided in Section 17D-4-304, Utah Code, as amended from time to time. The District may not impose a mill levy on taxable property within its boundaries.

The District shall not be permitted to charge an End User the costs of any portion of a Public Improvement for which such End User has already paid or is presently obligated to pay through any combination of Assessments or impact fees. This provision shall not prohibit the

division of costs between Assessments or impact fees, but is intended to prevent double charging of End Users for the costs of Public Improvements.

F. Debt Instrument Disclosure Requirement.

In the text of each Bond and any other instrument representing and constituting Debt, the District shall set forth a statement in substantially the following form:

By acceptance of this instrument, the owner of this Bond agrees and consents to all of the limitations in respect of the payment of the principal of and interest on this Bond contained herein, in the resolution of the District authorizing the issuance of this Bond and in the Governing Document for creation of the District.

Similar language describing the limitations in respect of the payment of the principal of and interest on Debt set forth in this Governing Document shall be included in any document used for the offering of the Debt for sale to persons, including, but not limited to, a developer of property within the boundaries of the District.

G. Security for Debt.

The District shall not pledge any revenue or property of the City as security for the indebtedness set forth in this Governing Document. Approval of this Governing Document shall not be construed as a guarantee by the City of payment of any of the District's obligations; nor shall anything in the Governing Document be construed so as to create any responsibility or liability on the part of the City in the event of default by the District in the payment of any such obligation.

H. District's Operating Costs.

The estimated cost of acquiring land, engineering services, legal services and administrative services, together with the estimated costs of the District's organization and initial operations, are anticipated to be [One Hundred Thousand Dollars (\$100,000)], which will be eligible for reimbursement from Debt proceeds.

In addition to the capital costs of the Public Improvements, the District will require operating funds for administration and to plan and cause the Public Improvements to be constructed. The first year's operating budget is estimated to be approximately [Fifty Thousand Dollars (\$50,000)] which is anticipated to be derived from property taxes and other revenues.

I. Bond and Disclosure Counsel; Municipal Advisor.

It is the intent of the City that the District shall use competent and nationally recognized bond and disclosure counsel and Municipal Advisor with respect to District Bonds to ensure proper issuance and compliance with this Governing Document. Accordingly, absent written consent of the City, the District agrees to utilize Gilmore & Bell, P.C. as bond and

disclosure counsel and Zions Public Finance, Inc. as Municipal Advisor with respect to District Bonds as permitted by law.

IX. ANNUAL REPORT

A. General.

The District shall be responsible for submitting an annual report to the City Manager's Office no later than 210 days following the end of the District's fiscal year.

B. Reporting of Significant Events.

The annual report shall include information as to any of the following:

1. Boundary changes made or proposed to the District's boundary as of last day of the prior fiscal year, if changed;
2. List of current interlocal agreements, if changed (to be delivered to the City upon request);
3. Names and terms of Board members and officers and progress towards milestones required for transition to elected Board;
4. District office contact information, if changed;
5. Rules and regulations of the District regarding bidding, conflict of interest, contracting, and other governance matters, if changed;
6. A summary of any litigation which involves the District Public Improvements as of the last day of the prior fiscal year, if any;
7. Status of the District's construction of the Public Improvements as of December 31 of the prior year and listing all facilities and improvements constructed by the District that have been dedicated to and accepted by the City as of the last day of the prior fiscal year;
8. A table summarizing total debt authorized and total debt issued by the District as well as any presently planned debt issuances;
9. Official statements of current outstanding bonded indebtedness, if not previously provided to the City;
10. Current year budget including a description of the Public Improvements to be constructed in such year;
11. Financial statements of the District for the most recent completed fiscal year (such statements shall be audited if required by bond documents or statute);

12. Notice of any uncured events of default by the District, which continue beyond a ninety (90) day period, under any Debt instrument; and

13. Any inability of the District to pay its obligations as they come due, in accordance with the terms of such obligations, which continue beyond a ninety (90) day period.

X. DISSOLUTION

Upon an independent determination of the District Board that the purposes for which the District was created have been accomplished, the District shall file petitions for dissolution, pursuant to the applicable State statutes. In no event shall a dissolution occur until the District has provided for the payment or discharge of all of their outstanding indebtedness and other financial obligations as required pursuant to State statutes and disbursed of all assets of the District.

XI. DISCLOSURE TO PURCHASERS

Within thirty (30) days of the Office of the Lieutenant Governor of the State of Utah issuing a certificate of creation, the Board shall record a notice with the recorder of Kane County. Such notice shall (a) contain a description of the boundaries of the District, (b) state that a copy of this Governing Document is on file at the office of the City, (c) state that the District may finance and repay infrastructure and other improvements through the imposition of Assessments and (d) state that the District is not permitted to levy property taxes. Such notice shall further be filed with the City.

In addition, the Applicant and the Board shall ensure that the Applicant, commercial or residential developers, and commercial or residential lessors, as applicable, disclose to End Users all of the information in the first paragraph of this XI. Such disclosures shall be contained on a separate-colored page of the applicable closing or lease documents and shall require a signature of such end user acknowledging the foregoing.

XII. ENFORCEMENT

IN ACCORDANCE WITH SECTION 17D-4-201(5) OF THE UTAH CODE, THE CITY MAY IMPOSE LIMITATIONS ON THE POWERS OF THE DISTRICT THROUGH THIS GOVERNING DOCUMENT. THE CITY SHALL HAVE THE RIGHT TO ENFORCE ANY OF THE PROVISIONS, LIMITATIONS, OR RESTRICTIONS IN THIS GOVERNING DOCUMENT AGAINST THE DISTRICT, THROUGH ANY AND ALL LEGAL OR EQUITABLE MEANS AVAILABLE TO THE CITY, INCLUDING, BUT NOT LIMITED TO, INJUNCTIVE RELIEF.

EXHIBIT A

Legal Description of the Initial District Boundaries

PID Legal Description:

[INSERT LEGAL DESCRIPTION]

EXHIBIT B

Initial District Boundary Map

[INSERT MAP]

DISCLOSURE OF SUBSTANTIAL BUSINESS

Pursuant to Sections 17D-4-202 and 67-16-7 of the Utah Code, I hereby disclose my interest in [DEVELOPER ENTITIES] relating to my appointment to the Board of Trustees of Hidden Canyon Public Infrastructure District (the "District"). The nature and value of my interest is listed below:

[DEVELOPER ENTITIES] [NATURE AND VALUE OF INTEREST – I.E. TITLE, % OWNERSHIP, ESTIMATED VALUE OF THAT INTEREST]

I further certify that I am (i) an owner of land or an agent or officer of an owner of land within the District and (ii) a registered voter at my primary residence.

[NAME] *Jared Chase Graham*

Jared Chase Graham

STATE OF Utah)

ss:

COUNTY OF Washington)

The foregoing instrument was acknowledged before me this 6th day of October, 2025,
by [NAME].

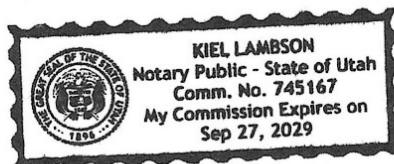
KJ

NOTARY PUBLIC

Residing at: Washington, UT

My Commission Expires:

9/27/2029



DISCLOSURE OF SUBSTANTIAL BUSINESS

Pursuant to Sections 17D-4-202 and 67-16-7 of the Utah Code, I hereby disclose my interest in [DEVELOPER ENTITIES] relating to my appointment to the Board of Trustees of Hidden Canyon Public Infrastructure District (the "District"). The nature and value of my interest is listed below:

[DEVELOPER ENTITIES] [NATURE AND VALUE OF INTEREST – I.E. TITLE, % OWNERSHIP, ESTIMATED VALUE OF THAT INTEREST]

I further certify that I am (i) an owner of land or an agent or officer of an owner of land within the District and (ii) a registered voter at my primary residence.

[NAME]

Jim Gathrie
Jim Gathrie 10-6-2025

STATE OF _____)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2024,
by [NAME]



NOTARY PUBLIC
Residing _____



My Commission Expires:

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of RIVERSIDE

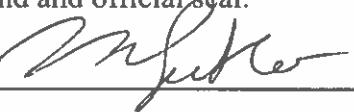
On 10/06/2025 before me, MEHARDEEP SINGH SETHI-NOTARY PUBLIC,
(Here insert name and title of the officer)

personally appeared JIMMY GUTHRIE,

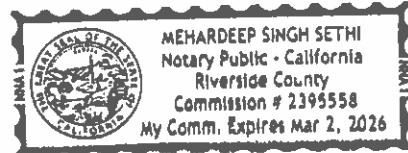
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.


Signature of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

DISCLOSURE OF SUBSTANTIAL BUSINESS

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- Individual(s)
- Corporate Officer
- (Title)
- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

DISCLOSURE OF SUBSTANTIAL BUSINESS

Pursuant to Sections 17D-4-202 and 67-16-7 of the Utah Code, I hereby disclose my interest in [DEVELOPER ENTITIES] relating to my appointment to the Board of Trustees of Hidden Canyon Public Infrastructure District (the "District"). The nature and value of my interest is listed below:

[DEVELOPER ENTITIES] [NATURE AND VALUE OF INTEREST – I.E. TITLE, % OWNERSHIP, ESTIMATED VALUE OF THAT INTEREST]

I further certify that I am (i) an owner of land or an agent or officer of an owner of land within the District and (ii) a registered voter at my primary residence.

[NAME] JULI RENEE GRAHAM



STATE OF Utah)

ss:

COUNTY OF Washington)

The foregoing instrument was acknowledged before me this 6th day of October, 2025,
by [NAME].

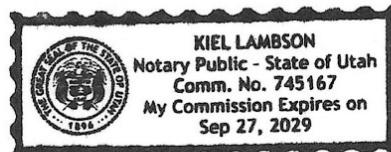


NOTARY PUBLIC

Residing at: Washington, UT

My Commission Expires:

9/27/2029



ORDINANCE NO. 8-2-24 O

**AN ORDINANCE APPROVING
THE HIDDEN CANYON DEVELOPMENT AGREEMENT AND
SYSTEM IMPROVEMENTS REIMBURSEMENT AGREEMENT
[Pertaining to parcels K-15-1-ANNEX and K-14-15-ANNEX]**

WHEREAS, Jim Guthrie owns approximately 257.37 acres of real property located within City limits, with parcel/tax ID numbers of K-15-1-ANNEX and K-14-15-ANNEX, identified as the Hidden Canyon Subdivision “Property” or Development Property,” which he now desires to develop in cooperation with JJJ Development, Inc (collectively the “Developer”).

WHEREAS, the Property was previously zoned with a Planned Development Overlay (“PD”) and, therefore, is required to have a development agreement, pursuant to Kanab City Land Use Ordinance, Chapter 23.

WHEREAS, to develop the Property, the Developer has certain obligations to install infrastructure and System Improvements to specified standards sufficient to meet the Development Property’s needs.

WHEREAS, as part of the development activities, the City desires to have the Developer upsize or oversize certain infrastructure beyond the infrastructure required to meet the needs of the Development Property, including future development and growth.

WHEREAS, Utah law allows for reimbursement for public infrastructure improvements and system improvements through various reimbursement methods, including pioneering agreements and impact fee credits, and the City and the Developer anticipate utilizing multiple methods for reimbursing the Developer for certain public infrastructure and system improvements.

WHEREAS, over several years the City and Developer have negotiated the terms for reimbursement as well as other aspects of the Hidden Canyon Planned Development, and the terms upon which an agreement has been met have been memorialized in the Hidden Canyon Development Agreement and System Improvements Reimbursement Agreement (i.e., one agreement encapsulating both agreements; referred to hereinafter as “Agreement”).

WHEREAS, on March 19 and July 2, 2024, the Kanab City Planning Commission held two separate and duly noticed public hearings to consider the Agreement, and any public comments, and thereafter made recommendations to the Kanab City Council pertaining thereto.

WHEREAS, on March 26 and July 16, 2024, having received the Planning Commission’s recommendations, the Kanab City Council met during its duly noticed meetings, considered the Agreement with any modifications, and considered the input of City staff, the public input (if any), and the Planning Commission, and discussed the Agreement.

WHEREAS, on August 27, 2024, the Kanab City Council again discussed and reviewed the Agreement,

with certain changes and additions, pursuant to the input from the prior meetings.

WHEREAS, the City, acting pursuant to its authority under Utah Code § 10-9a-101, et seq. and its ordinances, resolutions, and regulations and in furtherance of its land use policies and goals, has made certain determinations with respect to the proposed Hidden Canyon Planned Development, and, in the exercise of its legislative discretion, has elected to approve the Agreement, attached hereto, because it promotes the orderly and appropriate development of the Property, and will provide public facilities, amenities, and other benefits for the better welfare of the community and in connection with a proposed development.

NOW, THEREFORE, BE IT ORDAINED by the Kanab City Council, adopting, and approving the Agreement attached hereto, and thereby authorizing the signing and recordation of the same.

The Mayor and City staff are authorized to take all steps necessary to effectuate this ordinance.

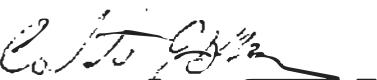
A fully executed copy of the Agreement shall be provided to the Developer for their consideration, execution, and recording. A recorded copy shall be provided to and maintained by the City Recorder.

The provisions of this ~~Ordinance~~ shall be severable, and, if any provision thereof or any application of such provision is held invalid, it shall not affect any other provisions of this ~~Ordinance~~ or the application in a different circumstance.

This ~~Ordinance~~ shall be effective upon passage.

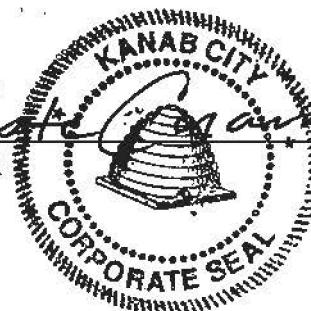
PASSED AND ORDAINED this August 27, 2024.

KANAB CITY


MAYOR

ATTEST:


RECORDER



VOTING:

Arlon Chamberlain	Yea <input checked="" type="checkbox"/> Nay _____
Boyd Corry	Yea <input checked="" type="checkbox"/> Nay _____
Peter Banks	Yea <input checked="" type="checkbox"/> Nay _____
Scott Colson	Yea <input checked="" type="checkbox"/> Nay _____
Chris Heaton	Yea <input checked="" type="checkbox"/> Nay _____

When Recorded Return to:

Kanab City
26 North 100 East
Kanab, UT 84741

Tax ID#s: K-15-1-ANNEX
K-14-15-ANNEX

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09/17/2024 02:12:43 PM B: 0626 P: 0028
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VERJEAN CARUSO, KANE COUNTY RECORDER
FEE \$ 40.00 BY JIM GUTHRIE



**HIDDEN CANYON DEVELOPMENT AGREEMENT
AND
SYSTEM IMPROVEMENTS REIMBURSEMENT AGREEMENT**

THIS HIDDEN CANYON DEVELOPMENT AGREEMENT AND SYSTEM IMPROVEMENTS REIMBURSEMENT AGREEMENT (herein "**Agreement**") is entered into this 27th day of August, 2024, by and between Jim Guthrie and his assigns, (herein "**Guthrie**"), owner of record for parcels K-15-1-ANNEX and K-14-15-ANNEX (the "**Property**"), and JJJ Development, Inc., a Utah corporation (herein "**JJJ Development**") (Mr. Guthrie and JJJ Development, Inc. herein collectively referred to as the "**Developer**"), and Kanab City, a municipal corporation and political subdivision of the State of Utah (herein "**City**"). This Agreement is intended, in part, to replace a previously approved but not fully executed development agreement between the Developer and the City. The Developer and the City are collectively referred to herein as "**Parties**," and each may be referred to individually as "**Party**."

RECITALS

WHEREAS, the City is a political subdivision of the State of Utah.

WHEREAS, Guthrie owns approximately 257.37 acres of real property located within City limits, with parcel/tax ID numbers of K-15-1-ANNEX and K-14-15-ANNEX, which is more fully described in Exhibit "A", identified as the "Hidden Canyon Subdivision" and portions of which may be hereafter interchangeably referenced as "Property", "Development Property," "Planned Community," and "Hidden Canyon".

WHEREAS, the Property is zoned with a Planned Development Overlay ("PD") established by the City.

WHEREAS, the Developer is proposing to develop the Property into a commercial (hotel and storage units), multi-family residential, and single-family residential units; the single-family residential portion of the development will be a gated retirement community designed for ownership by individuals over 55 years of age while the remainder of the commercial and residential development shall be open to all ages ("Development").

WHEREAS, development of the property shall occur over a several-year period, with marketing during development as well as thereafter, by applying to the City for development approvals, the issuance of required permits, and other items as more fully described hereafter.

WHEREAS, the proposed development of the Property will include approximately seven hundred and five (705) residential units, consisting of 356 single-family units, 269 multifamily units, an 80-unit commercial hotel, and 7.07 acres of commercial storage units, requiring additional infrastructure and public services.

WHEREAS, the City is willing to enter into this Agreement because the proposed development contains an upscale residential senior community, high-scale residential apartments, provides various commercial services, improves or develops City roads, contributes to the overall infrastructure and improvements of the City for future growth, and promotes economic development, all of which will be advanced by the Developer through the formation of a PID and/or other private financial resources.

WHEREAS, Developer will install all utilities, provide paved hard surface roads from the public street to the Development, and provide the Development with all public utility facilities including but not limited to curb, gutter and sidewalk, streets, power, water, and public sewer systems, in accordance with the applicable law and design standards, which infrastructure may be funded in whole or in part by the Developer, a Public Infrastructure District (“PID”), and/or other statutorily permitted infrastructure district, if one is approved and created. [Where “Public Infrastructure District” or “PID” is referenced herein, any statutorily permitted infrastructure district is also intended.]

WHEREAS, upon completion, dedication, and acceptance of the infrastructure, the City is willing to provide the necessary public services to the Development Property, upon certain conditions as outlined in City ordinances and in accordance with the terms included herein.

WHEREAS, as a condition of development approval, Developer is required to construct and install certain “Public Improvements” and “System Improvements,” including future public facilities identified in and included as part of the City’s Capital Facilities Plan(s), each as defined by Section 7-801 of the Kanab City General Ordinances and in Utah Code, Title 11, collectively referred to as “System Improvements;” however, System Improvements do not include “Development Property Improvements” or “Project Improvements” as that term is used in State Code and the City’s ordinances. [The term “Capital Facilities Plan(s)” as used throughout this Agreement, includes those plans for future capital facility improvements anticipated and included in the various Impact Fee Facilities Plan & Analysis, adopted by Kanab City in 2018, revised and re-adopted in April 2024.]

WHEREAS, the proposed Planned Community will require approximately (1) an 810,150 gallon water storage tank, (2) require at least an 8-inch water line transitioned to a 12-inch water line at the Development Property boundary to connect the existing water infrastructure to the water storage tank, and (3) require at least an 8-inch water line to serve the needs of the Planned Community.

WHEREAS, Developer has certain obligations to install infrastructure and System Improvements to specified standards sufficient to meet the Development Property’s needs.

WHEREAS, as part of the development activities, the City desires to have Developer upsize or oversize certain infrastructure as required by the City, beyond the infrastructure described previously.

WHEREAS, specific oversized System Improvements covered by this Agreement are outlined in Exhibit B, attached hereto and incorporated by reference, and are included in the City’s Capital Facilities

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FEE \$ 40.00 BY JIM GUTHRIE



Plan(s). Specifically, the Developer is required to have engineered, constructed, and dedicated to the City a water storage tank and related infrastructure, based on specific criteria.

WHEREAS, the Parties have acknowledged that (a) a one (1) million-gallon water storage reservoir (“water tank”), in lieu of a 810,150 gallon water tank, (b) a 12-inch transmission and distribution pipeline, in lieu of the initial 8-inch pipeline from the existing City water infrastructure to the Development Property property line, and also specifically extending from the water tank to the road identified as “Road A” in the Master Plan attached hereto as Exhibit C, running the length of “Road A” south to Highway 89 (the other distribution lines to service the Development Property remaining as 8-inch lines, as required by the development), and (c) other water-related infrastructure specifically related to the oversizing aspect of (a) and (b), described in Exhibit B (collectively, “Eligible Public Improvements”), are necessary for future development of the Development Property and future developments adjacent thereto, which currently do not exist.

WHEREAS, the Parties agree that the oversizing/upsizing of the System Improvements that are the subject of this Agreement are reasonably anticipated to serve future development, both within and without the Hidden Canyon Subdivision.

WHEREAS, Utah Code § 11-36a-101, et seq., the Impact Fee Act, allows for municipalities to either reimburse or credit developers for Public Improvements and System Improvements through their impact fee enactment.

WHEREAS, General Ordinances of Kanab City establish the parameters for the construction of Public Improvements, for reimbursement for oversizing Public Improvements, and for collecting and calculating impact fees, and state, in part:

Where public improvements are installed which are intended to extend, expand or improve the City's public improvements beyond the public improvements required to service or benefit the subdivision or development activity proposed by the developer, the City in its discretion may enter into a written reimbursement agreement with the developer who installs the public improvement.
Kanab City General Ordinances § 7-803.

Any developer seeking to commence development activity prior to the City's commitment to participate in a Development Property or to provide the required system improvements may construct all of the Development Property and system improvements and may, with the approval and at the discretion of the City Council, enter into a written system improvements reimbursement agreement with the City for the repayment of the actual, reasonable cost of the system improvements installed by receiving credits toward development impact fees or reimbursement from current or future impact fees as determined by the City Council.

Kanab City General Ordinances § 7-804

In consideration for the construction and installation by the developer of system improvements which are required by the City as a condition of approving the development activity, the City Council may in its sole discretion grant developer a credit against applicable impact fees assessed on development within developer's Development Property as determined by the City after receiving the recommendations of the City Engineer. No credits will be granted for Development Property improvements.

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FEE \$ 40.00 BY JIM GUTHRIE

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Kanab City General Ordinances §7-806.

No interest shall be paid on any reimbursement amounts. The City will not have any obligation to make reimbursements to the developer for systems improvements until the designated impact fees are actually received by the City.

Kanab City General Ordinances §7-807.

WHEREAS, Kanab City's Water Impact Fee Facilities Plan (Capital Facilities Plan for Water, adopted in 2024), outlines: "A new water tank will be installed in Hidden Canyon. This will be connected to an existing pipeline near 700 E and U.S. 89. It will also be connected to an existing line with a PRV valve approximately 1.4 miles east of 100 E. The project also includes a booster pump to get water up to the tank." It further outlines: "It is projected that the first new 1 MG tank should be constructed in 2026 and 2032. The 2026 tank will be located near the east City boundary with a 12-inch pipeline connected to the nearest 12-inch water main." *See* pages 3, 14, and 18-20; *and see*, Appendix A, Maps 1 & 7, identifying the approximate and adjacent area of the Hidden Canyon Subdivision for the location of a future 1-million-gallon water tank); *see also*, "Engineer's Opinion of Cost" for the Project "Kanab East Hidden Canyon." [These referenced pages and portions of the appendices of the Kanab City Water Impact Fee Facilities Plan (adopted 2024) are incorporated herein by reference.]

WHEREAS, the Developer and the City agree that the Developer will connect the Public Infrastructure to the waterline currently servicing the Quality Inn property. The Developer will not use the existing 8-inch waterline extending east from the Quality Inn property. The Developer will install a new 12-inch waterline adjacent to the existing 8-inch waterline and extend it the full distance to the 1-million gallon storage tank. The Developer shall be entitled to applicable impact fee credits for the difference in the actual, reasonable cost of installing a 12-inch waterline as compared to the cost of installing an 8-inch waterline from the point of connection to the Development Property boundary line.

WHEREAS, Developer will also construct and install a return 12-inch waterline from the water storage tank to the road identified as "Road A" in the Master Plan, attached hereto as Exhibit C, and thence along Road A to the areas of the Development Property, from which 8-inch waterlines may be utilized if sufficient to service the Development Activity, for which approved designs and standards require it for the Planned Development itself, and the 12-inch waterline continuing and extending along Road A back to the Highway 89, as further explained in Exhibit B. If it can be shown that the Development Property infrastructure only requires an 8" line from the water storage tank to the road identified as "Road A" in the Master Plan, attached hereto as Exhibit C, and thence along Road A to the areas of the Development Property, Developer shall be entitled to applicable impact fee credits for the difference in the actual, reasonable cost of installing a 12-inch waterline as compared to the cost of installing an 8-inch waterline.

WHEREAS, the Developer or a subsequently formed PID or statutory infrastructure district, if approved, will be reimbursed by way of receiving a credit towards applicable impact fees for the portion of the actual, reasonable costs for materials and installation of said Public Improvements attributable to the upsizing/oversizing, and the extension of Public Improvements beyond what is necessary for the Hidden Canyon Planned Development, dependent upon whether the Developer or PID has incurred the expense for installation of the oversized/upsized improvements, as set forth hereafter.

WHEREAS, the Developer or a subsequently formed PID or statutory infrastructure district, if approved, will front costs for extending and upsizing portions of Public Infrastructure, as outlined in Exhibit

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B, including the return water line and the water tank, from which the actual, reasonable costs shall be reimbursed (1) by City, through impact fee credits, or (2) by any private party or entity of an adjacent development which connects to the oversized return water line (i.e., from the water tank to US-89; the cost of reimbursement to be determined and paid in accordance with their pro-rata share of the actual, reasonable costs of the oversized portion of the water infrastructure, (including the water storage tank), to which the third-party connects. Notwithstanding, upon payment by a private party or the City, the Developer shall only be reimbursed up to the full actual, reasonable costs of the oversized portion of the infrastructure paid by Developer.

WHEREAS, the City will provide Developer with an impact fee credit for an equivalent amount of funds paid by Developer for the actual upsizing costs expended by the Developer for expanding the Water Storage Tank to one (1) million-gallon water storage reservoir (“water tank”), in lieu of a 810,150 gallon water tank, and for upsizing a mandatory 8” line to a 12-inch transmission and distribution pipeline, as specified. The impact fee credit balance shall be calculated at the time the infrastructure is approved and accepted in writing by the City, the running balance of which shall be usable towards applicable impact fees at the time the corresponding impact fee is assessed (i.e., at or just before each building permit is granted).

WHEREAS, the Parties have had the opportunity and have utilized the help and advice of legal counsel in the negotiating, drafting, and reviewing of this Agreement.

WHEREAS, on March 19 and July 2, 2024, the Kanab City Planning Commission held two separate and duly noticed public hearings to consider this Agreement, and any public comments, and thereafter made recommendations to the Kanab City Council pertaining thereto.

WHEREAS, on March 26 and July 16, 2024, having received the Planning Commission’s recommendations, the Kanab City Council met during its duly noticed meetings, considered this Agreement with any modifications, and considered the input of City staff, the public input (if any), and the Planning Commission, and discussed the Agreement. At the meeting held on March 26, 2024, the City Council tabled the issue, with the Agreement of the Developer, to be brought forth for further consideration at a later date. At the meeting held on July 16, 2024, consideration of the Agreement was postponed to August 27, 2024.

WHEREAS, on August 27, 2024, the Kanab City Council again discussed and reviewed this Agreement, with the changes and additions made by City staff and the Developer, pursuant to the input from the prior meetings.

WHEREAS, the City, acting pursuant to its authority under Utah Code § 10-9a-101, *et seq.* and its ordinances, resolutions, and regulations and in furtherance of its land use policies and goals, has made certain determinations with respect to the proposed Planned Community, and, in the exercise of its legislative discretion, has elected to approve this Agreement because it promotes the orderly and appropriate development of property, and will provide public facilities, amenities, and other benefits for the better welfare of the community and in connection with a proposed development.

NOW THEREFORE, in consideration of the goals and policies of the City, which include the appropriate and coordinated development of property within the City, and after consideration by the various services which the Developer will provide, and in accordance with provisions, terms, or conditions of the

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City and the Developer as more fully set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties now agree to the following terms and conditions:

AGREEMENT

1. Recitals. The Recitals above are hereby incorporated by reference and expressly made a part of this Agreement. Capitalized terms used herein shall have the meaning given them in this Agreement and if not otherwise defined herein, or within State Code or the City's ordinances, shall have the plain and ordinary meaning within the context they appear.

2. Definitions.

"Agreement" means and refers to this "Hidden Canyon Development Agreement and System Improvements Reimbursement Agreement" between the Developer and the City with respect to the Planned Community.

"Developer" means and refers to JJ Development, Inc. and Jim Guthrie, the initial owner of the Planned Community, who is anticipated to create the Planning Areas and reserves the right to convey the same, through sale or otherwise, to the Secondary Developers. This definition extends to successors and assigns of Developer, provided such successors and assigns acquire all of the rights to the master development of the Planned Community, which are currently held by the Developer and agree to become subject to the obligations of this Agreement.

"Development Property" or **"Property"** means and refers to the parcels of real property located in Kanab City, Kane County, State of Utah, upon which any development to be constructed on the Property pursuant to the Hidden Canyon Development Property Plan, as depicted in Exhibit C, and this Agreement, with the associated intended uses and all the other aspects approved as part of this Agreement, as also contained in Exhibit B attached hereto, and identified as parcel/tax ID numbers K-15-1-ANNEX and K-14-15-ANNEX, which is more particularly described in Exhibit "A".

"Hidden Canyon Development Property Plan" ("Plans") are those Plans presented by the Developer in Exhibit C ("Description and Plans") and once approved by the City, setting forth some of the specifications required for the development of the Property and System Improvements, as generally outlined in Exhibits B and C. The Plans referenced, mean, or include the specific description and Master Plans attached as Exhibit C and do not include items not attached hereto. The Master Plans in Exhibit C are not yet approved development plans or applications, notwithstanding their reference or inclusion herein.

"Impact Fee Credits" means and refers to credits for applicable impact fees granted by the City pursuant to this Agreement. An impact fee credit is measured as a dollar-for-dollar balance of the reasonable, actual costs of the Developer (or funding entity or individual, if not the Developer—e.g., an infrastructure district) for the agreed upon oversized infrastructure approved and accepted by the City, the balance being calculated at the time the infrastructure is approved and accepted in writing, in accordance with this Agreement and the parameters outlined within state law and the City's ordinances. The running total of the impact fee credit balance shall be usable towards applicable impact fees at the time the corresponding impact fee is assessed (i.e., at or just before each building permit is granted), thereby decreasing the running impact fee credit balance as used.

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"Master Association" means and refers to an association that shall be created by the Developer consisting of the Developer and/or some or all of the private owners of lots and parcels, including those privately retained open spaces, in the Planned Community which will have the responsibility of enforcing the Master Declaration. "Sub-associations" or "neighborhood associations" may also be created with respect to the distinct Planning Areas and/or Secondary Phases of the Planned Community and shall be subject to the Master Association. A Master Association, sub-association, or neighborhood association may commonly and legally be referred to as a "homeowners association."

"Master Declaration" means and refers to a declaration of covenants, conditions, and restrictions for the residential and commercial portions of the Planned Community, which shall be created by the Developer and recorded in the Kane County Recorder's Office with respect to the entire Planned Community. The Master Declaration shall set forth the rights and obligations of the Developer, the Secondary Developers, the Master Association, and the individual owners in the Planned Community with respect to one another, and may establish a lien for the collection of assessments and serve other purposes common to declarations in similar development properties/homeowners associations. Other "sub-declarations" may also be recorded with respect to the distinct Planning Areas and/or Secondary Phases of the Planned Community, but all shall be subject to the Master Declaration.

"Planned Community" or "Planned Development" means and refers to the Development Property known as "Hidden Canyon," anticipated to be developed upon the Development Property.

"Public Infrastructure" or **"Public Improvements"** (or at times referenced as "Infrastructure") means and refers to interchangeably the installation of standard utilities necessarily required to service the Property, as used and defined in Utah Code and Kanab City ordinances, including water and sewer (which shall be installed within a dedicated Public Utility Easement) as well as roads, sidewalks, curbs and gutters and such other improvements to develop the Property as set forth herein, and also in part in the Plans, indicated as intended to be dedicated to the City, or otherwise noted and included in Exhibit B & C.

"Public Infrastructure District" or **"PID"** shall have the same meaning as defined in Utah Code, Title 17D, Chapter 4, *et seq.* [Where "Public Infrastructure District" or "PID" is referenced herein, any statutorily permitted infrastructure district is also intended.]

3. **Property to be Bound - Development Property.** The legal description of the Property to be bound by this Agreement, i.e., the Development Property, is set forth in Exhibit "A" hereto and incorporated with this reference. No additional property may be added to the Development Property for the purposes of this Agreement except by written amendment to this Agreement executed and approved by Developer and City.

4. **Acknowledgments.**

- a. The City acknowledges the Developer is relying on the execution and continuing validity of this Agreement, and the City's performance of its obligations herein.
- b. The City further acknowledges that development of the Development Property may be contingent upon the Developer obtaining approval of a PID, which is subject to further legislative action.

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- c. The Developer acknowledges that the City will be making a decision regarding the formation of a PID at a later date, upon submission of a complete application, requisite documents, and corresponding fee.
- d. The Developer acknowledges that this Agreement will not bind the City to the approval and formation of a PID and that if the formation of a PID is denied, the Developer may need to take additional steps not contemplated under this Agreement to facilitate the development of the Property, which decisions may or may not be legislative in nature (e.g., application to amend this Agreement; application to re-zone a portion or all of the Property).
- e. The Developer will directly (or through a PID) expend substantial funds in the development of the Property and, in reliance upon this Agreement, will continue to expend additional funds. Notwithstanding this acknowledgment, the Developer foregoes any right or remedy, both in law and equity, to seek damages for the same.
- f. The Developer acknowledges that the City is relying on the Hidden Canyons Development Property Plan, as included in Exhibit C, and the execution and continuing validity of this Agreement, and the Developer's performance of its obligations under this Agreement, in continuing to perform the obligations of the Developer herein.
- g. The City has expended substantial time, resources, and funds in connection with the proposed development of the Property and, in reliance of this Agreement, and the City will continue to expend additional time, resources, and funds for the same. Notwithstanding this acknowledgment, the City foregoes any right or remedy, both in law and equity, to seek damages for the same.
- h. The Parties desire that the City has reasonable certainty concerning the manner in which the Property will be developed, and that the Developer will have reasonable certainty in proceeding with development of the Property. The Developer shall comply with the terms and conditions of the Plans in Exhibit C and of this Agreement, and the City authorizes Developer to develop the Property as set forth in the Plan, included in Exhibit C, and this Agreement.
- i. Notwithstanding the foregoing, the Parties jointly acknowledge that nothing herein will bind the City to any future legislative action, decision, or appropriation, and that any future administrative decision (i.e., approval or denial) shall be made in accordance with the terms of this Agreement, local ordinance, and state law.
- j. The Developer (i.e., Guthrie and JJJ Development, Inc., individually and collectively) acknowledge and affirm that they have been advised by the City and Guthrie's and JJJ Development's legal counsel, orally and in writing (including as outlined through this Agreement), of any and all rights "under clearly established state law" to which they are entitled but are conceding and giving up by entering into this Agreement, as demonstrated/repeated more explicitly hereafter, and will therefore be estopped from a future related claim, including claims brought under Utah Code §10-9a-532(2)(c) (i.e., claim of undisclosed or unknown right forfeited through this Agreement). [If a term of this

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written agreement could be interpreted or construed to abridge the rights of the Developer, or seen in a light less favorable to the Developer, it should be considered as notice of a possible if not an outright concession or abridgment of the Developer's "clearly established" statutory right(s).]

- k. The Developer (i.e., Guthrie and JJJ Development, Inc., individually and collectively) acknowledge that this Agreement is not a condition for development of the Property; however, a development agreement is a requirement for planned developments under Kanab City's ordinances. The Developer acknowledges there are other avenues for developing the Property without entering into this Agreement.

5. Prior Development Agreement. The Developer having presented, and the City Council having previously considered and approved a version of a Development Agreement related to the Hidden Canyon Planned Development (in September of 2021), but the document having failed to be fully executed and recorded; the Parties now agree to the following terms included, as previously considered and otherwise amended herein:

- a. City Facilities and Landscape Improvements. The City will permit and cooperate in the Developer's efforts to improve existing City facilities including water, drainage, and sewer systems. In addition, the City will permit and cooperate in the Developer's efforts to enhance and improve landscaping features on any City-owned property within the Planned Community. To the extent reserved by the Developer, the Developer will dedicate to the City, when appropriate, such easements in locations acceptable to the Developer as shall be reasonably necessary to accommodate the City's utility system to service these areas. More specifically, a public utility easement shall be granted to the City for water and sewer, as well as to Garkane Power for electrical utilities.
- b. Model Homes and Sales Center. The Developer and/or Secondary Developers may construct model home complexes and sales centers in one or more Planning Areas. Construction Plans for model home complexes and sales centers shall be reviewed and approved by the City and Master Association for code compliance upon requesting a building permit to assure that all structures comply with building code requirements.
- c. Exceptions to City Ordinance. In accordance with Section 23-7 of the Kanab City Land Use Ordinance, the City agrees to allow the Development Property to deviate from the City Standards and Ordinances in the following ways:
 - i. allow for lots for single family dwellings to be as small as 5,000 sq. ft.;
 - ii. allow for frontage of lots for single family dwellings to be as short as 52 feet wide;
 - iii. for lots intended for single family dwellings, allow for front setbacks to be as short as 20 feet, side setbacks to be as short as 5 feet, and rear setbacks to be as short as 10 feet; and
 - iv. allow for private roads, including back of sidewalk and curb, to be as narrow as 40 feet wide (26' pavement, 2.5' gutter on each side, 4' sidewalk on each side and 6" between sidewalk and right-of-way line on each side of back of sidewalk for a total of 40'). Private roads are all roads located within the Master Plan (i.e., Exhibit C) servicing single family residential lots within the privacy gates, identified as Road A from north of Road B on, Road C, Road D, and Road E north of the turnaround

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to be constructed, north of the multi-family housing. All roads servicing the commercial storage, hotel, and multi-family residential are intended to be public roads as depicted in Exhibit "C", identified as Road A from Highway 89 to Road B, Road B, and Road E from Road B to the turnaround, just north of the multi-family residential housing; these roads shall be built in accordance with City design standards, except where modification is allowed herein, and dedicated as public roads, upon which the City will inspect and then accept the roads in writing if they are constructed as required. No parking will be permitted on any private roads, which shall be posted with signage restricting parking and enforced by the Master Association.

6. **Developer's Responsibility.** The Developer agrees to complete all of the onsite and offsite improvements as required under this Agreement and to develop the Property, which may be done by the Developer or through the creation of a Public Infrastructure District, in accordance with the Public Infrastructure District Act, Title 17D, Chapter 4 ("PID"), if creation is approved (after due consideration by the City upon receipt of a completed application, fee(s), and required documents), which will create a public entity in order to assist in the financing of public infrastructure for the purpose of creating and developing the Property.

7. **Development Pursuant to Plan and Design Guidelines.**

- a. The Developer shall submit plans that will promote a sophisticated development, technology-wise, with various amenities as well as certain commercial services. The single-family residential gated community shall be restricted to senior housing for those 55 and older. The plans submitted shall generally depict the intended uses, lot lines, water and sewer system, various other utilities, drainage control facilities, major roads, and facilities that will be installed and constructed upon the Property, subject to minor modifications as necessary to facilitate construction. The City shall be notified of all minor modifications in advance of their implementation, upon receipt of which the City will determine if the minor modification(s) can proceed without further review, or if the minor modification(s) will require some form of administrative application, review, and approval.
- b. The Developer may submit an application for the City's approval of minor modifications to the extent generally consistent with the Development Property, in accordance with the City's ordinances and standard procedure. Examples of such minor modifications shall include moving or adjusting lot lines or lot sizing, minor street realignments, adjusting open areas, so far as those modifications still meet with the substantive terms of this Agreement. Minor modifications shall be approved by the City's Land Use Coordinator/Building Official (acting, under the circumstances, as the City's Land Use Authority), in consultation with the Public Works Director and City Engineer, as deemed appropriate.
- c. No material modifications to the Plans, as included in Exhibit C, shall be made after approval by the City without the City's written approval of such modification. Developer may submit an application for approval of material modifications to the Development Plans, included and incorporated into this Agreement (Exhibit C), from time to time as Developer may determine necessary or appropriate. For purposes of this Agreement, a

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material modification shall mean any modification beyond that considered minor, including, for example, modifications which (i) increases the total perimeter size (footprint) of building area to be constructed on the Property by more than ten (10) percent, (ii) substantially changes the exterior appearance of the Project, (iii) changes the functional design of the Project in such a way that materially affects traffic, drainage, or other design characteristics, or (iv) increasing or decreasing housing density. Material modifications that still generally fall within the terms and parameters outlined in this Agreement shall be approved by the City's Land Use Authority.

- d. In the event of a dispute between the Developer and the City as to the meaning of "minor modification" or "material modification," no modification shall be made without express written approval by the City (i.e., may require amendment to this Agreement). Modifications shall be approved by the City if such proposed modifications are consistent with the City's then applicable rules and regulations for projects in the zone where the Property is located, and are otherwise consistent with the standard for approval set forth herein. Modifications that do not meet with the then applicable rules and regulations or the terms laid out in this Agreement, may require an amendment to this Agreement, subject to the City Council's approval (legislative).
- e. The Developer shall not commence site preparation or construction of any infrastructure or improvement on the Property until such time as the required submitted plans have been approved by the City in accordance with the terms and conditions of this Agreement and the applicable City ordinances.
- f. It is anticipated that the following general planning and construction of the development will occur through a series of steps or procedures described hereafter in three general phases. In addition, the actual development of lots and construction of homes will be completed through a phased development plan resulting in lots and homes being developed and constructed by the Developer in multiple phases as determined in the discretion of the Developer and approved by the City:

General Phase 1: The Parties, according to their respective obligations herein, will perform or work together to satisfy the following requirements:

- i. Prepare preliminary planning.
- ii. Take necessary measures for consideration of a PID or other financing opportunities.
- iii. Complete applications for prospective tax relief for the PID which will be provided and distributed through the PID, subject to consideration and approval by the City.
- iv. Complete engineering for development. The Developer shall prepare detailed construction plans, drawings, and specifications as part of the plans for the Developer's Public Improvements for each phase of the Development Property prior to each phase of development (each phase may be completed in no particular order of development), which Plans shall be subject to the City's reasonable approval. The Developer shall diligently pursue and obtain any and all necessary governmental approvals, permits, and the like as necessary and required for the development of each phase of the Development Property. The Developer agrees

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- to provide the City with a copy of any and all relevant records and documents relating to the Developer's Public Improvements, as requested by the City.
- v. Obtain soils testing.
 - vi. Prepare subdivision layout and apply to the City for subdivision approval for each phase, including submitting a final site plan, preliminary and final plat, site plan review, and engineered construction drawings as required by the City for review for approval for each phase by the City.
 - vii. Complete Landscaping Designs for infrastructure for each phase.
 - viii. Complete Sign Design and construction of signage, subject to the requisite review(s) and approval(s) for each phase.
 - ix. Subject to the requisite application(s), review(s), and approvals/permitting, and completion of required public infrastructure improvements (or posting with the City an improvement completion assurance as required under Utah Code § 10-9a-604.5 and Kanab City Subdivision Ord., Chapter 4, or as amended). Notwithstanding the foregoing, the Developer shall be permitted to proceed with Phase 1 at the Developer's election, as per the map included as Exhibit "C", including construction of commercial storage facilities prior to construction of the water storage tank, provided the Developer is able to meet minimum fire flow standards and complies with the City Design Standards and other applicable laws and regulations. The Developer may install a fire flow pump connected to the Development with a new 12" water line connecting from the existing City water line in close proximity to the Quality Inn and continuing therefrom to the Development Property or construct the water storage tank, but in either event must meet minimum fire flow standards and any other applicable standards. Other than the commercial storage facilities anticipated to be constructed, all other building permits shall be withheld until the water storage tank is constructed and accepted by the City unless the Developer has posted satisfactory improvement completion assurance (i.e., guarantee of improvement; bonding), which is still valid, to cover completion of the water storage tank.

General Phase 2: Perform the following requirements:

- i. Apply for and complete construction of all necessary infrastructure for each phase which may include development/construction infrastructure outside of a particular phase being developed.
- ii. The City shall cooperate reasonably in promptly processing all *complete* construction and development applications as Developer develops the Development Property in multiple phases, in accordance with the City's normal procedure and practices.
- iii. If an application is considered incomplete, the City will communicate the same to the Developer, detailing the deficiency.
- iv. If the City denies any complete application submitted by the Developer, the City shall provide notice to the Developer and, upon request of the Developer, a written record or recording related to the denial, if created.
- v. Upon issuance of a denial, the City and the Developer shall meet within fifteen (15) business days (in-person, by phone, text, email, or virtually), or as soon thereafter as possible, of a denial of any application to attempt to resolve the issues specified in a denial of the application. This requirement to meet shall be

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- considered waived if the meeting is not requested by the Developer, or the time limit for meeting shall be tolled if the request is not timely.
- vi. The Parties will work together in good faith to resolve any denials of applications submitted by the Developer.
- vii. Unresolved issues resulting from the City's denial of an application after a reasonable good-faith attempt to resolve the denial shall be subject to the administrative appeals process outlined in the City's Land Use Ordinance. The time frame for an appeal shall commence upon the date the denial is provided to the Developer. However, if the Developer requests the meeting outlined herein within fifteen (15) business days, then the commencement for the time limit for submitting an appeal will be tolled until the date upon which the meeting is scheduled, or thirty (30) calendar days after the denial, whichever date is earlier.
- viii. Upon receiving approval of an application, the Developer shall work diligently towards completion of the Public Infrastructure within the time frame required under local ordinance (including any permitted extensions granted under the parameters allowed for in City ordinance).
- ix. The improvements depicted in the Hidden Canyon Development Property Plan, as included in Exhibits B and C, and set forth in this section or elsewhere in this Agreement or attached exhibits, represent some but not all of the Public Infrastructure improvements to be completed by the Developer, or through a PID, if approved and created, on the Development Property, that are intended to service the Development Property. The Developer or the PID shall bring the major infrastructure from the perimeter of the Property internally to the boundary of each individual parcel. The Developer will address, install, construct, and dedicate any requisite offsite Public Infrastructure (i.e., infrastructure necessary to bring required Public Infrastructure to the perimeter of the Property).
- x. Subject to the performance by the City of its obligations herein, the Developer or the PID, as applicable, shall cause improvements to be installed, constructed, and completed, in conformance with applicable governmental and City standards, policies, guidelines, and the Plans, including those specified in Exhibit B, as amended. The Developer will coordinate with City staff, including the Building Inspector, Land Use Coordinator, City Engineer, and Public Works Director, in constructing and installing Public Infrastructure, both within the Property boundaries and outside the Property boundaries/offsite.
- xi. The Public Infrastructure may be installed and constructed in stages or phases as necessary to support the development of each parcel, subject to any applicable requirement to provide an improvement completion assurance (i.e., guarantee/bonding for the improvement). The Developer or the PID, if approved and created, shall be responsible for the costs to install, construct, and complete the Public Infrastructure. Some but not all of the required Public Infrastructure to be constructed is set forth in Exhibit "B" (specifically outlining portions of the water infrastructure required to be oversized).
- xii. Ground prep lots including general sheet grade where the Developer determines necessary, and with issuance of any necessary permit upon application, and landscaping of surrounding streets and entrances.
- xiii. At the time that the City receives the improvement completion assurances from the Developer, or a PID, if approved and created, and a subdivision plat is recorded,

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- the Developer may request the issuance of building permits according to the City's ordinances and customary permitting process applicable to developers or builders.
- xiv. The Developer may request certificates of occupancy for those structures issued building permits as long as the Developer is in compliance with this Agreement and City Ordinances, i.e., on the same grounds as applicable and granted to similarly situated developers/builders.
- xv. Notwithstanding the foregoing, as outlined more fully subsequently herein, breach of this Agreement, including incomplete necessary Public Infrastructure, or failure of an aspect of constructed/installed Public Infrastructure, without a required completion or repair assurance bond, shall be grounds for the City to withhold issuance of a building permit(s) or certificate(s) of occupancy, until the breach/deficiency is cured—i.e., a sufficient bond for the Public Infrastructure or repair is submitted, or the necessary Public Infrastructure is constructed, repaired, and accepted/approved by the City.

General Phase 3: Perform the following requirements:

- i. Market and sell lots with completed building infrastructure (a final plat having been approved and recorded); and
 - ii. The City shall duly consider complete applications submitted for conditional use permits for buildings being constructed for commercial purposes, if required.
- g. The Developer agrees to proceed with each phase as it obtains sufficient funding through the PID, if approved and created, other financial resources, reimbursement by the City, and market demand as it determines appropriate to assure completion of the improvements by the Developer as set forth in this Agreement. All infrastructure shall be developed pursuant to the terms of this Agreement and the Development will conform with all of the designs and engineering standards, and improvements necessary or required in the City ordinances. Approval of this Agreement does not exempt the Developer from the other timelines outlined in City ordinances, unless specifically exempted or modified in this Agreement.

8. Additional Developer Responsibilities. As a condition of development, Developer shall install specified System Improvements on the Development Property, the oversized portion of which is summarized herein and in Exhibit "B", including the following:

- a. A properly engineered oversized one (1) million-gallon water storage tank, upsized from an 810,150-gallon water storage tank;
- b. An oversized water main line, from the 1-million-gallon water storage tank, extending to and then along "Road A" as identified in Exhibit C (Master Plan), to serve the Hidden Canyon Planned Development, upsized from 8-inch to 12-inch, with the lateral waterlines being 8-inch lines, or as otherwise required by the development activity; and
- c. Then extending the 12-inch water main line coming from the 1-million-gallon water storage tank beyond the distance and locations required to service the Hidden Canyon Planned Development, extending it to a location specified by the City near or approximate to US-89.
- d. An upsized 12-inch waterline connecting from the existing water infrastructure on or adjacent to the Quality Inn property, running parallel to and not replacing the existing 8-inch waterline, extending to the requisite booster pump(s) and then to the Development

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Property line, unless the booster pump(s) are installed at or after the waterline traverses Development Property line (a 12-inch waterline being required by the development activity from the booster pump connection or at the Development Property line to the water storage tank).

The Developer, through a PID, if approved and created, and private funding at the discretion of the Developer, shall bear the costs for design, construction, and installation and provide for the real property and easements required. All infrastructure shall be engineered, constructed, and then dedicated to the City, subject to review, approval, and acceptance by the City Engineer and Public Works Director (formal acceptance shall be in writing). Dedication of any Public Infrastructure to the City shall be free and clear of all liens and encumbrances by executing and delivering to the City such conveyance or dedication documents as the City may reasonably require (e.g., recordable deed or easement), subject, however, to any restrictions required through a PID, if approved and created.

The City will then reimburse (reimbursement further defined hereafter) a PID, if approved and created, or Developer, as applicable, for all proportional actual, reasonable costs directly associated with extending the 12-inch waterline described in Exhibit B and/or upsizing (1) the water tank and (2) upsizing the water main line from the water storage tank to the Hidden Canyon Planned Development itself, or the proportional actual, reasonable cost of upsizing of any other Public Infrastructure, if required by the City. This reimbursement shall include actual, reasonable costs associated directly with additional materials, construction, and labor costs expended and directly attributable to the upsized portion of the systems as more fully set forth hereafter in Sections that follow and in Exhibit B. The oversizing-related reimbursement will only cover the difference between the actual, reasonable cost of the Public Infrastructure improvements with the oversizing as compared to the cost of the Public Infrastructure improvements without the oversizing. The Developer, or a PID if approved and created, will submit to the City the costs attributable to the required oversizing, which will be subject to the review and approval of the City Engineer, which approval will not be unreasonably withheld.

9. **Public Infrastructure Improvements.** The improvements set forth in the Developer's Plans, as shown in Exhibit "B" generally represent an overview of a portion of the Public Infrastructure water improvements required to be constructed, installed, and oversized by the Developer or a PID, if approved and created. This section is intended to obligate the Developer, or a subsequently approved and created PID, to bring other major and needed infrastructure to the perimeter of the Property and from the perimeter of the Property internally to the boundary of each individual parcel. Subject to the performance by the City of its obligations herein, the Developer or a PID, if approved and created, as applicable, shall cause improvements to be installed, constructed, and completed, in conformance with applicable governmental and City standards, policies, and guidelines, (the "**Developer's Public Improvements**"). The Developer's Public Improvements will be installed and constructed in stages or phases, which sequence of construction phases shall be at the discretion of the Developer, but shall be constructed as necessary to support the development of each phased Parcel, except or as otherwise required herein. The Developer or a PID, if approved and created, shall be responsible for the costs to install, construct, and complete the Developer's Public Improvements. The Developer's Public Improvements to be constructed within a dedicated public utility easements include:

- A. **Culinary Water and Culinary Distribution Systems.** All pipes, valves, fittings, pressure reducing valve stations, air release valves, booster pump(s), and other distribution facilities within the Development Property for the purpose of distributing water to parcels in the

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Development Property from existing City sources, water tanks and distribution lines. Upon dedication of the water public improvements to the City, with the required dedication of the public utility easement, the City shall inspect the improvements, and, if they meet the required design standards, as approved by the Public Works Director, in consultation with the City Engineer, then the City shall accept the improvements in writing. After written acceptance by the City, the City shall be responsible to repair and maintain the same, in accordance with the City's standard practices and procedures for maintaining similar infrastructure throughout the City, subject to the use or applicability of any required warranty bond or other assurance in place.

- B. Sewer Collection System. All pipes, manholes, clean-outs, some non-submersible lift stations, and other collection facilities within the Development Property for the purpose of collecting and transporting sanitary sewer from and within the parcels to the existing sanitary sewer connection points. Upon dedication of the sewer public improvements to the City, with the required dedication of the public utility easement(s), the City shall inspect the improvements, and, if they meet the required design standards, as approved by the Public Works Director, in consultation with the City Engineer, then the City shall accept the improvements in writing. After written acceptance by the City, the City shall be responsible to repair and maintain the same, in accordance with the City's standard practices and procedures for maintaining similar infrastructure throughout the City, subject to the use or applicability of any required warranty bond or other assurance in place.
- C. Electrical Distribution System. The Developer agrees to provide and install all required electrical materials and equipment for installation from the point of the existing distribution system in order to provide electrical service to all parcels, lots, units, and amenity facilities within the Development Property. This shall include, but is not limited to, the Developer's obligation to provide conduit, cable (primary and secondary), switchgear, sectionalizers, switch basements, secondary boxes, services, and all other material and equipment required for construction of a complete electrical system. The City will cooperate with Developer, if and when necessary. The Developer shall coordinate with the City and Garkane Energy Cooperative, Inc. (the electric utility provider in Kanab) in relation to the layout for the required public improvements. The Developer shall provide and install the required electrical system per Garkane requirements and standards and in compliance with the City standards and ordinances (including the requirement for new lines to be installed underground). The Developer will provide easements and all associated documentation for the required transmission and distribution lines within the Development Property for electrical public improvements to connect to Garkane's existing distribution system. Upon dedication of the electrical public improvements, Garkane Power, not the City, shall be responsible to repair and maintain the same.
- D. Street Lighting. Street lighting may be installed by the Developer and in such event, the Developer will follow the City's Outdoor Lighting Ordinance and coordinate the same with Garkane and Chapter 22 of Kanab's Land Use Ordinances. The Master or Owner Association shall be responsible for the funding of the upkeep, maintenance, repair, and utility costs of street lighting, unless the Developer establishes another method for funding these costs. The City shall not be responsible for ongoing upkeep, maintenance, repair, or utility costs associated with street lighting.

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E. Roadways. All roadways contained within the Property as shown on the Master Plan in Exhibit "C" will be constructed by Developer, unless otherwise stipulated by City or mutually constructed by Developer and City. Except as specifically noted in the Master Plan, all roadways accessing the Development Property are intended to be public roadways, shall be constructed to City standards, and upon completion of construction shall be dedicated to the City, subject to approval and acceptance by the City. The roads intended to be constructed and then dedicated as public streets are identified in Exhibit C as: (1) Road A from Highway 89 to Road B; (2) Road B; and (3) Road E from Road B to the turnaround, just north of the multi-family residential housing. These roads are intended to access the commercial storage, hotel, and multi-family residential housing. Roads intended to be dedicated as public streets shall be constructed to City standards, including width requirements. Upon dedication and acceptance, the City shall be responsible for the maintenance, repair, and replacement of all such roadways in accordance with the City's standard practices and procedures for maintaining similar infrastructure throughout the City, subject to the use or applicability of any required warranty bond or other assurance in place. Internal roads within the Development Property shall be private roads, specifically identified in Exhibit C as: (1) Road A from north of Road B on; (2) Road C; (3) Road D; and (4) Road E north of the turnaround to be constructed, north of the multi-family housing. The Master Association Declaration or a sub-association declaration/agreement shall address maintenance, repair, and replacement of all private roads. As roads are constructed in a phased approach, be they private or public roads, the Developer shall create a temporary paved cul-de-sac or hammer-head at the end of any dead-end roads for emergency turnaround and access. The temporary cul-de-sac or hammer-head must meet the requirements of this Agreement, State law, and local ordinance, subject to approval of the Fire Chief. The City shall be granted a public access easement over all private roads for the purpose of accessing, maintaining, repairing, or replacing any Public Infrastructure dedicated and accepted by the City.

A secondary emergency access shall be required and constructed by the Developer (unless another adjacent property owner constructs a secondary access first which services the Development Property) to a standard acceptable to the City's Fire Official and UDOT, and meeting the standards for emergency fire and emergency apparatus access. This secondary emergency access road shall be required and constructed in commencement of the phase in which the 200th dwelling unit is approved (accounting for any single-family homes, multi-family residential units, and hotel rooms), before building permits for dwelling units in that phase are approved.

F. Stormwater Drainage/Detention Basins. Stormwater flows generated by the development of the Property will be controlled and contained within onsite detention basins and stormwater infrastructure shall be constructed to address flows of a 100-year storm event, as established and agreed upon by the Developer and the City Public Works Director, in consultation with the City Engineer. All improvements, including pipe, inlet and outlet structures, manholes, and detention basins, will be constructed by the Developer. Upon completion, inspection, approval, and written acceptance of these facilities, the Developer will convey and/or dedicate these facilities, including the necessary property or public utility easements—*excluding* the detention basins—to the City, at which time the City will assume ownership and maintenance of these facilities, *excluding* the detention basins, in accordance with the City's standard practices and

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procedures for maintaining similar infrastructure throughout the City, subject to the use or applicability of any required warranty bond or other assurance in place. Upon completion and City-approval of the detention basins, the Developer, the Lot Owners, and the Master Owners Association shall retain or otherwise be responsible for the detention basins and any Low Impact Development features. The Master Association Declaration or a sub-association agreement shall address maintenance, repair, and related issues for all such privately retained improvements (e.g., the detention basins). The detention basins shall be subject to inspections by the City Public Works staff and City Engineer from time to time, for which access shall be granted. If the City provides written notice to the Master Owners Association, or a subsequent applicable subordinate association, of the need to repair, maintain, or otherwise take necessary action in relation to the detention basins, and the Master Owners Association, or applicable subordinate association, does not take the necessary action within a reasonable time, then the City shall have the right to enter the area of the detention basins and perform the necessary work, thereafter billing the Master Owners Association/subordinate association. The billed amounts, if not paid within a reasonable time, shall act as a lien against the properties within the Master Owners Association or subordinate association, if applicable.

- G. **Financial Assurance.** To the extent permissible under applicable State and City's vested laws, the City's Future Laws, or if applicable pursuant to this Agreement, the City agrees that this Agreement constitutes the written undertaking of Developer to cause the improvements which Developer is required to make under this Agreement to be installed, constructed and completed, subject however to privately available funding to Developer or the approval and establishment of a PID to provide the funding.

An improvement completion assurance, also referred to as an improvement guarantee or bonding, required under the normal City subdivision process shall be required of Developer or a subsequently created PID for each phase of development prior to or at the time each phase is commenced. However, when the construction of certain infrastructure is necessary for more than one phase (e.g., the water tank, sewer, or stormwater infrastructure upstream), then the improvement completion assurance shall be provided for the complete infrastructure required, in accordance with the City's ordinances—i.e., some required and necessary infrastructure may have to be constructed outside a specific phase to support the development of that phase, thereby requiring an improvement completion assurance for infrastructure outside the specific phase being developed.

Notwithstanding the foregoing, a subsequently created PID that undertakes the construction and installation of some or all of the Public Infrastructure pertaining to the Hidden Canyon Planned Development may work through any issues related to providing an improvement completion assurance with the City (however, this provision does not constitute a waiver of the requirements established and not waived or exempted for public entities under state law and local ordinance). In furtherance of the foregoing, the Developer or a subsequently approved and created PID may provide one or more surety bonds or agreements, as permitted by State law and the City's Subdivision Ordinance, to satisfy the undertakings set forth herein and any bonding (including without limitation any improvement guarantee bond(s), warranty bond(s), or restoration bond(s)) as may be required to complete the Public Infrastructure pertaining to the Development Property.

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The Developer shall not be required to proceed with development of the Development Property until a PID has been formed, approved and fully funded, unless Developer decides to proceed without a PID. [Developer may elect to proceed without a PID, in which case the Developer must comply with this Agreement, apply to have it amended, or apply for a zone change for the purpose of removing the Planned Development Overlay designation.] Approval of this provision does not exempt the Developer from the other timelines outlined in City ordinances, including those applicable to previously or subsequently approved site plans, permits, etc.

- H. Dedication of Developer's Public Improvements. The Developer intends to dedicate, and the City intends to accept the dedication of certain approved and acceptable Developer's Public Improvements as summarized above. The Developer shall retain ownership of Developer's Public Improvements constructed for respective portions of the Development Property and shall remain solely responsible for all necessary maintenance, repairs, and replacements of Developer's Public Improvements prior to final acceptance thereof by the City. The Developer shall satisfy the obligation to dedicate the Public Improvements by causing: (i) the filing of a dedication plat; or (ii) the filing of a final subdivision plat including dedication.

Public Infrastructure/Developer's Public Improvements shall be constructed as required by State law, City ordinances, and City design standards. City acceptance of Public Infrastructure shall be subject to the written acceptance by the City's Public Works Director, after necessary inspections. Public Infrastructure/Developer's Public Improvements must be formally accepted in writing, which acceptance may be given in phases or at completion of some or all of the improvements are completed, after a final inspection. The Developer shall call for and receive an inspection of all Public Infrastructure/Developer's Public Improvements before burying or otherwise concealing any portion of the Public Infrastructure and before final connection to existing City infrastructure. Such inspections shall not necessarily constitute a final inspection. If pursuant to a final inspection, the City's Public Works Director requires repairs, corrections, or further measures to be taken in order for the Public Infrastructure to meet State law, local ordinance, City standards, and/or the terms of this Agreement, then the Developer shall call for another final inspection once the Developer believes the necessary measures are completed.

The City shall approve and accept dedication of any Developer's Public Improvements, in whole or in part, as necessary to support the phase of development as long as the Developer's Public Improvements meet the requirements of State law, local ordinance, the City's design standards, and this Agreement, and are inspected and formally accepted in writing by the City's Public Works Director. Thereafter, the City shall own, operate, and maintain the dedicated, approved, and accepted Developer's Public Improvements without further charge or cost to the Developer, in accordance with the City's standard practices and procedures for maintaining similar infrastructure throughout the City; provided, however, the Developer shall provide the requisite warranty, in a form and content required by the City's subdivision ordinance. To the extent not prohibited by law or contract, the Developer shall assign to the City any contractual warranty rights existing for such Developer's Public Improvements.

All Public Infrastructure shall be installed and constructed in accordance with the City Design Standards, or other applicable laws, regulations, and standards unless permissibly modified in this Agreement. After

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Public Infrastructure has been dedicated to the City and accepted in writing, when utility maintenance, repairs, or replacement of the dedicated and accepted Public Infrastructure is required and that maintenance, repair, and/or replacement impact the private roads of the Development Property (e.g., requiring closure, excavation, removal, etc.), the City will backfill and compact the road areas excavated by the City. Thereafter, the Master Association/HOA having responsibility/ownership of the private road(s) will be responsible for the remaining road repair (i.e., replacement of road base, asphalt/pavement, etc.), restoring the road to City standards or to the pre-repair standard and condition within a reasonable time.

10. Guarantee of Performance: Warranty. The Developer acknowledges and agrees that an improvement completion assurance is required for all of the Developer's Public Improvements within the Development Property. If the Developer desires to record any plat prior to the Developer's non-PID-funded Public Improvements being completed, the Developer will furnish to City an improvement completion assurance in accordance with City Code in an amount required by City, but not to exceed one hundred ten percent (110%) of the Developer's engineer's estimate price, subject to review and approval of the City Engineer, for faithful completion of the Developer's Public Improvements necessary or required for said plat. The Developer shall also provide improvement completion assurances and improvement warranties for public landscaping improvements as authorized under Utah Code, Title 10, Chapter 9a, and as outlined and required in Kanab City ordinances.

11. System Improvements, Extensions and Oversizing. The City shall reimburse the Developer for the difference in the actual, reasonable costs of material, labor, and installation directly associated with that portion paid by the Developer for oversizing System Improvements, as summarized infra and as outlined in Exhibit B, in the which the City requests oversizing of a water transmission lines and water storage tank over that which is required to meet the requirements of the development of the Property, and consistent with the policy of upsizing, after receiving the recommendations of the City Engineer. As required by Kanab City General Ordinance §§ 7-803 and 7-807, the amount for the oversized portion of the public improvements shall not exceed the actual, reasonable costs directly attributable to the oversizing portion of the infrastructure, as incurred in purchasing materials and installing the oversized portion of the public improvements and shall not include interest.

Upon being engineered and a sufficient cost analysis being performed, the City Engineer will determine and recommend to the City the actual, reasonable cost of oversizing the System Improvements (i.e., determine the difference between all costs of the System Improvements as necessary for the proposed Hidden Canyon Development and the overall cost including oversizing the System Improvements), for which the Developer will be eligible for reimbursement. The Developer may submit to the City Engineer documentation of actual costs/expenditures related to oversized System Improvements for consideration and/or subsequent revision of the City Engineer's calculation of the eligible reimbursement. If the Developer disagrees with the reimbursable amount calculated and recommended by the City Engineer, and ultimately decided upon by the City Manager, then the Developer may appeal the City Manager's decision through the administrative appeal process outlined in the Kanab City's Land Use Ordinance. The Developer may, at any time before the City Manager has made a final decision, submit an additional opinion of actual, reasonable costs and reimbursable amount from a third-party engineer to be considered by the City Manager. If the Developer needs additional time to acquire an additional opinion from a third-party engineer, then the Developer may request the City Manager withhold his/her final decision. The information and materials submitted to the City Manager may then be submitted by the Developer on appeal, if appealing the City Manager's final decision. The final written decision of the appeal authority is subject to judicial review.

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The reimbursable amount for oversizing/extending System Improvements shall be determined as a dollar amount, the balance of which shall be reimbursable dollar-for-dollar as outlined herein and not on a per connection-based credit. Nothing herein shall limit the City's right to pay the reimbursement balance in whole or in part from funds available to the City.

12. Impact Fee Credit as the Means for Payment/Reimbursements. The City shall reimburse either the Developer and/or a subsequently approved and created PID, as applicable, for the oversizing of System Improvements, based on the private or public entity that actually bears the oversizing costs (i.e., the entity that pays the difference in actual costs for oversizing System Improvements as set forth herein). The Developer or the PID will be responsible for the cost of the System Improvements upfront, including the cost of oversizing.

- a. The form of the reimbursement, if the Developer bears the cost of oversizing the System Improvements, shall be a credit against subsequent applicable impact fees becoming due and payable at the time a completed building application(s) is submitted.
- b. The form of the reimbursement, if a subsequently approved and created PID bears the cost of oversizing the System Improvements shall be through reimbursement from applicable impact fees due, actually collected by the City, and related to the development of the Property.
- c. "Applicable impact fees" as used herein, from which a credit or reimbursement may be received, means those impact fees related to the Water Impact Fee Facilities Plan & Analysis, for oversizing water System Improvements; and those impact fees related to the Wastewater Impact Fee Facilities Plan & Analysis, if oversizing the sewer lines is subsequently required by the City (though not contemplated currently). Applicable impact fees, as used herein, does not include those fees related to Public Safety, Transportation, Recreation, or Stormwater.
- d. Impact fees accrue and are assessed at the point in which a complete building permit application is received, payable prior to the issuance of the building permit. *See Kanab City General Ordinance § 7-805.* When an applicable impact fee is assessed, the Developer may request the applicable assessed impact fee be satisfied from the reimbursement balance for oversizing/extending the System Improvements (i.e., dollar-for-dollar), thereby reducing the reimbursement balance owned. Alternatively, a subsequently approved and created PID that paid for the oversizing/extending of System Improvements shall be entitled to reimbursement of the applicable impact fees collected, thereby reducing the reimbursement balance owned, dollar-for-dollar. Impact fees assessed shall be based on the effective impact fees adopted at the time a completed building permit application is submitted to the City.
- e. The City will only approve impact fee credit/reimbursements for the actual, reasonable costs of any City-requested upsizing/oversizing or additional capacities or additional System Improvements not required for the Planned Development (i.e., required in anticipation of adjacent future growth outside the Hidden Canyon Planned Development), as outlined in this Agreement and summarized in Exhibit B. In addition to the required plans, the Developer shall submit the budget and actual costs for the System Improvements, with a detailed breakdown, for the purpose of calculating reimbursement and credit against impact fees for requested oversizing on a dollar-for-dollar basis.

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13. Reimbursement of Proportional Public Infrastructure/System Improvements Costs from Benefitted/Adjacent Property Owners/Developers (i.e., Pioneering).

- a. *Pioneering Improvements.* As part of the Hidden Canyon Development, the Developer, or a subsequently approved and created PID, will fund the construction and installation of Public Infrastructure/System Improvements that meet the City's Design Standards and other applicable standards, including portions of Public Infrastructure that must be connected to the City's existing infrastructure, where designated, outside the Development Property. Certain Public Infrastructure, specifically the water infrastructure and the sewer infrastructure, shall require funding, construction, installation, and connection to the City's infrastructure outside the Development Property. These water and sewer improvements outside the Development Property are considered "Pioneering Improvements." The Pioneering Improvements, as used herein, include that portion of the water and sewer infrastructure that is necessary for the Hidden Canyon Development and does not include any portion of the infrastructure that is oversized at the request of the City—because, as it relates to reimbursement, the oversized portion of the infrastructure is anticipated to be reimbursed through impact fee credits as outlined elsewhere in this Agreement.
- b. *Benefited Property.* In addition to serving the Hidden Canyon Development, these Pioneering Improvements may also be connected to and serve adjoining or directly adjacent properties and future developments. The Parties acknowledge that an adjacent property (referenced as a "Benefited Property") will benefit if the owner/developer connects to one or both Pioneering Improvements, if the Pioneering Improvements are installed before the development is undertaken on the Benefited Property.
 - i. If after completion, dedication, and written acceptance of the water and sewer Public Infrastructure—the Pioneering Improvements—an owner of a Benefited Property initiates a development, which development does or anticipates connecting to one or both of these Pioneering Improvements, then the funding individual or entity, be it the Developer or a subsequently approved and created PID, may seek reimbursement from that Benefited Property for the proportionate reasonable, actual costs of the Pioneering Infrastructure directly attributable as benefiting the Benefited Property—i.e., saving the Benefited Property from having to pay for the installation of a proportional portion of the Pioneering Improvements to serve its own needs. This use and benefit to a Benefited Property shall be determined based on calculated costs per linear foot of the Pioneering Infrastructure and proportional benefit to the Benefited Property, as explained below.
 - ii. The Parties acknowledged that Benefited Property(ies) only includes those undeveloped properties North of Highway 89, directly to the West of the Development Property up to the point of connection of the Pioneering Improvements to the existing City infrastructure, and to the East of the Development Property up to the current Kanab City limit. Potentially Benefited Property(ies) include the following parcels, currently identified in the records of the Kane County Recorder by parcel numbers/tax ID numbers, which may be modified or subdivided subsequently:

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1. K-15-ANNEX (approx. 75.09 acres);
 2. K-15-2-ANNEX (approx.. 45.84 acres);
 3. K-14-1-ANNEX (approx.. 40 acres);
 4. K-14-14-ANNEX (approx. 40 acres);
 5. K-14-2-ANNEX (approx. 344.7 acres); and
 6. K-310-3, and those parcels recently subdivided therefrom, referenced as the Johnson Hills Minor Subdivision: K-310-4; K-310-5; K-310-6; K-310-7; and K-310-8. [K-310-3 through K-310-8 equaling approx. 77.71 acres]
- iii. Because owners/developers of Benefited Property(ies) are not parties to this Agreement (i.e., there is no privity of contract), such owner or developer shall be provided notice of the provisions of this Agreement at or before the time in which development activity is commenced on Benefited Property. Such owner or developer shall be afforded an opportunity to be heard at a public hearing before the City. The Developer shall have the responsibility to review and determine the legal and proper method(s) for putting the current and future owners of potentially Benefited Property on notice and shall coordinate with the City in providing such notice. If an owner or developer of a potential Benefited Property(ies) rejects the obligation to pay the proportional share of the Pioneering Improvements Cost, then the City shall not permit the owner/developer to connect to the City's infrastructure by way of the Pioneering Improvements—i.e., that owner/developer will be required to pay for and establish its own necessary connection to the City's infrastructure through another manner, reviewed and acceptable to the City, other than by connecting to the Pioneering Improvements.
- c. *Method of Calculating Reimbursement.* At the time that the Pioneering Improvements are complete, dedicated to the City with required utility and access easements, and the City has accepted the Pioneering Improvements in writing, the Developer, or a subsequently approved and created PID, shall submit to the City a breakdown of the actual costs of constructing, installing, and establishing the Pioneering Improvements ("Pioneering Improvement Cost"). The Pioneering Improvements Costs shall be subject to the review and approval of the City Engineer, who shall evaluate the submittal, request additional information if necessary, and determine if the Pioneering Improvements Cost represents the reasonable, actual costs of the Pioneering Improvements. A breakdown of the cost per linear foot shall be determined ("Cost Per Linear Foot"). The City shall then formally approve and notify the Developer or PID of the amount of Pioneering Improvement Cost and the Cost Per Linear Foot.

If and when an owner of Benefited Property seeks to develop a Benefited Property, the City shall require that owner, if and when it seeks the City's approval to develop or build, to pay the City the appropriate allocated Cost Per Linear Foot, based upon the length of the Benefited Property's proportional use—i.e., the length of the Pioneering Improvement from the point at which the Pioneering Improvement fronts or traverses the Benefited Property(ies) to the point at which the owner/developer of the Benefited Property connect thereto.

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The reimbursement amount may be adjusted based on intervening or other anticipated development on other Benefited Property(ies)—i.e., one Benefited Property shall not bear the burden of another potential Benefited Property adjacent thereto.

d. *Limitations.*

- i. The Parties acknowledge that the City cannot guarantee an owner or developer of adjacent property will connect to the Pioneering Improvements. For example, the developer or owner may have a closer, more economical, or preferable option for providing water or sewer infrastructure to its property.
- ii. The City does not guarantee collection from a Benefited Property owner/developer and is not required to bring a judicial action to enforce this Agreement against a Benefited Property (an owner/developer of Benefited Property, or adjacent property generally, are not a party or signer to this Agreement). In the event the City does not collect the reimbursement amount to which the Developer or PID is eligible, the City shall assign its rights to collect to the Developer or PID that funded the Pioneering Improvements, thereby permitting the Developer or PID to collect on and enforce its right to reimbursement.
- iii. No reimbursement from the Benefited Property shall be due to the Developer or subsequently approved and created PID, pursuant to this Agreement, until:
 1. The Pioneering Improvements have been fully installed, inspected, and formally accepted by the City in writing;
 2. The Developer has submitted documentation evidencing the actual costs of the Pioneering Improvements;
 3. Such reimbursement is determined to be the reasonable, actual costs of the Pioneering Improvements, excluding the costs attributable to any oversizing of the Public Infrastructure;
 4. The reimbursement is required under the terms of this Agreement; and
 5. The reimbursement payment meets the requirements and is otherwise permissible under existing laws.
- iv. State law may impose a maximum term for eligible reimbursement under this provision; however, if not specified, this form of reimbursement shall be limited to ten (10) years from the date the reimbursement for Pioneering Improvements reasonable, actual costs accrue and are approved by the City, and no interest shall be paid on any Pioneer Improvements Cost, pursuant to the limitation imposed under Kanab City's General Ordinance.
- v. This reimbursement method shall be for System Improvements and not for Project Improvements, as defined in this Agreement, except to the extent that the Project Improvements are extended from/to offsite, thereby creating additional or excess capacity beyond the proportionate share necessary to service the Hidden Canyon

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Planned Development. *See Utah Code § 11-36a-102* (defining categories of improvements).

- e. *Reimbursement Payments.* Upon collection of the allocated Cost Per Linear Foot applicable and as set forth herein, the City shall promptly pay the collected amount as a Reimbursement Payment to the Developer. Notwithstanding anything in this Agreement to the contrary, the City shall have no obligation to make any Reimbursement Payment to the Developer until the allocated costs are actually received by the City. The parties acknowledge, understand, and agree that:
 - i. The City is not directly responsible or liable for any Reimbursement Payment to the Developer, other than to account for and pay to the Developer the sums received, minus any applicable reasonable costs in administering this provision; and
 - ii. The City is not responsible in the event this Agreement is determined by an appropriate appeal authority or a court of competent jurisdiction to be unenforceable.
- f. *Disputes.* Any dispute arising under this reimbursement provision must be appealed administratively, in accordance with the appeal provisions contained in the Kanab City Land Use Ordinance, which final decision may then be subject to judicial review.
- g. *Separate Agreements.* If the law requires that a separate agreement be entered into for the purpose of enacting or enforcing this provision, the City shall work in good faith to enter into such agreement(s) with the necessary parties. This process may include appropriate notice and public hearing, as required. This provision shall not be interpreted as limiting the City's legislative decision-making authority.

14. 14. No Duplicative Recoupment/Reimbursement of Costs. Notwithstanding anything in this Agreement to the contrary, the Developer nor any Secondary Developer, nor a PID, if subsequently approved and created, shall be entitled to recoup or be reimbursed for more than the total actual, reasonable costs attributable to the oversizing portion of the Public Infrastructure/System Improvements or the proportional allocated costs for Pioneering Improvements—i.e., no impact fee credits and no reimbursement through adjacent developments (i.e., pioneering reimbursement) shall be granted once the actual costs attributable to that portion of the oversizing of the System Improvements or applicable Pioneering Improvements have been realized through a method for reimbursement permitted herein.

- a. Any form of reimbursement provided for herein shall comply with the applicable provisions of State law.
- b. The Developer and the Secondary Developer(s), and/or a PID, if subsequently approved and created, shall not be entitled to duplicative reimbursement. The Initial Developer must clearly convey right to reimbursement/future credit against applicable impact fee(s) or entitlement to reimbursement for Pioneering Improvements to a Secondary Developer, clearly identifying the Pioneering Improvements and/or the oversized infrastructure to which the reimbursement or credit apply and the specific category of impact fees applicable

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for the oversized infrastructure, and provide written notice of the same to the City for the Secondary Developer(s) or assignee(s) to receive reimbursement as outlined herein.

- c. The Initial Developer may convey all or portion of the right to be reimbursed to a Secondary Developer or assignee. The transferred right to reimbursement through impact fee credits or otherwise, may only be utilized in relation to the Hidden Canyon Planned Development or an adjacent developer that actual connects to the Pioneering Improvements for which reimbursement is contemplated herein.
- d. The City shall notify the Developer within a reasonable time of receipt of payment of applicable fees paid by an owner/developer of a Benefited Property connecting to and planned utilization/benefit of the Pioneering Improvements.

The City reserves the right to pay or reimburse at any time the person or entity that funds the Public Infrastructure/System Improvements—the Developer or PID, if subsequently approved and created—some or all of the reimbursable costs provided for herein.

The City shall not be liable to the party, individual, or entity that finances the Public Infrastructure or System Improvements of the Hidden Canyon Planned Development, or the assigned recipient of a reimbursement benefit, for failure of the City to collect a reimbursement contemplated herein, due from a Benefited Property owner or developer, because of a legal inability of the City to collect the charge from the owner or developer of a Benefited Property.

Any form of reimbursement contemplated herein shall not exceed the estimated costs of the infrastructure, as included in the City's Capital Facilities Plans, unless the actual costs of the infrastructure as submitted and documented by the Developer or PID are determined to be reasonable by the City, with review and input from the City Engineer.

15. Public Infrastructure District. The City and Developer specifically agree and acknowledge that the Developer shall be entitled but not required to seek the creation of a PID permitted by Utah law, particularly Title 17D, Chapter 4, titled the Public Infrastructure District Act, (the "PID Act"), as determined by Developer, in order to implement and facilitate the financing, construction and operation of public infrastructure for the Planned Community. Subject to the provisions of the PID Act, and the City Council's legislative decision-making authority, the City and the Developer agree to continue cooperation in connection with the application, consideration of the formation, and operation of a PID in order to accommodate development circumstances, to fund, construct and/or provide public facilities and services set forth in this Agreement or otherwise required in connection with the development of the Planned Community, including but not limited to streets, water, sewer, and drainage, within or otherwise serving all or a portion of the Planned Community. The City agrees that it will exercise any rights reserved to the City under the PID Act in connection with the establishment or operation of a PID for the Planned Community in accordance with the requirements of the PID Act, or any portion thereof. The City agrees that any obligation set forth in this Agreement for the financing and construction of public improvements that are required to serve the Planned Community, which are anticipated to be dedicated to the City by the Developer, a PID, if approved and created, or other limited purpose governmental entity may be undertaken, performed and completed by a PID, subject to the requirements of the PID Act and the approval of the City consistent therewith. Any PID created for the Planned Community, or any portion thereof, shall not create

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any financial liabilities for the City. This provision shall not be interpreted as binding the City to any future legislative decision, particularly in regard to whether a PID is created.

16. Approval Process for Development and Applications.

- a. **Phasing of Development and Applications.** The City acknowledges that the Developer and its assigns may submit multiple applications from time to time to develop a portion of the Development Property. Approval processes for each development application shall be as provided in the City's vested laws at the time that a complete application(s) and required fee(s) is submitted, except as otherwise provided or modified in this Agreement. The Parties shall cooperate reasonably and promptly in proceeding with each development application, subject to review and proper public notification of any matters that must be brought before the City's Planning Commission, City Council, or another board or individual, whichever or whoever is the applicable and formally designated land use authority.
- b. **If the City denies any Development Application,** it shall provide notice to the Developer and, upon the Developer's request, provide any written decision, record, or recording related to the decision. Upon request of the Developer, the City and the Developer shall meet within fifteen (15) business days (in-person, by phone, text, email, or virtually) or as soon thereafter as possible, to review the denial and attempt to resolve the issues specified in the denial. If a dispute remains, related to the denial, the Developer may appeal the decision in accordance with the administrative appeal process as outlined in Kanab City's Land Use Ordinance. The time period for submitting an appeal will start at the time the land use decision was made, but may be tolled if the Developer requests a meeting with the City, until the date on which the meeting occurs. However, if no meeting occurs, there shall be no tolling of the time period for submitting an appeal.
- c. **Non-City Agency Reviews.** If any aspect or a portion of a Development Application is governed exclusively by a Non-City Agency, requires any form of certification, or necessitates an independent technical analysis (such as a threatened species evaluation) for approval of any application, then the Developer shall timely notify the City of any such submittals and promptly provide the City with a copy of the requested submissions. The City may only grant final approval for any Development Application subject to compliance by the Developer with any conditions required for such Non-City Agency's approval, certification, or independent technical analysis, and shall not be responsible for any delays caused by a Non-City Agency. Under such circumstances, the Developer may apply/request a reasonable extension of time from the City, which request shall not be unreasonable withheld if such extension is allowed for and meets the requirements of the City's applicable ordinance.

17. Coordination with the City Public Works Director and City Engineer. Pursuant to Kanab City Ordinance, all System Improvements, including those being oversized, shall be coordinated with and approved by the City Public Works Director and City Engineer throughout the design and development phase. The Developer shall pay for the cost of the City Engineer to design certain elements of the System Improvements being oversized (i.e., the water tank). The Developer acknowledges that the City Engineer

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is not the Developer's engineer. Accordingly, the Developer will be required to employ and pay for its own engineer for matters not addressed by the City Engineer.

18. Assignment. This Agreement grants and vests in the Developer all rights, consistent with the Hidden Canyon Development Property Plan, as shown in Exhibit C, to develop the Development Property according to the Plans as provided in this Agreement, including incorporating all exhibits attached hereto, without alterations. The Parties intend that the rights granted to the Developer and the entitlements for the Development Property under this Agreement are agreed to with recognition of the application of the requirements of *Utah Code Ann. § 10-9a-509* (2023). It is expressly understood by the City that the Developer may assign all or portion of its rights under this Agreement, provided such assignment conforms to the requirements of, and any and all assignees agree to be bound by the terms of this Agreement. However, the Developer must provide written notice of any and all such assignments.

19. Applicability of Federal and State Law and Kanab City Ordinances.

- a. This Agreement shall be governed by the laws in the State of Utah and the Kanab City ordinances, except where modified herein.
- b. All provisions of State Law and the City ordinances shall be applicable to the development of the Property, except to the extent this Agreement is more restrictive.
- c. This Agreement does not exempt nor override any procedure, process, necessary approvals, design standards, provision of applicable State law, building code, fire code, or Kanab City ordinance (e.g., General, Land Use, and Subdivision) except where specifically outlined in this Agreement, and as permitted by law.
- d. Developer shall be entitled to application of the relevant local ordinances, laws, and fees in effect at the time a complete application is submitted (i.e., the point at which the principle of vested laws is applicable), except as outlined or restricted herein.
- e. Developer shall cause to be submitted the necessary application(s) with requisite supporting documentation and plans, preliminary and final if required, for administrative consideration and approval. For administrative applications, the City shall approve such application(s), site plan(s), plat(s), etc., if such items meet the standards and requirements outlined in applicable State Law and local ordinances, except where local ordinance is modified by this Agreement.
- f. The Parties agree, intend, and understand that the obligations imposed by this Agreement are only such as are consistent with state and federal law. The Parties further agree that if any provision of this Agreement becomes, in its performance, inconsistent with state or federal law or is declared invalid, this Agreement shall be deemed amended to the extent necessary to make it consistent with state or federal law, as the case may be, and the balance of the Agreement shall remain in full force and effect. If the City's approval of the development of the Property is held invalid by a court of competent jurisdiction, this Agreement shall be null and void.

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20. Temporary Land Use Regulation/Moratorium. The Development Property and the rights and obligations of the Developer under this Agreement shall not be subject to any temporary land use regulation or moratorium enacted by the City, except upon a finding by the legislative body of a compelling, countervailing public interest, or if the area is unregulated, pursuant to *Utah Code Ann. § 10-9a-504* (2022).

21. City Legislative Authority/Police Powers. Nothing in this Agreement shall limit the future exercise of the police powers of the City in enacting zoning, subdivision, development, growth management, platting, environmental, open space, transportation, and other land use plans, policies, ordinances, and regulations after the date of this Agreement. This Agreement is not intended to bind a future governing body of the City to a specific legislative decision.

Notwithstanding the retained power of the City to enact such legislation under its police power, such legislation shall not modify the Developer's rights as set forth herein, unless facts and circumstances are present that meet the compelling, countervailing public interest exception to the vested rights doctrine as set forth in Western Land Equities, Inc., v. City of Logan, 617 P.2d 388 (Utah, 1988), or successor case law or statute. Any such proposed change affecting the Developer's rights shall be of general application to all development activity in the City. Unless the City declares an emergency, the Developer shall be entitled to prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the development of the Property.

22. Default.

- a. Failure by a Party to perform any of the Party's obligations under this Agreement within a thirty (30) day period (the "Cure Period") after written notice thereof from the other Party shall constitute a default ("Default") by such failing Party under this Agreement; provided, however, that if the failure cannot reasonably be cured within thirty (30) days, the Cure Period shall be extended for the time period reasonably required to cure such failure so long as the failing Party commences its efforts to cure within the initial thirty (30) day period and thereafter diligently proceeds to complete the cure. Said notice shall specify the nature of the alleged Default and the manner in which said Default may be satisfactorily cured, if possible. Upon the occurrence of an uncured Default under this Agreement, the non-defaulting Party may seek a remedy as outlined in the Remedies provision of this Agreement.
- b. The City shall have the additional following remedies in the case of default by the Developer:
 - i. Enforcement of Security. The right to draw on any security posted or provided in connection with the Planned Community and System Improvements, relating to remedying the particular default.
 - ii. Claim Reimbursement – Public Infrastructure. The right to demand repair or replacement of failed Public Infrastructure/System Improvements or for reimbursement from the Developer for costs of remedying a particular failure or default relating to the Public Infrastructure/System Improvements, in excess of any security posted or provided during the warranty period, or prior thereto.

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- iii. Withholding Further Development Approvals. After meeting with the Developer without resolution of any default, the right to withhold all further reviews, approvals, licenses, building permits, certificates of occupancy, and/or other permits for the Developer, Secondary Developer, or for the development of the Property owned by the defaulting party.
- c. During any period of default by the Developer or a Secondary Developer, the Developer or a Secondary Developer shall not receive reimbursement for oversized System Improvements until such default has been cured. If the Default is cured, then no Default shall exist and the noticing Party shall take no further action.
- d. Any Default or inability to cure a Default caused by strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other similar causes beyond the reasonable control of the party obligated to perform, shall excuse the performance by such party for a period equal to the period during which any such event prevented, delayed or stopped any required performance or effort to cure a Default.
- e. These Default provisions shall not be interpreted as applying to administrative decisions made by the City in relation to submitted Development applications; which remedy must be sought through the administrative appeal process.

23. Remedies. Notwithstanding the foregoing provisions related to default, the following remedies shall apply:

- a. The Parties to this Agreement recognize that the City has the right to enforce its rules, policies, regulations, ordinances, and the terms of this Agreement by seeking an injunction to compel compliance. In the event Developer violates the rules, policies, regulations, or ordinances of City or violates the terms of this Agreement, City may, without declaring a Default hereunder or electing to seek an injunction, and after thirty (30) days written notice to correct the violation (or such longer period as may be established in the discretion of City or a court of competent jurisdiction if Developer has used its reasonable best efforts to cure such violation within such thirty (30) days and is continuing to use its reasonable best efforts to cure such violation), take such actions as shall be deemed appropriate under law until such conditions have been rectified by the Developer. The City shall be free from any liability arising out of the exercise of its rights under this paragraph.
- b. Any assertions of breach or default asserted by the Developer against the City shall be handled as a Land Use Appeal and addressed in accordance with the administrative appeal process outlined in Utah Code, Title 10, Part 7, and the Kanab City Land Use Ordinance, Chapter 3, and other applicable provisions of the Kanab City ordinances. All administrative process(es) and remedies must be exhausted prior to seeking judicial review of an appeal authority's final decision.
- c. No Monetary Damages. The Parties acknowledge that the City would not have entered into this Agreement had it been exposed to monetary damage claims from the Developer for any breach thereof except as set forth herein. As such, and except as otherwise noted

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within the Agreement, the Parties agree that specific performance, as may be determined through the Kanab City administrative appeals process (the final decision of which is subject to review by a court of competent jurisdiction) is the only intended remedy for any breach of this Agreement by the City. Accordingly, the Parties waive all other remedies in law or equity, including monetary damages (e.g., actual, future, and speculative damages, including economic, special, consequential, punitive, or other monetary damages), except where otherwise noted in this Agreement.

- d. Nothing in this Agreement shall be construed as eliminating nor intended to circumvent the requirement and applicability of the City's administrative appeal process, with the option for judicial review of any final decision resulting from an administrative appeal.

24. Governmental Immunity. The City is a governmental entity under the Governmental Immunity Act of Utah, Utah Code §§ 63G-7-101 et seq. (the "Immunity Act"). The City does not waive any defenses or limits of liability available under the Immunity Act and other applicable law. The City maintains all privileges, immunities, and other rights granted by the Immunity Act and all other applicable laws. Nothing in this Agreement should be interpreted as a waiver of the City's privileges, immunities, and other rights granted by the Immunity Act and all other applicable laws. [Were it so, the City would not be sufficiently induced to enter into this Agreement.]

25. Hold Harmless.

- a. Developer agrees to and shall hold City, its officers, agents, employees, consultants, special counsel, and representatives harmless from liability for damages, just compensation restitution, or judicial or equitable relief which may arise from or are related to any activity connected with the development of the Property, including approval of the development and this Agreement; the direct or indirect operations of Developer or its contractors, subcontractors, agents, employees or other persons acting on its behalf which relate to the development of the Property; or which arises out of claims for personal injury, including health, and claims for property damage.
- b. This hold harmless provision shall not be applicable to any claim arising by reason of the negligence or intentional tort actions of the City.
- c. City shall give written notice of any claim, demand, action, or proceeding which is the subject of the Developer's hold harmless agreement as soon as practicable but not later than thirty (30) days after the assertion or commencement of the claim, demand, action, or proceeding. If any such notice is given, the Developer shall be entitled to participate in the defense of such claim. Each party agrees to cooperate with the other in the defense of any claim and to minimize duplicative costs and expenses.

26. Successors and Assigns.

- a. Agreement to Run with the Land. This Agreement shall be recorded in the Office of the Kane County Recorder, shall be deemed to run with the Development Property, shall encumber the same, and shall be binding on and inure to the benefit of all successors and assigns of Developer in the ownership or development of any portion of the Development

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Property. When a phase of development is complete or ownership rights are transferred, the Master Owners Association, and/or an applicable subordinate association, and the individual property owners shall be bound to the terms of this Agreement, notwithstanding the expiration or termination of this Agreement. However, an amendment to this Agreement may be presented to the City for consideration by those associations or property owners bound hereunder.

- b. Transfer. If the Property is transferred ("Transfer") to a third party ("Transferee"), the Developer and the Transferee shall be jointly and severally liable for the performance of each of the obligations contained in this Agreement unless prior to such Transfer (i) Developer provides to City a letter from Transferee acknowledging the existence of this Agreement and agreeing to be bound thereby. Said letter shall be signed by the Transferee, notarized, and delivered to the City prior to the Transfer. Upon execution of the letter described above, the Transferee shall be substituted as the Developer under this Agreement and the persons and/or entities executing this Agreement as Developer shall be released from any further obligations under this Agreement as to the transferred Property.
- c. Individual Lot or Unit Sales. Notwithstanding the provisions of this section, a transfer by the Developer of a lot or condominium dwelling unit or commercial building located on the Property within a City approved and recorded plat shall not be deemed a Transfer as set forth above so long as the Developer's obligations with respect to such lot or dwelling unit have been completed, including the infrastructure necessary or required to service the lot or dwelling unit. In such event, the Developer shall be released from any further obligations under this Agreement pertaining to such lot or dwelling unit.

27. Term and Early Termination.

- a. The "Effective Date" of this Agreement shall be the date upon which the Agreement is approved by the Kanab City Council.
- b. Pursuant to Kanab City General Order § 7-808, the City's obligation to make reimbursements under the reimbursement provisions related to development by adjacent property owners/developers that connect to the oversized Public Infrastructure of Hidden Canyon (i.e., the "pioneering" provision) shall terminate after ten (10) years. The termination of the pioneering provision shall not affect the term for the remaining applicable provisions of this Agreement.
- c. This Agreement shall expire twenty (20) years from the Effective Date of this Agreement ("Termination Date"), unless it is terminated earlier by (i) mutual consent, (ii) buildout, (iii) the Term is modified by written and recorded amendment to this Agreement, or (iv) upon termination as otherwise specified herein.
- d. If as of that Termination Date (i) the Developer has not been declared to be in default as provided in this Agreement, or if any such declared default has been or is being cured as provided therein, and (ii) the Developer has continued to make meaningful substantial progress each year in developing the Property, then this Agreement shall be automatically extended until December 31, 2044.

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- e. If the Developer has failed to make meaningful substantial progress in developing the Property for any given 2-year period, the City shall give written notice to the Developer of its intent to terminate the Agreement for non-performance. If an additional year passes thereafter without the Developer making any meaningful substantial progress in developing the Property (i.e., totaling a 3-year period of no meaningful substantial progress), then the City shall give written notice of the termination of this Agreement, upon which this Agreement will be considered null and void.
- f. If the City has not taken/does not take the required affirmative steps to terminate this Agreement, outlined herein, then the mere passage of time and/or lack of meaningful substantial progress by the Developer shall not be sufficient for terminating the Agreement and the obligations of the Parties established by this Agreement shall remain—i.e., there is no automatic termination for non-performance.
- g. “Meaningful substantial progress” as used herein shall include (i) submission and approval of one or more Development applications (e.g., building or grading permit, conditional use application/permit, or preliminary or final site plan or plat approval or amendment), (ii) completion and passage of three or more onsite inspections (e.g., relating to construction/installation of Public Infrastructure, inspection related to construction of commercial or residential units).
- h. The provisions related to the term of this Agreement shall not be interpreted as modifying the City’s ordinances in respect to other deadlines, timelines/time frames and expiration of any permit or approval issued by the City (e.g., a building permit shall terminate/expire as outlined in the City’s ordinance; the Developer must commence construction under an approved site plan within 1-year, as determined by the City’s ordinance, unless an extension is granted).
- i. Upon termination of this Agreement, or if the Agreement becomes null and void, the Parties agree that the City or the Developer may record a declaration of the same against the Development Property, after giving notice to the other party of the intent to record the declaration and allowing ninety (90) days for the non-recording party to object., at which point the City may consider taking any other lawful action in relation to some or all of the Development Property not fully built out, including removing the Planned Development Overlay through a zone change.

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28. Notices. Any notices, requests, or demands required or desired to be given hereunder shall be in writing and shall be given using one of the following methods of delivery: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), nationally recognized overnight courier (with all fees prepaid), facsimile, or email. Notices shall be effective upon receipt. Any party giving a notice shall address the notice to the receiving party at the following address(es):

TO CITY:	Kanab City	TO DEVELOPER:	JJJ Development, Inc.
	26 North 100 East		575 West Upper Alton Road
	Kanab, UT 84741		Alton, UT 84710
	ATTN: City Manager		ATTN: Jim Guthrie
	(435) 644-2534		(951) 334-9003
			jim@guthriecompanies.com

29. No Third-Party Beneficiary. This Agreement is made for the sole protection and benefit of the City and the Developer and their assigns. No other person shall have any right of action based upon any provision of this Agreement whether as third-party beneficiary or otherwise. The relationship between the City and the Developer arising out of this Agreement is one of independent contractor and not agency. It is specifically understood by the parties that: (i) all rights of action and enforcement of the terms and conditions of this Agreement shall be reserved to the City and the Developer; (ii) developing the Property is a private development; (iii) the City has no interest in or responsibilities for or duty to third parties concerning any improvements to the Property; and (iv) the Developer shall have the full power and exclusive control of the Property subject to the obligations of the Developer set forth in this Agreement.

30. Successors and Assigns. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

31. Severability. If any part or provision of this Agreement shall be adjudged unconstitutional, invalid or unenforceable by a court of competent jurisdiction such determination shall not affect any other part or provision of this Agreement except that part or provision so adjudged to be unconstitutional, invalid or unenforceable. If any condition, covenant, or other provision of this Agreement shall be deemed invalid, due to its scope or breadth such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

32. Waiver. No waiver of any of the provisions of this Agreement shall operate as a waiver of any other provision regardless of any similarity that may exist between such provisions nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding on the City or the Developer, unless executed in writing by the waiving party.

33. Reasonableness. Except as otherwise stated to the contrary in this Agreement, when the consent, approval, or agreement of the City and/or the Developer is required or contemplated under this Agreement, such consent, approval, or agreement shall not be unreasonably withheld, conditioned, or delayed; provided, this provision shall not bind the City with respect to its legislative actions.

34. Time of the Essence. Time shall be of the essence with respect to the duties imposed on the Parties under this Agreement. Unless a time limit is specified for the performance of such duties each party shall commence and perform its duties in a diligent manner in order to complete the same as soon as reasonably practicable.

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35. Annual Review. City may review progress pursuant to this Agreement at least once every twelve (12) months to determine if Developer has complied with the terms of this Agreement. If the City finds, on the basis of substantial evidence, that the Developer has failed to comply with the terms hereof, the City may declare the Developer to be in Default as provided herein. The City's failure to review at least annually the Developer's compliance with the terms and conditions of this Agreement shall not constitute or be asserted by any party as a Default under this Agreement by the Developer or the City.

36. Non-Liability of City Officials, Employees, Members, or Managers. No officer, representative, agent, or employee of the City shall be personally liable to the Developer or any of its successors or assigns in the event of any default or breach by the City or for any amount that may become due to the Developer or its successors or assigns for any obligation arising out of the terms of this Agreement. Similarly, no officer, member, manager, or representative, agent, or employee of the Developer shall be personally liable to the City or any of its successors or assigns in the event of any default or breach by the Developer or for any amount which may become due to the City or its successors or assigns for any obligation arising out of the terms of this Agreement.

37. Costs. In the event of any litigation between the parties arising out of or related to this Agreement, or planned development and the application of the City's ordinances or state law, the prevailing party shall not be entitled to an award of reasonable court costs, including reasonable attorney fees. In the event that a dispute over or relating to the terms of this Agreement is resolved short of a final contested decision by a court of competent jurisdiction, the Parties shall cover their or its own costs, including reasonable attorney fees, whether incurred in litigation or otherwise. The Parties agree that an advisory opinion rendered by a representative of the Utah Property Rights Ombudsman, while potentially helpful in reaching a resolution to a dispute between the Parties, shall not be considered grounds for awarding attorney fees, civil fines or penalties, nor consequential damages.

38. Authority to Execute Agreement. Each party hereto expressly warrants that it has the necessary authority to execute this Agreement on behalf of its governing board or board of directors that each signatory hereto has authority to execute this Agreement on behalf of the respective named party. The Parties agree to undertake such other acts and execute such other documents as may be reasonably necessary to affect the purpose and intent of this Agreement.

39. Counterparts. This Agreement may be executed in any number of duplicate originals or counterparts, each of which when so executed shall constitute in the aggregate but one and the same document.

40. Headings and Interpretation. Paragraph headings contained herein are only for the convenience of the Parties. The substance and provisions hereof control without regard to the headings. This Agreement shall be construed so as to effectuate its public purpose of ensuring the Property is developed as set forth herein to protect health, safety, and welfare of the citizens of the City. The Parties acknowledge that this Agreement has been negotiated and prepared in an arms-length transaction and that all Parties have been deemed to have drafted this Agreement and this Agreement shall not be interpreted against any Party as the draftsman.

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41. The Parties each warrant and acknowledge that (i) they have read and understood the terms of this Agreement; (ii) they have had the opportunity to retain legal counsel of their choice throughout the negotiations that preceded the signing of this Agreement; and (iii) they have entered into this Agreement for reasons of their own and not based upon representations of any other party hereto.

42. Recordation. Within ten (10) business days of the Effective Date of this Agreement, it shall be recorded in its entirety at the Developer's expense in the Office of the Kane County Recorder. Each commitment and restriction on development set forth herein shall be a burden on the Development Property, shall be appurtenant to and for the benefit of the City and Developer and shall run with the land. A recorded copy of the Agreement shall be provided by the Developer to the City, in physical or digital format.

43. Entire Agreement. This Agreement represents the entire agreement between the parties related to the subject matter herein. All other agreements are merged into this Agreement, which cannot be modified except by the written consent of all parties. Any modification to this Agreement shall require the same notice(s) and public hearing required for the modification of a land use regulation.

43. Formation of PID or Other Infrastructure District. Prior to development of the Development Property, the Developer may apply to form and fund a PID, or another statutorily applicable infrastructure district, for purposes of funding some or all of the Public Improvements. If a PID or other infrastructure district is not approved or formed within a reasonable time, then it will be presumed that the Developer will proceed without a PID/infrastructure district in accordance with the Terms of this Agreement. However, the Developer or a subsequent owner of the development property may apply to the City for an amendment to or termination of this Agreement and/or for a rezoning of some or all of the development property. Upon application, the City Council, in accordance with the procedures in the City's ordinances, as applicable, will consider the application as a legislative land use decision.

IN WITNESS WHEREOF, the parties hereunder have executed this Agreement on the date first written above.

[Signatures on the following page(s).]

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KANAB CITY

Colten Johnson, Mayor

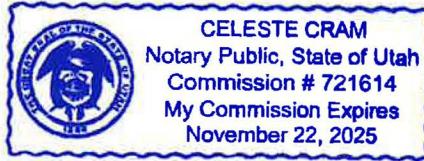
Approved as to form:

City Attorney

STATE OF UTAH)
COUNTY OF KANE)

On the 3 day of September, 2024, personally appeared before me Colten Johnson, Kanab City Mayor, whose identity is personally known to or proved to me based on satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he did duly acknowledge to me that he executed the foregoing document.

Celeste Cram
Notary Public

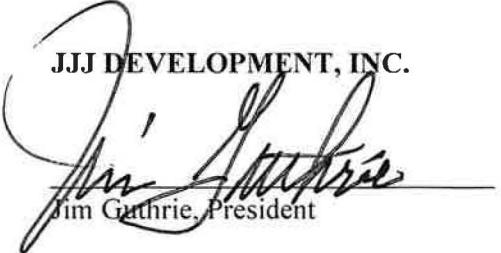


[Additional signatures on following page.]

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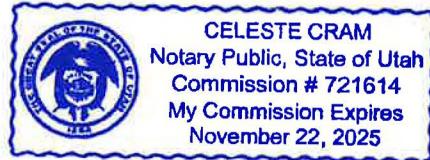
JJJ DEVELOPMENT, INC.


Jim Guthrie, President

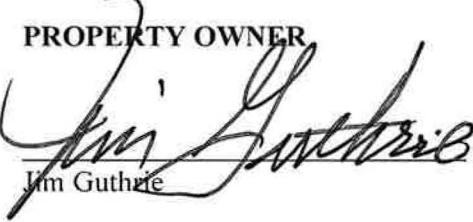
STATE OF UTAH)
ss:
COUNTY OF KANE)

On the 17 day of September, 2024 personally appeared before me Jim Guthrie, who being duly sworn and authorized did say that he is the President of JJJ Development, Inc. and Jim Guthrie indicated to me that said company executed the same.


Celeste Cram
Notary Public



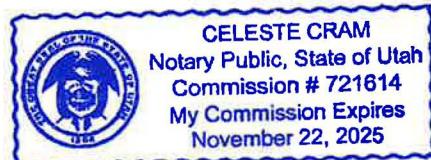
PROPERTY OWNER


Jim Guthrie

STATE OF UTAH)
ss:
COUNTY OF KANE)

On the 17 day of September, 2024 personally appeared before me Jim Guthrie, who being sufficiently identified and duly sworn did execute the same.


Celeste Cram
Notary Public



ENTRY NO. 00208505

09/17/2024 02:12:43 PM B: 0626 P: 0065

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VERJEAN CARUSO, KANE COUNTY RECORDER
FEE \$ 40.00 BY JIM GUTHRIE



EXHIBIT A

LEGAL DESCRIPTION FOR
HIDDEN CANYON SUBDIVISION

PARCEL K-15-1-ANNEX:

PARCEL 1: THAT PORTION OF THE E ½ OF THE W ½ OF THE NE ¼ OF SECTION 35, TOWNSHIP 43 SOUTH, RANGE 6 WEST, SALT LAKE BASE & MERIDIAN LYING NORTHERLY OF US HIGHWAY 89 (CONTAINING 36.0 ACRES, MORE OR LESS).

PARCEL 2: THAT PORTION OF THE E 400 FEET OF THE W ½ OF THE W ½ OF THE NORTHEAST ¼ OF SECTION 35, TOWNSHIP 43 SOUTH, RANGE 6 WEST, SALT LAKE BASE & MERIDIAN LYING NORTHERLY OF US HIGHWAY 89 (CONTAINING 21.0 ACRES, MORE OR LESS).

PARCEL K-14-15-ANNEX:

ALL OF SECTIONAL LOTS 7 & 8; AND THE S ½ OF THE SE ¼ OF THE NORTHEAST ¼; AND THE E ½ OF THE SE ¼ OF SECTION 26, TOWNSHIP 43 SOUTH, RANGE 6 WEST, SALT LAKE BASE & MERIDIAN (CONTAINING 180.37 ACRES, MORE OR LESS).

ALSO: BEGINNING AT THE SW CORNER OF SECTIONAL LOT 6, SECTION 26, TOWNSHIP 43 SOUTH, RANGE 6 WEST, SALT LAKE BASE & MERIDIAN AND RUNNING THENCE E 1320.0 FEET MORE OR LESS ALONG THE LOT LINE TO THE SE CORNER OF SAID LOT 6; THENCE N 1320.0 FEET MORE OR LESS ALONG THE LOT LINE TO THE NE CORNER OF SAID LOT 6; THENCE SOUTHWESTERLY 1866.76 FEET MORE OR LESS TO THE POINT OF BEGINNING (CONTAINING 20 ACRES, MORE OR LESS).

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EXHIBIT B

Oversizing of System Improvements Required

Kanab City is working with the Developer to establish infrastructure to support the new Planned Development (“Hidden Canyon”) on the north-east side of Kanab. To meet the culinary water demands, a new water storage tank must be built near the Planned Development. In accordance with Kanab City’s Water Impact Fee Facilities Plan and Analysis (2024), the water storage tank will have a capacity of 1 million gallons and will be constructed from reinforced concrete. The Developer will provide all Civil Engineering at the tank site, including site grading, piping, and drainage. The Developer will pay for and utilize the services of the City Engineer (currently Civil Science), or another engineering firm approved by the City Engineer, to provide a design for the concrete water tank. A conceptual Engineer’s Opinion of Cost indicates that the overall construction costs (not the difference for oversizing the infrastructure) associated with the tank will be approximately \$1,340,000.00 (estimate as of April 11, 2022).

Based on the anticipated development of the Development Property, as outlined above, the Developer will pay for the City Engineer or an approved engineering firm to provide the services detailed by the City Engineer in its Work Task Order 2022-3, dated April 11, 2022, incorporated herein by reference. The cost for such services may be modified, as necessary or agreed upon by the Developer and the City Engineer.

Oversized/Upsized Infrastructure Required and Eligible for Reimbursement:

The following infrastructure is required to be oversized as a condition of development and in accordance with Kanab City’s Water Impact Fee Facilities Plan & Analysis (2024), making the actual, reasonable costs for the oversized aspect of the infrastructure eligible for reimbursement:

1. The size of the water storage tank necessary to support the Hidden Canyon Planned Development must provide for the storage of approximately 810,150 gallons. This water storage tank must be increased and oversized to a 1-million-gallon water storage tank for the purpose of serving future adjacent development. The difference in actual, reasonable cost between installing a water storage tank for 810,150 gallons and a 1-million gallons shall be reimbursable by the City by the methods outlined below.
2. The existing pump station vault must be increased to accommodate the required booster pump(s) and equipment service clearances. The vault dimensions and any equipment service clearances shall be subject to inspection, approval, and written acceptance by the Kanab City Public Works Director, after coordination with the Developer and City Engineer.
3. The main distribution waterline connecting to the existing water infrastructure on or adjacent to the Quality Inn property, running parallel to the existing 8-inch line toward the Development Property and on to the 1-million-gallon water storage tank, then extending out from the 1-million-gallon water storage tank to the Hidden Canyon Planned Development (initially to “Road A” as identified on Exhibit C, and then along Road A) and extended beyond the Development Property, shall be eligible for reimbursement for actual, reasonable costs for three different aspects considered oversizing:
 - a. The portion of the C-900 12-inch main tank fill waterline beginning from the connection to the existing waterline at or near the Quality Inn property, extending/proceeding parallel to the existing 8-inch waterline to the point at which the booster pump(s) station will be located at or just inside the Development Property Line. This portion of the waterline extending from the existing water infrastructure near the Quality Inn property extending to the Development Property line requires an 8-inch waterline to meet the needs of the

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Planned Development itself. Thus, the increase from 8-inch to 12-inch is considered oversized for reimbursement purposes. The portion of this main distribution water line as it extends out from the booster pump(s) required requires a 12-inch C-900 to meet the needs of the Planned Development (including for emergency pumping scenarios, to be able to pump the required fire flow). This second portion of 12-inch water line extending from the water booster pump(s) extending to the water storage tank is not considered oversized. For the first segment of this water transmission line, the difference between the actual, reasonable costs of the construction and installation of an 8-inch water line and the 12-inch waterline shall only be eligible for reimbursement by the City by the methods outlined below.

- b. The portion of the main distribution water line beginning from the 1-million-gallon water storage tank and proceeding to the necessary parts of the Hidden Canyon Planned Development requires an 8-inch water line, using C-900 pipe, to meet the needs of the Planned Development itself and to allow for maintenance and servicing by the City, once dedicated and accepted. The portion of this main distribution waterline shall be increased and oversized from 8-inch to a 12-inch, using C-900 pipe, from the water storage tank to "Road A" as identified in the Master Plan (Exhibit C) and then along Road A until it reaches Highway 89, in order for the 1-million-gallon water storage tank to support future adjacent development beyond the Hidden Canyon Planned Development. This portion of the main distribution line, upsized from 8-inch to 12-inch C-900 pipe, shall be considered eligible for reimbursement. The difference between the actual, reasonable costs of the construction and installation of an 8-inch water line and the oversized 12-inch water line shall be eligible for reimbursement by the City by the methods outlined below. All other waterlines servicing the Development Property shall be sized according to the specifications required by the development activities and shall not be eligible for reimbursement.
- c. This same 12-inch main distribution water line, outlined in (3)(b), shall be extended beyond the distance and locations necessary for the Hidden Canyon Planned Development, to a connection point designated and approved by the City, located at or near US-89 and the proposed Hidden Canyon entrance, for the purpose of allowing the 1-million-gallon water storage tank to serve additional adjacent future growth. The actual, reasonable costs for constructing and installing this portion of the 12-inch main distribution line, extending beyond what is necessary for the Hidden Canyon Planned Development itself, constituting an oversized and extended portion of the water line in its entirety, shall be eligible for reimbursement from the City by the methods outlined below. However, if applicable design standards require other water infrastructure or apparatus, such as looping the line, for the purpose and based on the needs of the Hidden Canyon Development itself, that portion of the infrastructure or apparatus shall not be considered reimbursable except as required to be oversized by the City.
4. The Developer, or a subsequently formed PID, if applicable, shall submit its total actual costs for constructing and installing the infrastructure outlined herein, and its calculation for the portion of those costs it has determined are attributable to the oversizing of the infrastructure. The City will then review the submittals and make a determination of the amount of reimbursable actual, reasonable costs, as permitted by ordinance.
5. If a disagreement arises relating to a formal decision made by City staff relating to the oversizing requirements and specifications, including the determination of the actual, reasonable cost thereof, then the decision of City staff may be appealed, pursuant to the Kanab City Land Use appeal

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requirements, process, and procedure outlined in the Kanab City Land Use Ordinance. Only a formal decision of City staff may be appealed, unless City staff fails to issue a formal decision when reasonable or required to do so. In the circumstances in which the appeal authority finds that City staff has failed to issue a reasonable or required decision, the appeal authority, if deemed appropriate, shall require the City staff to issue a decision as a precursor to going forward with the appeal. The final written decision of the appeal authority is subject to judicial review.

6. No additional oversized infrastructure is required by the City. In reviewing all other designs and planned infrastructure anticipated, approval of such designs shall be based on City standards based on what is required and necessary for the Hidden Canyon Planned Development. Any subsequent and additional oversizing requirements, if subsequently required and agreed upon by the Parties, shall require a new separate reimbursement agreement, or an agreed upon amendment to this Agreement.

Form of Reimbursement:

There are two permissible forms of reimbursement applicable to the Public Infrastructure and System Improvements outlined in this Agreement: (1) Reimbursement by granting of a dollar-for-dollar impact fee credit; and (2) reimbursement for proportional Pioneering Improvement Costs by Benefited Property(ies). The provisions related to Pioneering Improvements is outlined within the body of the Agreement. Some provisions related to reimbursement by the granting of impact fees credits is outlined within the body of the Agreement. Where the provisions of this exhibit differ from the provisions included within the body of the Agreement, the terms and provisions within the body of the Agreement shall be considered controlling.

The form and timing of reimbursement shall depend upon whether the Developer or the PID pays the actual, reasonable costs for oversizing the infrastructure or for Pioneering Improvements. The following criteria shall apply to the reimbursement of actual, reasonable costs of the oversized infrastructure:

1. If Developer pays for the actual, reasonable cost of oversizing all or part of the infrastructure outlined herein, then reimbursement will come in the form of dollar-for-dollar impact fee credit, which impact fee credit balance may be applied at the time that the water impact fee becomes due (i.e., upon submission of a complete building permit application).
2. If a subsequently formed PID pays the actual, reasonable cost for oversizing all or a part of the infrastructure outlined herein, making the PID the recipient of a dollar-for-dollar impact fee credit, then the PID will be reimbursed as follows:
 - a. When the Developer, or a third-party, submit a complete building permit application(s) to build a structure(s) within the Hidden Canyon Planned Development, the applicant will be required to pay the applicable water impact fee;
 - b. Within a reasonable time thereafter, the City will distribute the water impact fee collected to the PID, in accordance with this Agreement and state and local law, reducing the dollar-for-dollar impact fee credit balance accordingly.
3. The right to reimbursement for the actual, reasonable Pioneering Improvements Cost will also be permitted by the Developer, or a subsequently formed PID, if applicable, through recoupment of the proportional share of the actual, reasonable Pioneering Improvements Cost attributable to a Benefited Property(ies) owner(s) or developer(s), whose property and proposed development is adjacent to the Hidden Canyon Planned Development, when that adjacent Benefited Property owner or developer intends to and does connect to the Pioneering Improvements for the benefit of the Benefited Property. The City shall calculate and collect this form of reimbursement as outlined in the body of the Agreement.

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FEE \$ 40.00 BY JIM GUTHRIE



4. Impact fee credits and the right to reimbursement may only be applied within the Hidden Canyon Planned Development. Any transfer of impact fee credits and the right to reimbursement must be in writing and shall incorporate the relevant terms of this Agreement to be valid. A fully executed copy of the written transfer agreement shall be provided to the City.
5. The Developer, or a subsequently formed PID, if applicable, will only be eligible for reimbursement of the total actual, reasonable costs paid for the oversized portion of the infrastructure, and may not recover more than what the individual or entity paid to install and construct the oversized infrastructure or Pioneering Improvements.
6. The City shall maintain records accounting for the dollar balance remaining for impact fee credits/the remaining reimbursable amount. The City shall maintain records for the reimbursement of Pioneering Improvements Cost.
7. If a disagreement arises relating to the form, timing, or method of reimbursement, based on a formal decision of City staff, then the decision of City staff may be appealed, pursuant to the land use appeal requirements, process, and procedure outlined in the Kanab City Land Use Ordinance. Only a formal decision of City staff may be appealed, unless City staff fails to issue a formal decision when reasonable or required to do so. In the circumstances in which the appeal authority finds that City staff has failed to issue a reasonable or required decision, the appeal authority, if deemed appropriate, shall require the City staff to issue a decision as a precursor to going forward with the appeal. The final written decision of the appeal authority is subject to judicial review.

Until fully designed and engineered, the full details and costs of (1) the oversized Public Infrastructure and System Improvements and (2) the Pioneering Improvements are not entirely known. The Parties shall work together in good faith in determining and agreeing upon the specifications and further details of the water storage tank and related water infrastructure, as well as the water and sewer infrastructure composing the Pioneering Improvements.

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VERJEAN CARUSO, KANE COUNTY RECORDER
FEE \$ 40.00 BY JIM GUTHRIE



EXHIBIT "C"

Hidden Canyon Development Property Plan

ENTRY NO. 00208505
09/17/2024 02:12:43 PM B: 0626 P: 0071
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FEE \$ 40.00 BY JIM GUTHRIE

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APARTMENT BUILDING SUMMARY

PARKING REQUIRED

RESIDENTIAL
 (12) 1-BEDROOMS # BLDGS 4 BLDGS = 96 UNITS
 (12) 1-BEDROOMS # BLDGS 4 BLDGS = 96 UNITS
 (6) 2-BEDROOMS # BLDGS 4 BLDGS = 48 UNITS

TOTAL UNITS PROVIDED = 240 UNITS

APARTMENT BLDG #5 CONTAINS:

(12) 1-BEDROOMS # 1 BLDG 12 UNITS
 (12) 2-BEDROOMS # 1 BLDG 12 UNITS
 (5) 3-BEDROOMS # 1 BLDG 5 UNITS

TOTAL UNITS PROVIDED = 29 UNITS

APARTMENT UNIT MIX

1-BEDROOMS = 108 UNITS
 2-BEDROOMS = 96 UNITS
 3-BEDROOMS = 53 UNITS

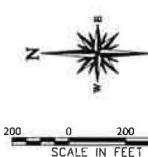
TOTAL UNITS PROVIDED = 269 UNITS

PARKING PROVIDED

FUTURE RESIDENT SPACES
 15 SPACES PER 1-BEDROOM UNIT 108 UNITS X 1 SPACE = 108 SPACES REQUIRED
 2 SPACES PER 2-BEDROOM UNIT 108 UNITS X 2 SPACES = 216 SPACES REQUIRED
 2 SPACES PER 3-BEDROOM UNIT 53 UNITS X 2 SPACES = 106 SPACES REQUIRED
 GUESTS
 1 SPACE / (10) 1-BEDROOM UNIT = 22 SPACES
 1 SPACE / (10) 2-BEDROOM UNIT = 24 SPACES
 1 SPACE / (10) 3-BEDROOM UNIT = 11 SPACES
 LEISURE SPACES (10000 SF.)
 3 SPACES PER 2000 SF = 12 SPACES
 EXTENDED STAY SPACES
 1 SPACE PER UNIT = 80 SPACES
 TOTAL PARKING PROVIDED = 577 SPACES

STORAGE UNIT SUMMARY

10' X 10' UNITS = 96 UNITS
 10' X 20' UNITS = 164 UNITS
 12' X 20' UNITS = 16 UNITS
 RV STORAGE = 27 SPACES
 TRAILER STORAGE(11' X 35') = 12 SPACES
 TRAILER STORAGE(12' X 50') = 25 SPACES



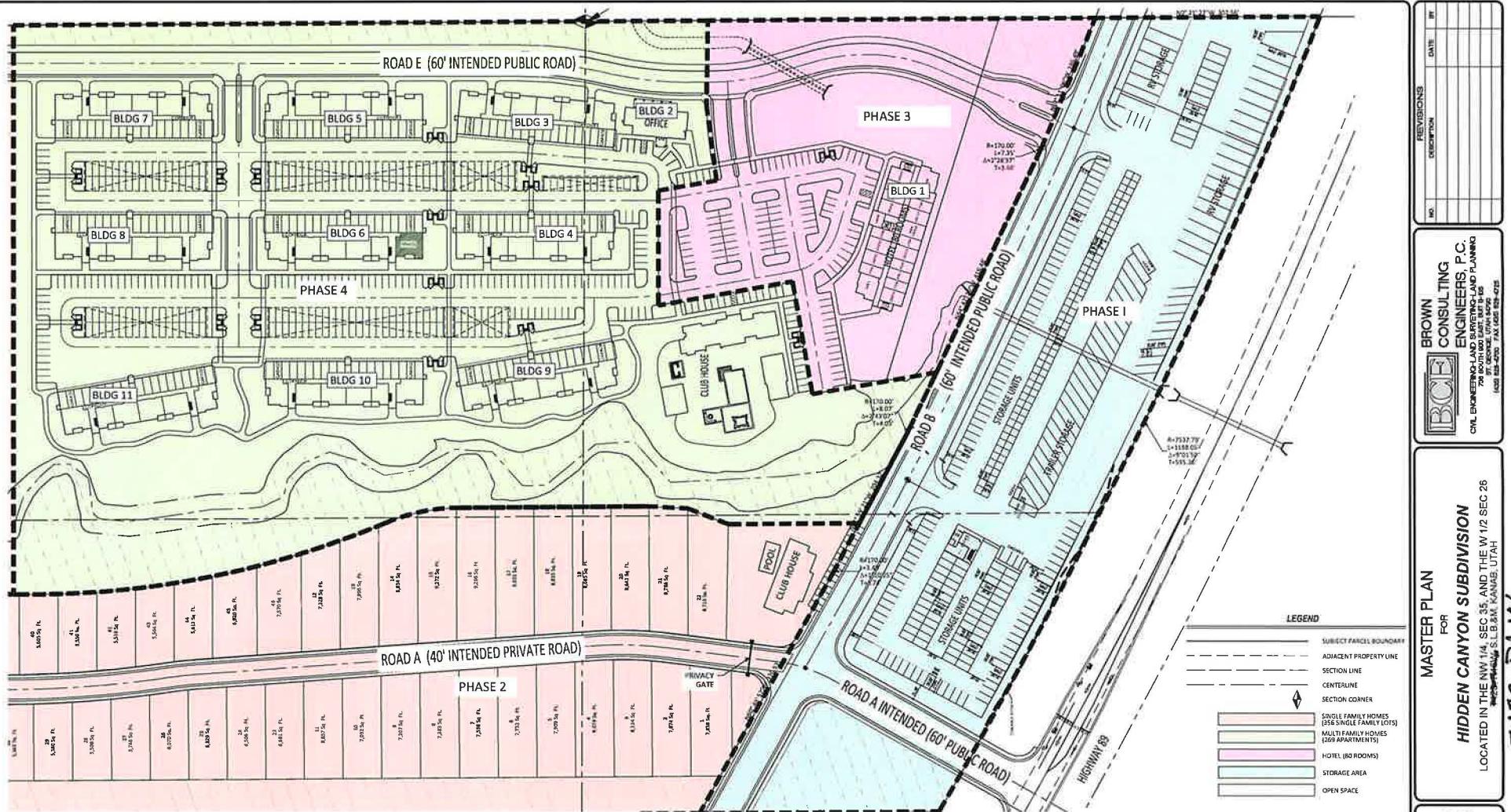
SCALE IN FEET

50' 17" 15' 6" 8' 8" 6' 1" 24' 1" 2"

EAST SECTION LINE SEC. 35, T43S, R6W, KANAB, UTAH

SOUTH SECTION LINE SEC. 35, T43S, R6W, KANAB, UTAH

NO. 100


APARTMENT BUILDING SUMMARY

APARTMENT BUILDING #5 & 6 EACH CONTAIN	
(12) 1-BEDROOMS	8 BLDGS • 56 UNITS
(12) 2-BEDROOMS	8 BLDGS • 56 UNITS
(6) 3-BEDROOMS	8 BLDGS • 48 UNITS
TOTAL UNITS PROVIDED	240 UNITS

APARTMENT BLDG #5 CONTAINS	
(12) 1-BEDROOMS	8 BLDGS • 12 UNITS
(12) 2-BEDROOMS	8 BLDGS • 12 UNITS
(6) 3-BEDROOMS	8 BLDGS • 5 UNITS
TOTAL UNITS PROVIDED	29 UNITS

APARTMENT UNIT MIX	
1-BEDROOMS	108 UNITS
2-BEDROOMS	56 UNITS
3-BEDROOMS	53 UNITS
TOTAL UNITS PROVIDED	269 UNITS

PARKING REQUIRED

REQUIREMENTS	
1 SPACE PER 1-BEDROOM UNIT	108 UNITS 1 SPACE • 108 SPACES REQUIRED
2 SPACE PER 2-BEDROOM UNIT	108 UNITS 2 SPACES • 216 SPACES REQUIRED
2 SPACE PER 3-BEDROOM UNIT	53 UNITS X 2 SPACES • 106 SPACES REQUIRED
OTHER	0 SPACES
1 SPACE PER (5) 1-BEDROOM UNIT	22 SPACES
1 SPACE PER (10) 2-BEDROOM UNIT	22 SPACES
1 SPACE PER (10) 3-BEDROOM UNIT	11 SPACES
LEN. PER 250' X 12' SPACES	LEN. PER 250' X 12' SPACES
LEN. PER 250' X 12' SPACES	LEN. PER 250' X 12' SPACES
EXTENDED STAY UNITS	0 SPACES
EXTEDNED STAY UNITS	0 SPACES
1 SPACE PER UNIT • 80 SPACES	1 SPACE PER UNIT • 80 SPACES
TOTAL PARKING REQUIRED	577 SPACES

PARKING PROVIDED

FUTURE RESIDENT SPACES	• 15 SPACES
FUTURE RESIDENT ACCESSIBLE SPACES	• 1 SPACE
EXTENDED STAY STANDARD SPACES	• 100 SPACES
EXTENDED STAY ACCESSIBLE SPACES	• 10 SPACES
GARAGES	• 162 SPACES
COVERED PARKING STANDARD SPACES	• 224 SPACES
UNCOVERED RESIDENT SPACES	• 218 SPACES
TOTAL PARKING PROVIDED	925 SPACES

STORAGE UNIT SUMMARY

10' X 10' UNITS	• 96 UNITS
10' X 20' UNITS	• 164 UNITS
12' X 20' UNITS	• 112 UNITS
RV STORAGE	• 27 SPACES
TRAILER STORAGE (31' X 15')	• 12 SPACES
TRAILER STORAGE (12' X 50')	• 23 SPACES

PROJECT DATA

TOTAL PROJECT	339 SINGLE FAMILY LOTS 249 MULTI FAMILY UNITS 80 HOTEL ROOMS 705 TOTAL UNITS
TOTAL PROPERTY SIZE	250.23 ACRES
DEVELOPED AREA	170.49 ACRES
DENSITY	7.2 UNITS/ACRE 7.2 HOTEL UNITS/ACRE
RESIDENTIAL AREA	142.79 ACRES
COMMERCIAL/STORAGE AREA	7.70 ACRES
HOTEL AREA	4.51 ACRES
APARTMENT AREA	36.36 ACRES
OPEN AREA	34.10 ACRES
ZONE	PUZ

ENTRY NO. 00208505

09/17/2024 02:12:43 PM B: 0626 P: 0073

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FEE \$ 40.00 BY JIM GUTHRIE

2 OF 4

REVISIONS
EXPLANATION

NO.
DATE
BY

BROWN CONSULTING ENGINEERS, P.C.
CIVIL ENGINEERING AND SURVEYING AND PLANNING
702 SOUTH 800 EAST, SUITE B-100
ST. GEORGE, UTAH 84770
(435) 628-2500 (435) 628-2501

MASTER PLAN FOR HIDDEN CANYON SUBDIVISION
LOCATED IN THE NW 1/4 SEC 35, AND THE SW 1/4 SEC 26
S.L.B. & M., KANAB, UTAH
T43S R6W

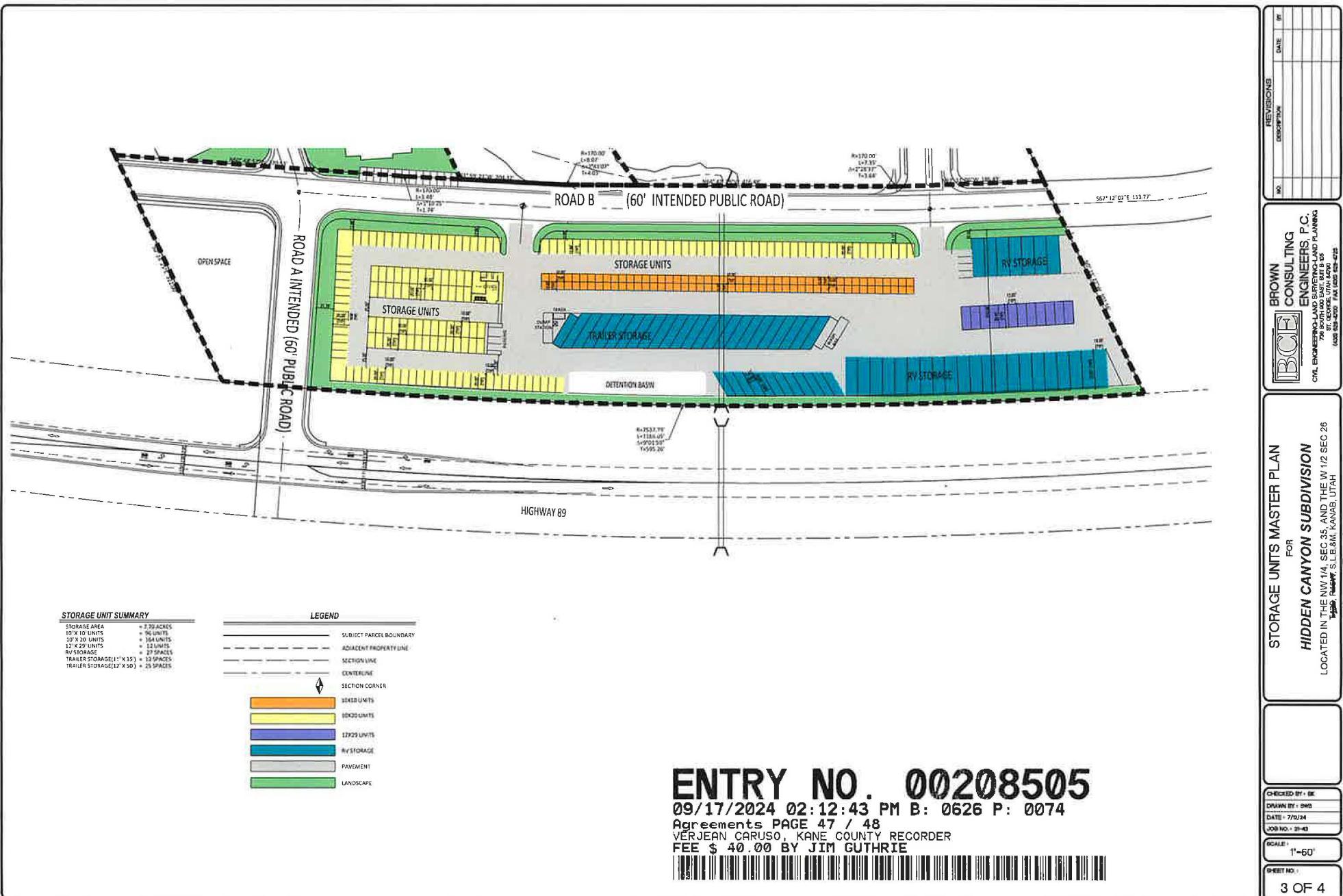
SUBJECT PARCEL BOUNDARY
ADJACENT PROPERTY LINE
SECTION LINE
CENTERLINE
SECTION CORNER

SINGLE FAMILY HOMES
(359 SINGLE FAMILY LOTS)
MULTI FAMILY HOMES
(249 APARTMENTS)
HOTEL (80 ROOMS)
STORAGE AREA
OPEN SPACE

ST. GEORGE
CIVIL ENGINEERING AND SURVEYING AND PLANNING
702 SOUTH 800 EAST, SUITE B-100
ST. GEORGE, UTAH 84770
(435) 628-2500 (435) 628-2501

CHECKED BY: SK
DRAWN BY: SWB
DATE: 7/20/24
JOB NO.: T-140-02

SCALE: 1"-60'
TENT NO. 1



ENTRY NO. 00208505

09/17/2024, 02:12:43 PM B: 0626 P: 0075
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 VÉRITÉAN GARUSO, KANE COUNTY RECORDER
 FEE \$ 40.00 BY JIM GUTHRIE



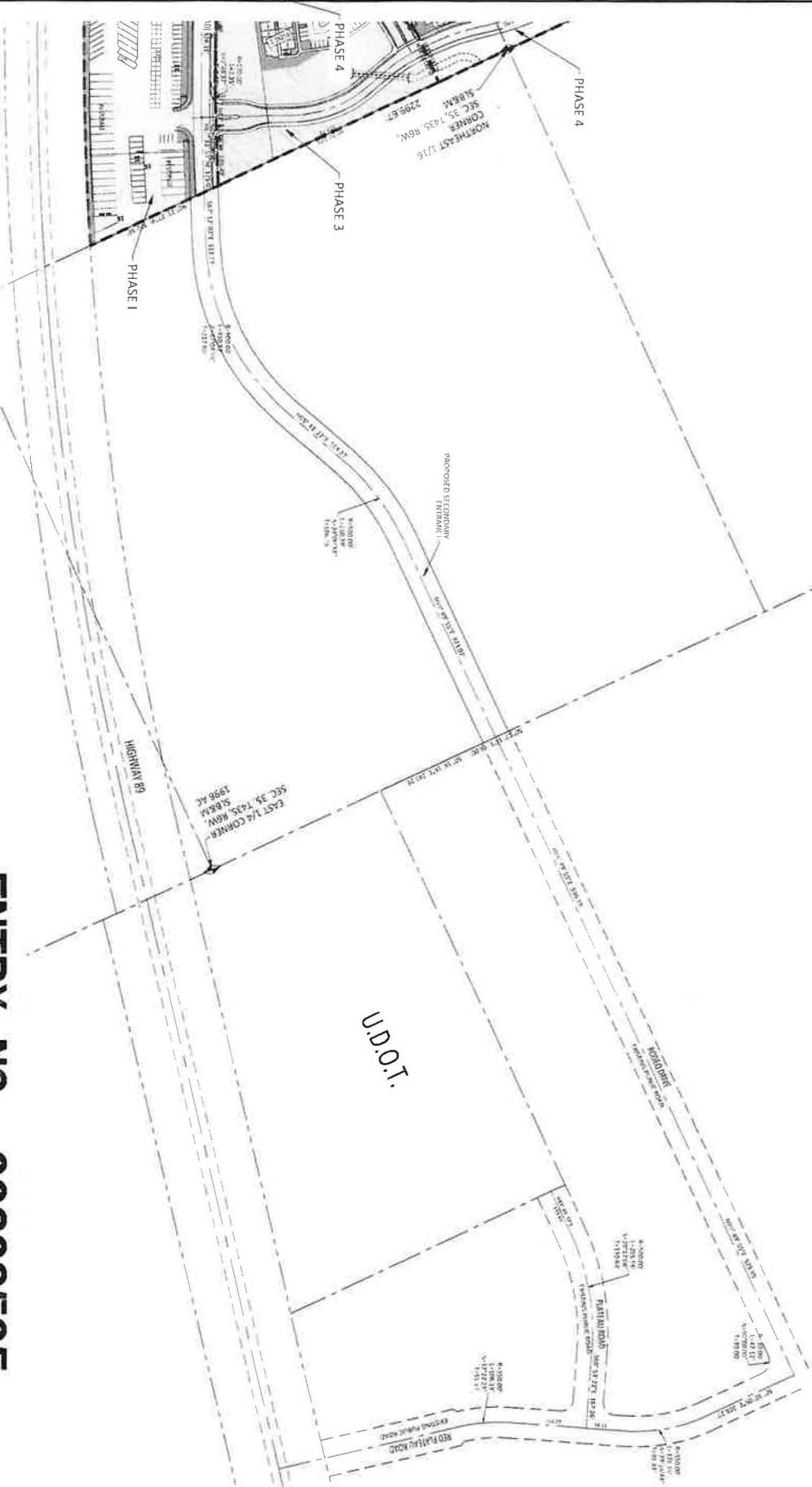
CHECKED BY: <i>[Signature]</i>	PRINTED BY: <i>[Signature]</i>
DATE: 10/24	ON NO. PL-4
FILE # 1-60	SHEET NO. 4 OF 4

MASTER PLAN
 SECONDARY ENTRANCE
 FOR
 HIDDEN CANYON SUBDIVISION
 LOCATED IN THE NW 1/4, SEC 35, AND THE W 1/2 SEC 26
 S.L.B. & M. KANAB, UTAH

T43S R0W

BCE
 BROWN
 CONSULTING
 ENGINEERS, P.C.
 CIVL ENGINEERING-LAND SURVEYING-LAND PLANNING
 730 SOUTH 900 EAST, UNIT 9-10
 P.O. BOX 10229, FAX 800-229-4728
 (435) 628-8229, FAX (435) 628-4728

NO.	DESCRIPTION	DATE	BY
1			



July 18, 2025

Kanab City
Attn: District Advisory Committee
26 North 100 East
Kanab, UT 84741

Re: Letter of Intent to Create a Public Infrastructure District to Facilitate Construction of Public Infrastructure in Relation to the Hidden Canyon Development.

INTRODUCTION

In accordance with the Public Infrastructure Act and the Local District Act (the “District Acts”), JJJ Development, Inc. (the “Applicant”) submits the following letter of intent (“LOI”) to Kanab City (the “City”) for consideration of creation of a Public Infrastructure District (the “PID”) to facilitate the construction of the Hidden Canyon development (the “Development”). It is the Applicant’s understanding, in accordance with the City’s PID policy and the District Acts, that this letter considers the following:

- This LOI represents an initial step in the creation of the PID, and that a positive recommendation from City staff represents an option for the applicant to submit governing documents that present district formation and operation in greater detail.
- A positive recommendation to move forward with governing documents does not represent a commitment by the City to approve the eventual formation of the PID.
- The City and applicant will consider this process as iterative and will work towards a solution that meets the City’s and Applicant’s needs.

OVERVIEW

This letter of intent is to be used by City staff (as determined by City Administration) to make a preliminary determination about the appropriateness of the proposed PID and must be submitted prior to, or in conjunction with, submittal of a draft Governing Document. The information in this letter may be utilized to advise the Mayor, City Council, and other policymakers about district matters. This letter represents the Applicant’s request to be considered for a PID for funding public infrastructure needs.

It is the Applicant’s understanding that the formation and use of the Public Infrastructure District tool is in accordance with the following key components of the District Acts and in accordance with prior discussions with the City:

- The City has the approving powers for PIDs, and will work with the Applicant in determining an appropriate use of funds, debt limit, and tax implications.
- The purpose of the PID tool is to provide for public infrastructure and increased amenities for commercial and residential developments.
- The PID tool is being considered to bridge a funding gap that otherwise would not permit the Development to move forward as planned unless development plans are altered.

- The PID contemplates financing with special assessments on the properties within the boundaries of the proposed district and does *not* contemplate the use of a property tax mill levy. It is the intention of the Developer to pay off any special assessment obligation associated with the PID at or prior to transfer of ownership to the end user (e.g., homeowners).
- The special assessment only affects property within the boundaries of the proposed district, and all property owners must approve the formation of the district.
- In accordance with the Hidden Canyon Development Agreement and System Improvements Reimbursement Agreement, the applicant has previously indicated its intent to petition the City to form a PID to help fund a portion of the public improvements necessary for the Development.
- All proceeds from the PID will be used for publicly owned infrastructure.
- The PID will allow for the issuance of bonds that are not the liability of the City. There is no impact to the City's credit rating, no recourse, and no requirement to backstop the bonds with additional revenue sources.

BENEFITS OF DISTRICT IN THIS DEVELOPMENT

The PID will allow for more efficient funding than otherwise available to provide for public infrastructure for the Development. Infrastructure costs have significantly increased in past years due to notable macroeconomic conditions, thereby resulting in development costs that question overall feasibility of all aspects of the Development. Accordingly, the use of the PID will help the Development (approximately 257 acres of vacant land in east Kanab just off Highway 89 to be developed into a desirable mixed-use master planned community) to be financially viable. The PID helps alleviate these constraints and thereby promotes timely buildout of the Development in alignment with the City's desires for the Development as defined in the Hidden Canyon Development Agreement. The Development is planned to include an upscale residential senior community; high-scale residential apartments; and commercial and retail space; which is expected to contribute to the overall infrastructure and improvements of the City for future growth and promote economic development including additional employment opportunities, property and sales tax benefits, in addition to much needed housing supply.

COMPLIANCE WITH CITY'S PID POLICY

The Applicant acknowledges that the City has adopted a PID Policy Statement that sets forth the requirements for the LOI. Specifically, Section 1 of the PID Policy Statement establishes the required contents for an LOI. This section addresses each of those requirements in turn.

1. Description of District

The proposed PID is anticipated to be located on approximately 257 acres of unimproved real property located in east Kanab adjacent to Highway 89 on two existing parcels (Tax ID#s: K-14-15-Annex & K-15-1-Annex

2. Description of Proposed Development

The Applicant intends to construct 705 total residential units including 356 single family lots (55 and over homes), 269 multi-family units, 80 hotel rooms. Additionally, the Applicant intends to construct approximately 90,000 square feet of commercial storage.

3. Summary of Needed Infrastructure, Services and Facilities

a. Currently Expected Development Scenario.

The Applicant anticipates developing residential, commercial, retail, and open space within the boundaries of the PID. It is expected that, where applicable, the City and the landowners will enter into development agreements regarding the phasing, type, number, and intensity of uses within the boundaries. By doing so, the City and the landowners can work together to plan development of this area in a manner that is mutually beneficial.

b. Required Local and Regional Infrastructure and Facilities.

Development within the District requires substantial local and regional infrastructure. Specifically, the needed infrastructure to support these intended uses will include: sewer, water, water storage, electrical, public roads, internet.

The Applicant anticipates that all public improvements will be designed and constructed in accordance with the standards and specifications of the City and other controlling public entities having proper jurisdiction.

c. Regional and Local Infrastructure the Proposed District is to Provide.

The Applicant is requesting that the PID fund a portion of the required local and regional infrastructure (the scope and cost of which is set forth in greater detail in the attached Exhibit B).

d. Estimated Construction Costs for the Proposed District Improvements.

Estimated costs for the infrastructure improvements within the Development are constantly changing. As of the date of this LOI, estimated costs of infrastructure improvements are approximately \$33 Million Dollars as more fully described in Exhibit B.

e. General Description of Phasing of Construction Based on Development Projections.

The development is intended to be built out in 16 phases over the course of roughly 10 years. Phasing of the project is more particularly shown in Exhibit C.

f. Anticipated Maximum or Fixed Maximum Mill Levy Required to Meet Debt Service of the District.

While the City's PID policy allows for PID applicants to request up to 10 mills, the Applicant *does not* anticipate requesting a mill levy for the proposed PID. The PID contemplates financing with special assessments on the properties within the boundaries of the proposed district. It is the intention of the Developer to pay off any special assessment obligation associated with the PID at transfer of ownership to the end user (e.g., homeowners).

g. Analysis of proposed mill levies in light of outstanding debt and mill levies of other taxing entities affecting the area.

Not applicable. No PID mill levy is being requested.

h. Sample plan of finance depicting the possible sources and uses of funds for the District.

See Exhibit D

i. A summary overview of the differences between the proposed development with a Public Infrastructure District in place and the plan without a Public Infrastructure District.

The PID enables access to public capital markets allowing the applicant to access low interest financing to fund the substantial upfront costs of public infrastructure improvements, which, in turn, reduces the construction timeline and enables the provision of enhanced community amenities not otherwise available. For example, rather than the Applicant having to wait to collect revenue upon sale of developed land to put in additional infrastructure, it will be able to provide all infrastructure up front, which in turn, reduces the impact to the community and its surrounding neighbors (i.e. no piecemeal construction improvements). The absence of PID financing would likely elongate the construction timeline or possibly render the project as contemplated infeasible. The PID, therefore, helps provide the timely delivery of a desirable mixed use community which is aligned with the currently approved development agreement for the Hidden Canyon project.

4. Proposed timeline for District creation.

Subject to the City's schedule, the applicant desires to create the Public Infrastructure District by August 31, 2025.

5. Acknowledgement of property owner and registered voter consent requirements.

All of the property owners within the boundaries of the proposed District are included in this LOI. By so signing, the property owners within the boundaries of the District consent to the submission of this LOI and further acknowledge that they must each sign a formal consent prior to a hearing for the governing documents that they consent to the issuance of debt in an amount sufficient for the proposed plan of financing for the District.

6. Disclosure of any conflicts of interest between the applicant and the officers and employees of the City.

The applicant is presently unaware of any conflicts of interest existing between the Applicant and any employees or officers of the City.

7. Copies of signed engagement letters.

The Applicant has engaged their own legal counsel and technical/financial consultants in the preparation of this LOI and other items related to the District. The Applicant also understands that the City may require review of this LOI and the governing documents through third parties. Accordingly, the Applicant agrees to pay for the City's costs in having such documents, related to this LOI and the District, reviewed by third parties.

Kindest Regards,
JJJ Development, Inc.

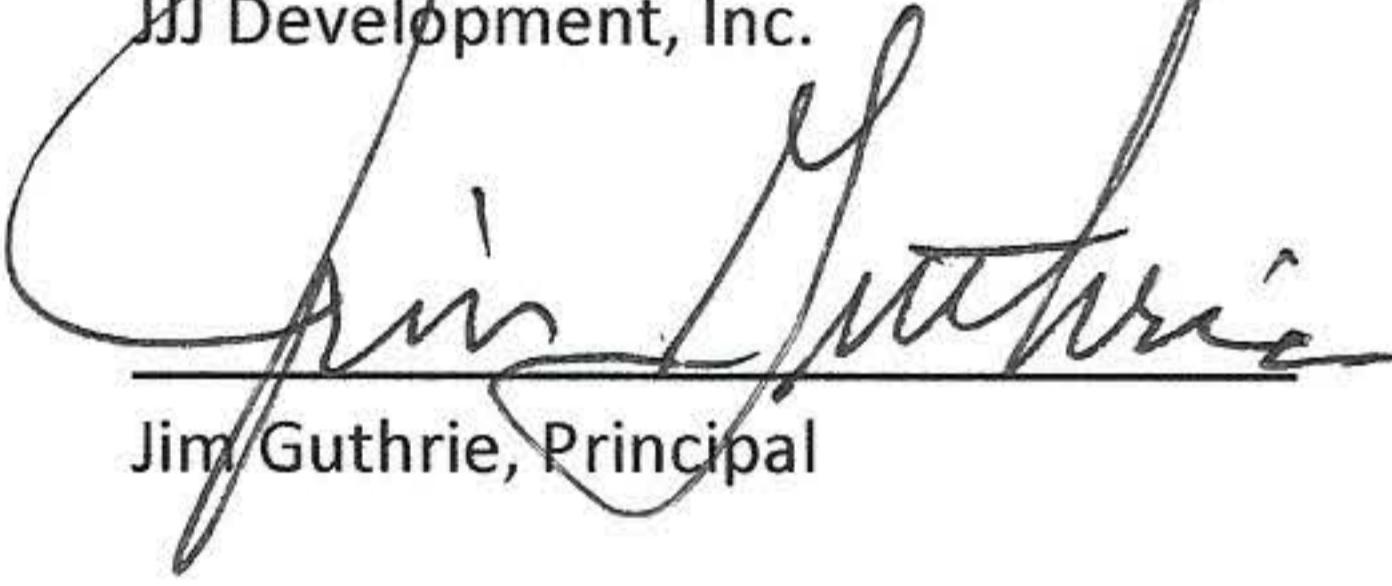

Jim Guthrie, Principal

EXHIBIT A
District Boundaries

Hidden Canyon Public Infrastructure District

The PID Boundary is anticipated to encompass the following two existing parcels.

Parcel Number K-14-15-ANNEX

ALL OF SECT'L LOTS 7 & 8; THE S/2SE/4NE/4; & THE E/2SE/4 OF SEC 26 T43S R6W SLB&M, CONT 180.37 AC, M/L.

ALSO: BEG AT THE SW COR OF SECT'L LOT 6 SEC 26 T43S R6W SLB&M & RUN TH E 1,320.0 FT, M/L, ALG THE LOT LINE TO THE SE COR OF SAID LOT 6; TH N 1,320.0 FT, M/L, ALG THE LOT LINE TO THE NE COR OF SAID LOT 6; TH SW'LY 1,866.76 FT, M/L, TO THE PT OF BEG. CONT 20 AC, M/L.

Parcel Number K-15-1-ANNEX

PARCEL 1: THAT PORTION OF THE E/2W/2NE/4 OF SEC 35 T43S R6W SLB&M LYING N'LY OF US HWY 89. CONT 36.0 AC, M/L.

PARCEL 2: THAT PORTION OF THE E 400.0 FT OF THE W/2W/2NE/4 OF SEC 35 T43S R6W SLB&M LYING N'LY US HWY 89. CONT 21.0 AC, M/L

EXHIBIT B

Estimated Construction Costs for the Proposed Improvements

Estimate of Probable Costs	
Grading	\$11,181,620.08
Water	\$6,502,497.43
Sewer	\$3,263,676.50
Street Improvements	\$8,291,173.01
Power	\$2,852,376.40
Storm Drain	\$1,112,808.63
	\$33,204,152.05

Exhibit C
Preliminary Site Plan

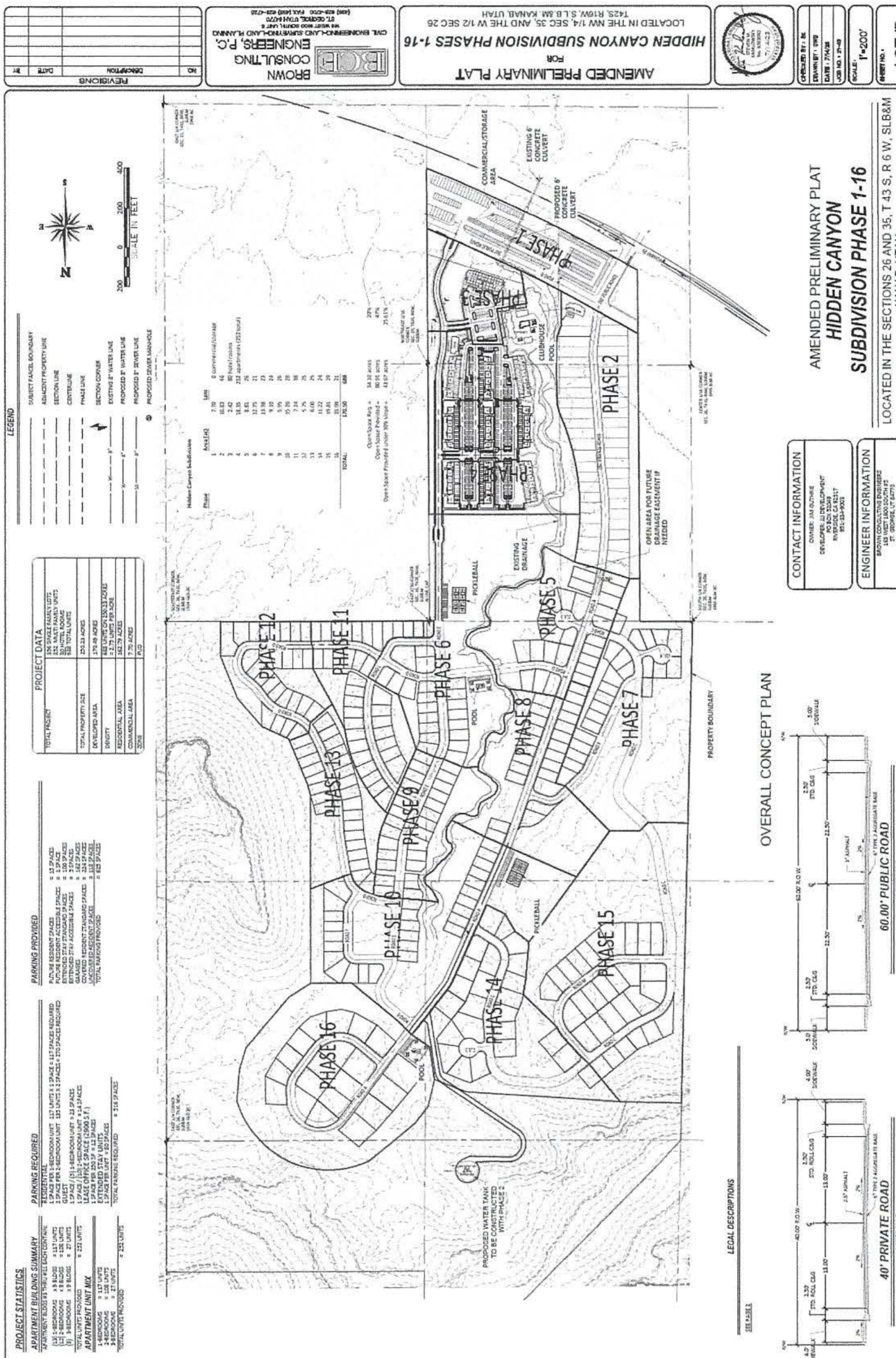


Exhibit D
Sample Plan of Finance

SOURCES AND USES OF FUNDS

HIDDEN CANYON PUBLIC INFRASTRUCTURE DISTRICT
KANE COUNTY, UTAH
ASSESSMENT LIEN REVENUE BONDS, SERIES 2025
\$28.700M Par Amount
Non-Rated, 12/1/2054 Final Maturity

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|               |           |
|---------------|-----------|
| Dated Date    | 6/01/2025 |
| Delivery Date | 6/01/2025 |

### Sources:

|                |               |
|----------------|---------------|
| Bond Proceeds: |               |
| Par Amount     | 28,700,000.00 |
|                | 28,700,000.00 |

### Uses:

|                        |               |
|------------------------|---------------|
| Project Fund Deposits: |               |
| Project Fund           | 20,183,000.00 |

|                           |              |
|---------------------------|--------------|
| Other Fund Deposits:      |              |
| Capitalized Interest Fund | 5,381,250.00 |
| Debt Service Reserve      | 2,261,750.00 |
|                           | 7,643,000.00 |

|                   |            |
|-------------------|------------|
| Cost of Issuance: |            |
| Cost of Issuance  | 874,000.00 |

|  |               |
|--|---------------|
|  | 28,700,000.00 |
|--|---------------|

**NET DEBT SERVICE**  
**HIDDEN CANYON PUBLIC INFRASTRUCTURE DISTRICT**  
**KANE COUNTY, UTAH**  
**ASSESSMENT LIEN REVENUE BONDS, SERIES 2025**  
**\$28.700M Par Amount**  
**Non-Rated, 12/1/2054 Final Maturity**

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Period Ending	Principal	Interest	Total Debt Service	Debt Service Reserve	Capitalized Interest Fund	Net Debt Service
12/01/2025		896,875.00	896,875.00		896,875	
12/01/2026		1,793,750.00	1,793,750.00		1,793,750	
12/01/2027		1,793,750.00	1,793,750.00		1,793,750	
12/01/2028		1,793,750.00	1,793,750.00		896,875	896,875.00
12/01/2029	468,000	1,793,750.00	2,261,750.00			2,261,750.00
12/01/2030	497,000	1,764,500.00	2,261,500.00			2,261,500.00
12/01/2031	528,000	1,733,437.50	2,261,437.50			2,261,437.50
12/01/2032	561,000	1,700,437.50	2,261,437.50			2,261,437.50
12/01/2033	596,000	1,665,375.00	2,261,375.00			2,261,375.00
12/01/2034	633,000	1,628,125.00	2,261,125.00			2,261,125.00
12/01/2035	673,000	1,588,562.50	2,261,562.50			2,261,562.50
12/01/2036	715,000	1,546,500.00	2,261,500.00			2,261,500.00
12/01/2037	759,000	1,501,812.50	2,260,812.50			2,260,812.50
12/01/2038	807,000	1,454,375.00	2,261,375.00			2,261,375.00
12/01/2039	857,000	1,403,937.50	2,260,937.50			2,260,937.50
12/01/2040	911,000	1,350,375.00	2,261,375.00			2,261,375.00
12/01/2041	968,000	1,293,437.50	2,261,437.50			2,261,437.50
12/01/2042	1,028,000	1,232,937.50	2,260,937.50			2,260,937.50
12/01/2043	1,092,000	1,168,687.50	2,260,687.50			2,260,687.50
12/01/2044	1,161,000	1,100,437.50	2,261,437.50			2,261,437.50
12/01/2045	1,233,000	1,027,875.00	2,260,875.00			2,260,875.00
12/01/2046	1,310,000	950,812.50	2,260,812.50			2,260,812.50
12/01/2047	1,392,000	868,937.50	2,260,937.50			2,260,937.50
12/01/2048	1,479,000	781,937.50	2,260,937.50			2,260,937.50
12/01/2049	1,572,000	689,500.00	2,261,500.00			2,261,500.00
12/01/2050	1,670,000	591,250.00	2,261,250.00			2,261,250.00
12/01/2051	1,774,000	486,875.00	2,260,875.00			2,260,875.00
12/01/2052	1,885,000	376,000.00	2,261,000.00			2,261,000.00
12/01/2053	2,003,000	258,187.50	2,261,187.50			2,261,187.50
12/01/2054	2,128,000	133,000.00	2,261,000.00	2,261,750		-750.00
	28,700,000	36,369,187.50	65,069,187.50	2,261,750	5,381,250	57,426,187.50

Mayor
Colten Johnson
City Council
Arlon Chamberlain
Scott Colson
Chris Heaton
Boyd Corry
Peter Banks



KANAB

— UTAH —

City Manager
Kyler Ludwig
City Attorney
Kent Burggraaf
City Recorder
Celeste Cram
City Treasurer
Danielle Ramsay

August 5, 2025

JJJ Development, Inc.

Follow-up to Letter of Intent – Hidden Canyon Public Infrastructure District

Dear Jim Guthrie,

The District Advisory Committee (DAC) has completed its initial review of your July 18, 2025 Letter of Intent (LOI) for the creation of a Public Infrastructure District (PID) in support of the Hidden Canyon Development. To assist the DAC in preparing a thorough and informed recommendation to the Kanab City Council, we are requesting additional information and clarification in the following areas:

Detailed Cost Estimates

In Exhibit B of your LOI, you provided an estimate of probable costs for the proposed infrastructure. To better determine which costs may be tax-exempt and eligible for PID financing, we request:

- A more detailed breakdown of all cost categories listed in Exhibit B.
- Specific information on what is included in the grading costs and power costs.
- An indication of which items you believe qualify for tax-exempt financing under applicable statutes.

Developer Past Performance

To evaluate capacity and historical performance, please provide:

- Examples of similar projects completed by JJJ Development, including:
 - Location and scope.
 - Types of infrastructure constructed.
 - Financing structure used (including any public-private partnerships or special district financing).
 - Timeline from inception to completion.

Revenue Projections

To better understand the financial viability and absorption of the project, please provide:

- Projected sales and absorption rates by product type (e.g., single-family, multi-family, commercial, hotel).
- Detailed revenue estimates with pricing assumptions.
- Third-party or available market data supporting these projections.

— A Western Classic —

Public Benefit Analysis

The DAC would like more clarity on how the PID will provide tangible public benefits. Please provide a comparison between the project with PID financing and the project without PID financing, addressing:

- Changes in timing and phasing of the development.
- Differences in infrastructure scope and quality.
- Amenities or enhancements enabled by PID funding.

The DAC's goal is to provide the City Council with a recommendation that is thorough, transparent, and supported by complete and accurate information. We value your cooperation in this process and look forward to collaborating with you to move the Hidden Canyon Development forward in a way that serves the interests of both the project and the Kanab community.

Sincerely,
Kyler Ludwig
Kanab City Manager
On behalf of the District Advisory Committee

August 27, 2025

Kanab City
Attn: District Advisory Committee
c/o: Kyler Ludwig
26 North 100 East
Kanab, UT 84741

Re: Response to questions from the District Advisory Committee (DAC) regarding the Letter of Intent (submitted on July 18, 2025) to Create a Public Infrastructure District to Facilitate Construction of Public Infrastructure in Relation to the Hidden Canyon Development.

Dear Kyler Ludwig,

On behalf of JJJ Development, Inc. (the Applicant) we appreciate the DAC's initial review of the Letter of Intent and Petition to create the Hidden Canyon Public Infrastructure District, originally submitted on July 18, 2025. Below, please find responses to the DAC's request for additional information.

Detailed Cost Estimates

A more detailed breakdown of costs initially provided in Exhibit B of the original LOI can be found in the below (see Exhibit A). As requested, the updated table provides a more detailed breakdown of all cost categories, specific information on what was included in the grading costs and power costs, and an indication of which items are anticipated to qualify for tax-exempt financing under applicable statutes.

Developer Past Performance

To help the DAC evaluate capacity and historical performance, a complete Resume of the Applicant has been furnished in Exhibit B.

Revenue Projections

To assist the DAC in understanding the financial viability and absorption of the project, a development summary with anticipated pricing assumptions has been provided in Exhibit C. Additionally, a third-party appraisal completed by Colliers of Phases 1, 2, 5, 8, and 14, which are anticipated to be included in the assessment area for the first bond issuance of the PID has been attached for reference. Please note that while the development summary provided includes all phases of the project (Phases 1-16), the District would anticipate financing the project over multiple series of bonds corresponding with the phasing of the project. The initial bond is expected to include Phases 1, 2, 5, 8, and 14 of the project, which is expected to include 122 single family lots and one commercial parcel designated for self-storage use.

Public Benefit Analysis

The PID is expected to more efficiently finance enhanced, tangible public benefits that are expected to serve the interests of both the project and the broader Kanab community. Such enhanced benefits include, but are not limited to, a one-million-gallon water tank (upsized from the 800,000-gallon water tank needed to serve the Hidden Canyon development), additional enhanced infrastructure (e.g., 12-inch transmission and distribution pipeline, in lieu of an 8-inch pipeline, and other water-related infrastructure with capacity to serve the Hidden Canyon development as well as other future developments adjacent thereto), within the broader Kanab community, as well as a frontage road built to the City's specifications. The absence of PID financing could delay the start of construction by a year or more, elongate the construction timeline, or possibly render the project as contemplated infeasible, as the Applicant would need to seek alternative forms of more expensive and less efficient debt or require substantial changes to the development plans as presently contemplated to reduce the upfront cost of infrastructure improvements.

Kindest Regards,

JJJ Development, Inc.

Jim Guthrie, Principal

EXHIBIT A
Detailed Cost Estimates
Hidden Canyon Phases 1-16 (All Phases)*

	Estimated Private	Estimated Public	Total
Grading			
Earthwork (992,209 cy cut, 1,470,498 fill)	\$2,510,535.90	\$2,510,535.90	\$5,021,071.80
Overexcavation (17' Average)	\$2,625,000.00	\$2,625,000.00	\$5,250,000.00
Water			
8" C900 Water Line		\$620,087.92	\$620,087.92
1" Water Line to storage building, wash bay, and dump station		\$9,408.00	\$9,408.00
Water Service to lots (3/4")		\$511,940.00	\$511,940.00
Water Service to Amenities (3/4")		\$9,150.00	\$9,150.00
8" Gate Valve		\$171,000.00	\$171,000.00
12" C900 Water Line		\$956,823.30	\$956,823.30
Fire Hydrant		\$312,352.00	\$312,352.00
12" Gate Valve		\$78,060.00	\$78,060.00
12" Pressure Reducing Valve		\$34,378.00	\$34,378.00
8" Pressure Reducing Valve		\$16,855.00	\$16,855.00
8" Air/Vac Valve		\$6,528.00	\$6,528.00
Raise/Lower Valve (with concrete collar)		\$86,400.00	\$86,400.00
Booster Pump Vault Upgrade		\$100,000.00	\$100,000.00
Booster Pump (400 HP)		\$60,000.00	\$60,000.00
1 Million Gallon Concrete Water Tank		\$3,000,000.00	\$3,000,000.00
Sewer			
8" SDR-35 Sewer Line		\$992,418.81	\$992,418.81
60" Manhole		\$873,796.00	\$873,796.00
4" Sewer Lateral to lots		\$635,450.00	\$635,450.00
4" Sewer Lateral to Amenities		\$9,050.00	\$9,050.00
6" SDR-35 Sewer Line		\$16,326.56	\$16,326.56
2" PE pressure sewer line		\$7,743.00	\$7,743.00
4" PE Pressure sewer line		\$14,022.50	\$14,022.50
Lift Station (30 hp) complete		\$100,000.00	\$100,000.00
Lift Station (15 hp) complete		\$50,000.00	\$50,000.00
Lift Station (5hp) complete		\$45,000.00	\$45,000.00
Adjust Manhole rim w/ Concrete Collar		\$254,100.00	\$254,100.00
Street Improvements			
3" Asphalt over 6" type II Aggregate Base		\$2,921,508.20	\$2,921,508.20
4" thick conc. sidewalk		\$1,310,161.50	\$1,310,161.50
30" roll type curb & gutter		\$2,856,280.00	\$2,856,280.00
6' Cross Gutter		\$245,791.00	\$245,791.00
7" asphalt over 6" type II AB over 18" borrow (hwy 89)		\$187,478.12	\$187,478.12
Paint striping/markings (highway 89)		\$9,782.50	\$9,782.50
Traffic Control - HWY 89 Turn Lane		\$75,000.00	\$75,000.00
Survey / Machine Control Model - HWY 89 Turn Lane		\$10,000.00	\$10,000.00
Storm Drain			
Curb Inlet (4x4 box) less than 8' deep		\$181,434.00	\$181,434.00
18" HDPE Storm Drain pipe		\$102,339.04	\$102,339.04
24" HDPE Storm Drain pipe		\$2,642.50	\$2,642.50
48" RCP Storm Drain pipe		\$80,400.00	\$80,400.00
72" RCP Storm Drain pipe		\$149,254.20	\$149,254.20
Conc. Headwall structure (8' tall)		\$30,720.00	\$30,720.00
Detention Basin (less than 10,000 cu. ft.)		\$139,400.00	\$139,400.00
24" Rip Rap (48" thick)		\$336,000.00	\$336,000.00
Telephone			
Connections	\$544,500.00		\$544,500.00
Cable TV			
Connections	\$544,500.00		\$544,500.00
Power			
Single Family lots	\$1,887,600.00		\$1,887,600.00
Apartment units	\$672,500.00		\$672,500.00
Commercial Lot	\$60,000.00		\$60,000.00
MISC.			
Street Monuments (Class 1)	\$9,750.00		\$9,750.00
Street/Stoo Sign	\$24,000.00		\$24,000.00

*Notes: Cost shown above are preliminary estimates; actual costs are subject to change. The above estimates have been provided by Brown Consulting Engineers (BCE) based in St. George, UT. Actual publicly eligible infrastructure costs to be financed by the PID would be determined by a third-party District engineer.

EXHIBIT B
Developer Past Performance

JIM D. GUTHRIE
1002 E Chinle Drive
Kanab, UT 84741
P O Box 239 Kanab, UT 84741
951-334-9003
Jim@GuthrieCompanies.com

RESUME

Mr. Jim D. Guthrie is a successful, seasoned real estate, development and construction professional with more than 50 years of experience. His expertise is in acquiring land for development, seeing it through the design, approval and permitting processes and building out high quality, sought-after single and multi-family residential projects as well as light industrial/office projects on time and under budget. His extraordinary vision, knowledge, tireless energy, creativity and passion have provided him with all he needs to take on developments that others would not attempt. Jim lives and works by the words of Carl Sandburg, "Nothing happens...but first a dream".

EDUCATION

Bachelor of Science in Biology 1966
Loma Linda University (La Sierra University), Riverside, CA

LICENSES

General Contractors License – UT # 12180079-5501	Exp 11/2025
General Contractors License - #942377	2010
General Contractors License - #292209	1974-2009
Real Estate Brokers License - #00342292	1968-2018

PROFESSIONAL EXPERIENCE

AFG Development, LLC – Member	2013 - present
Gasification Technologies, LLC – Managing Member	2016 - present
Guthrie-Richter, LLC – Managing Member	2000 - present
J & D Cattle Company, LLC – Managing Member	2004 - present
JDG, LLC – Managing Member	1999 - present
J D Guthrie, LLC – Managing Member	1999 - present
JJJ Development, Inc. – President	2019 - present
JJJ Management, LLC – Managing Member	2019 - present
Viresco Energy, LLC - Managing Member	2004 - 2018
Jim Guthrie Construction, Inc. - President	1995 - 2009
Guthrie Company - Partner	1980 - 1995
Jim Guthrie Construction - Principal	1970 - 1980
Canyon Crest Homes - Sales Manager / Broker	1966 – 1969
JJJ Construction, LLC – Managing Member	2010 – 2021
Lincoln Marble, LLC – Managing Member	2014 - 2022

PROFESSIONAL AND COMMUNITY ORGANIZATIONS

Victoria Club Membership Committee - Chair	2002 - 2003
Law Enforcement Appreciation Committee - Member	1994 - 1997
Greater Riverside Area Urban League - President's Council	1994 - 1995
March Joint Powers Authority Technical Advisory Committee	1994 - 1995
Infrastructure Subcommittee	
Transportation NOW (a Riverside Transit Agency committee)	1993 - 1998
Chairman	
Inland Empire National Bank - Member, Board of Advisors	1993 - 1996
Silver Eagles - Board of Directors	1992 - 2002
City of Riverside Downtown Task Force- Executive Board Member	1992 - 1994
Riverside County Law Enforcement Museum - Board of Directors	1990 - 1996
Parkview Community Hospital - Mini Grand Prix Chairman	1993
California Inland Empire Council Boy Scouts of America	1992
Distinguished Citizen Awards Dinner – President	
Riverside Downtown Association - General Plan Steering Committee	1992
President	
Transportation Now Coalition - Chairman	1992 - 1998
Law Enforcement Appreciation Dinner - Chairman	1995 - 1996
Boy Scouts of America - Executive Board Member	1996 - 1997
Member Riverside City & County Task Force –	1995 - 1996
Magnolia Ave Transportation Corridor	
Board Member of New Trac (91 Freeway Toll Road)	1997 - 1999
Public Non-Profit Corporation	
Recipient of "Tranny Award" from Cal Trans	1995 - 1996

PROJECT EXPERIENCE

– All projects were completed in the City of Riverside or County of Riverside unless otherwise noted

CONSTRUCTION

Custom, Semi-Custom Spec Homes, & Remodel

- Twin Lakes Spec Homes (8) (Completed in 1974)
- Mockingbird Spec Homes (10) (Completed in 1979)
- Old Bridge Custom Spec Homes (4) (Completed in 1981)
- Solar Terra Underground Home (Completed in 1981)
- Saddle Creek Custom Spec Homes (2) (Completed in 1976)
- Beall Residence – Remodel (Completed in 1985)
- Northbridge Rental – Remodel (Completed in 1982)
- Graham Residence (Completed in 1990)
- Gonzalez Residence – Remodel/Addition (Completed in 1985)
- Childress Residence – Granny Flat (Completed in 1982)
- Matuga Residence – Kitchen/Bath Remodel (Completed in 1982)
- Bermuda Dunes Spec Homes (Completed in 1985)
- 4 X Guthrie Custom Homes – 2 @ Eagle Crest & 2 @ Lochmoor (Completed in 1999)
- Eagle Crest Estates – 1 Semi-Custom Spec Home (Completed in 2001)
- 13 Semi-Custom Spec Homes Sycamore Canyon Estates (Completed in 2011)
- 9 Semi-Custom Spec Homes – Vista de Victoria (Completed in 2007)

- 14 Semi Custom Homes – Hidden Canyon (Completed in 2007)
- Custom Ranch Home – 6,000 sq ft – Alton, UT (Completed in 2007)
- Elk Ridge Spec Home – 2,800 sq ft – Alton, UT (Completed in 2017)
- Custom Ranch Home – 2,700 sq ft – Alton, UT (Completed in 2024)
- Victoria Park Residence – 2,500 sq ft – Remodel (Completed in 2019)

Apartments / Condominiums:

- Bunker Hills Apartments (Completed in 1973) 54 Units
- Palm Garden Apartments (Completed in 1974) 22 Units
- Ranch Apartments I & II (Completed in 1973) 57 Units
- Canyon Creek Apartments/ Condominiums (Completed in 1981) 416 Units
- Crown Point Apartments (Completed in 1987) 69 Units

Office / Industrial:

- Brockton Professional Building (Completed in 1987) 16,000 sq ft
- Springbrook Center Industrial Park (Completed in 2001) 43 Acres
- Sunnymead Dental Office (Completed in 1998) 4,500 sq ft
- First American Title Company Remodel, Riverside (Completed in 2003)
- Riverside Dental Group, Office Remodel, Riverside (Completed in 2004)
- Springbrook Partners II Warehouse (Completed in 1997) 37,189 sq ft
- Dental Associates of Riverside (Completed in 1998) 10,604 sq ft
- First American Title Company Exterior Remodel (Completed in 1995) 45,000 sq ft
- Flowerloft (Completed in 1992) 3,000 sq ft
- First American Title Company Interior Remodel (Completed in 1994) 17,000 sq ft
- Simple Simon Restaurant (Completed in 1993) 4,000 sq ft
- Ross Landis/Pau – Tenant Improvement/Seismic (Completed in 1994) 9,500 sq ft
- Garner Road Warehouse (Completed in 1996) 45,000 sq ft
- Garner Road Warehouse (Completed in 1998) 60,000 sq ft
- 555 N. Main - Industrial (Completed in 1999) 20,000 sq ft
- 4200 Garner Road – Industrial (Completed in 2001) 37,000 sq ft
- AT&T Double Switch Building (Completed in mid 90's) 42,000 sq ft
- 1401 Research Park office (Completed in 2001) 24,000 sq ft
- 1451 Research Park office (Completed in 2001) sq ft
- 4225 Garner Road Office/Warehouse (Completed in 2001) 22,500 sq ft
- Office-SBC (Completed in 2011) 24,000 sq ft
- Office Bldg (Completed in 2011) 20,000 sq ft
- Industrial 48,652 sq ft
- 1501 Research Park - Office Bldg (Completed in 2015) 30,000 sq ft
- 1201 Research Park - University Research Park (Completed in 2015) 20,000 sq ft
- Sycamore Industrial Park -7 Commercial Buildings (Completed in 2011) 19,391-37,189 sq ft
- 585 Technology Ct - Office Bldg (Completed in 2015) 13,500 sq ft
- Eliminator Boat – Showroom 24312 Daytona Cv/Perris (Completed in 2009) 90,000 sq ft

- Eliminator RV/Boat Storage - 24194 Daytona Cv/Perris (Completed in 2009)
276,996 sq ft
 - 7 Commercial/Indus Bldgs - 21366-21478 Harvill/Perris (Completed in 2009)
7,800-24,800 sq ft
 - 585 Technology Court First 5 – Office Build-out (Completed in 2015)
10,000 sq ft
 - 1201 Research Park - Co of Riverside Tenant Improvement (Completed in 2015)
6,000 sq ft
 - Shop and Apartment Alton, UT (Completed in 2023) 6,500 sq ft

Other/Developments:

- | | |
|--|----------------------------|
| • 35 Acre – Mixed Use Dev; 25% ownership | Approved 6.4.2021 |
| ○ The Exchange <ul style="list-style-type: none"> ▪ 482 Apartments (Built by Others) ▪ 49,000 sq ft Retail ▪ 2 Hotels ▪ 1 Full-Service Station <ul style="list-style-type: none"> ✓ EIR – 100% complete ✓ Land closed escrow ✓ All plans submitted | |
| • 22.34 Acre – 750 Marlborough <ul style="list-style-type: none"> ○ 346,000 sq ft Tilt Up Warehouse | Approved 6.28.2019 |
| • 1002 E. Chinle, Kanab, UT | Income Property |
| • 118 W. Hanley, Coeur d'Alene, ID | Income Property |
| • 444 S. Main Street, Cedar City, UT | Income Property |
| • 2 Acre – Hamilton Ford Offramp <ul style="list-style-type: none"> ○ Additional 3.56 Acres with Joint Venture | Cedar City, UT |
| • 1401 & 1451 Research Park Drive | Income Property |
| • Lake Powell Ford, Page, AZ | Income Property |
| • 6800 Acre – Mineral Rights/Logging, Harland, KY | Income Property |
| • 1400 Acre – Alton, UT | Working Cattle Ranch |
| • 24 lot subdivision - Filed | Riverside, CA |
| • 14 Lot Subdivision - Filed | Riverside, CA |
| • 52 Acre – Freeway Exit, Cedar City, UT <ul style="list-style-type: none"> ○ Cedar Trails <ul style="list-style-type: none"> ▪ 156 Units Multi-Family ▪ 49 Units Single-Family ▪ 18.70 Acres Commercially Zoned | Approved/Not Yet Developed |
| • 250 Acre – Kanab Subdivision, Kanab, UT <ul style="list-style-type: none"> ○ Hidden Canyon <ul style="list-style-type: none"> ▪ 269 Units Multi-Family ▪ 356 Units Single-Family ▪ 80 Rooms Hotel ▪ Roughly 90,000 sq ft Storage | Approved/Not Yet Developed |
| • 70 Acre – Subdivision, Alton, UT <ul style="list-style-type: none"> ○ Cedars at Alton <ul style="list-style-type: none"> ▪ 68 Units Single-Family | Approved/Not Yet Developed |

EXHIBIT C
Revenue Projections

HIDDEN CANYON PUBLIC INFRASTRUCTURE DISTRICT #1, UTAH
Development Summary

Unit/Product Type	Residential [1]													Total Residential	
	SF 55+ (1495 Sqft V2)	SF 55+ (1495 Sqft V3)	SF 55+ (1495 Sqft V1)	SF 55+ (1721 Sqft V1)	SF 55+ (1721 Sqft V2)	SF 55+ (1721 Sqft V3)	SF 55+ (1976 Sqft V1)	SF 55+ (1976 Sqft V2)	SF 55+ (1976 Sqft V3)	2700 - 4000 Sqft Custom Lots	MF 1-Bedroom 750 sf	MF 2 Bedroom 940 SF	MF 3 Bedroom 1100 sf		
Value Per Unit	\$478,400	\$478,400	\$478,400	\$516,300	\$516,300	\$516,300	\$592,800	\$592,800	\$592,800	\$1,000,000	\$205,000	\$205,000	\$205,000		
2025														-	
2026														-	
2027	1	1	1	3	3	3	3	3	3	8	21	21	10	81	
2028	2	2	2	4	4	4	4	4	4	9	22	22	11	94	
2029	1	2	2	4	4	4	4	4	4	9	22	22	11	93	
2030	2	1	1	4	4	4	4	4	4	9	22	22	11	92	
2031	1	2	2	4	4	4	4	4	4	9	21	21	10	90	
2032	2	1	1	4	4	4	4	4	4	9				37	
2033	1	2	2	4	4	4	4	4	4	9				38	
2034	1	1	1	4	4	4	4	4	4	8				35	
2035	1	1	1	3	4	4	4	4	4	8				34	
2036	1	1	1	3	3	4	3	3	4	8				31	
Total Units	13	14	14	37	38	39	38	38	39	86	108	108	53	625	
Gross Potential Revenue	6,219,200	6,697,600	6,697,600	19,103,100	19,619,400	20,135,700	22,526,400	22,526,400	23,119,200	86,000,000	22,140,000	22,140,000	10,865,000	287,789,600	

[1] These units qualify for Primary home exemption

HIDDEN CANYON PUBLIC INFRASTRUCTURE DISTRICT #1, UTAH
Development Summary

Unit/Product Type	Commercial						Total Commercial	Hotel	Total Hotel
	Commercial Storage 10 x 10 units	Commercial Storage 10 x 20 units	Commercial Storage 12 x 29 units	RV Storage (16 x 50)	Trailer Storage (12 x 35)	Trailer Storage (12 x 50)			
Value Per Unit	\$70	\$70	\$70	\$70	\$70	\$70		\$120,000	
2025									
2026									
2027	3,200	10,934	1,392	7,200	1,680	5,000	29,406	80	80
2028	3,200	10,933	1,392	7,200	1,680	5,000	29,405	-	-
2029	3,200	10,933	1,932	7,200	1,680	5,000	29,945	-	-
2030	-	-	-	-	-	-	-	-	-
2031	-	-	-	-	-	-	-	-	-
2032	-	-	-	-	-	-	-	-	-
2033	-	-	-	-	-	-	-	-	-
2034	-	-	-	-	-	-	-	-	-
2035	-	-	-	-	-	-	-	-	-
2036	-	-	-	-	-	-	-	-	-
Total Units	9,600	32,800	4,716	21,600	5,040	15,000	88,756	80	80

Mayor
Colten Johnson
City Council
Arlon Chamberlain
Scott Colson
Chris Heaton
Boyd Corry
Peter Banks



KANAB

— UTAH —

City Manager
Kyler Ludwig
City Attorney
Kent Burggraaf
City Recorder
Celeste Cram
City Treasurer
Danielle Ramsay

September 22, 2025

JJJ Development, Inc.

Follow-up to Letter of Intent – Hidden Canyon Public Infrastructure District

Dear Jim Guthrie,

The District Advisory Board (DAB) has completed its review of the petition (received July 22, 2025) and supporting materials (requested August 8, 2025 and received August 27, 2025) related to the proposed Hidden Canyon Public Infrastructure District. Based on our analysis and discussion, we are pleased to provide a positive recommendation for the creation of the Hidden Canyon PID.

We believe the proposed PID structure appropriately places the costs of infrastructure on the developer, rather than on Kanab City or its future residents, by using special assessments within the district. The PID will also provide important oversized improvements, including a one-million-gallon water tank (exceeding the 800,000-gallon capacity needed for the development) and the capacity within transmission line to serve the eastern portion of the City's incorporated limits. While we would not support any approach that shifts these costs onto future residents through additional taxes, we see this financing tool as a valuable way to strengthen Kanab's public water and sewer infrastructure.

With this recommendation, the developer may now move forward with the next stage by paying the required fees set forth in the City's PID Policy. Payment of these fees will initiate the process of preparing draft governing documents in coordination with the City's financial and legal advisors.

The District Advisory Board looks forward to continuing to work with you as this project progresses and to ensuring it provides long-term benefits to the Kanab community.

Sincerely,
Kyler Ludwig
Kanab City Manager
On behalf of the District Advisory Committee

— A Western Classic —