Council Meeting of January 28, 2015

Agenda Item No. 7g

REQUEST FOR COUNCIL ACTION

SUBJECT: **CREEKSIDE SUBDIVISION**

SUMMARY: Consider approving and authorizing the Mayor to sign Development Agreement for the Creekside at the Highlands Subdivision located in the Highlands at approximately 6400 West 7800 South.

FISCAL: IMPACT: None.

STAFF RECOMMENDATION:

Staff recommends that City Council approve the Development Agreement as prepared.

MOTION RECOMMENDED:

I move to approve Resolution 15-17 authorizing the Mayor to execute the Development Agreement by and among the City of West Jordan, Peterson Development Company, LLC and Bach Land and Development, LLC.

Prepared by:

Loretta Grundvig
ODA Dev Coordinator

Reviewed by:

Nate Nelson
City Engineer

Reviewed by:

Wendell Rigby P.E.
Public Works Director

Reviewed as to legal form:

Darien Alcorn
Deputy City Attorney

Recommended by:

Bryce Haderlie
Interim City Manager

BACKGROUND DISCUSSION:

Creekside at the Highlands, located at approximately 5700 West 7800 South, is a three-phase development to be recorded as three dependent interrelated phases. On or about September 27, 2012, the City entered into a development agreement with Peterson Development entitled "Development Agreement The Highlands Sub-Areas Master Plan" to which this property is subject. Along with the required subdivision application for Creekside Subdivision, the applicant was required to submit a development plan for review and approval and to apply for a development agreement.

There are no master planned improvements located within the Creekside Subdivision, so the proposed development agreement does not address construction of or reimbursement for master planned improvements, except to clarify that there will be none.

The applicant asked for the development agreement to address the possible revision to change the phasing of the subdivision. To address the request, section 2.1.1 of the proposed agreement states, "Pursuant to the West Jordan City Code and other policies and procedures effective at the time of application, a new and separate application must be made to the City to amend or modify the phasing shown in Exhibit A. Provided that the application is approved by the City in accordance with the West Jordan City Code and other applicable policies and procedures, Exhibit A of this Development Agreement will be replaced with the approved phasing plan."

There are public improvements such as internal streets, landscaping and utility lines that will be dedicated to the City. The applicant has requested the development agreement to allow for those improvements to be constructed prior to recording the plat. However, the applicant also asked to address the option of posting a bond in the amount of 100% of the estimated cost of the public improvements, if plans change and the applicant desires to record the plat earlier. This language is reflected in section 2.1.3 B. of the proposed agreement.

The applicant also requested to have a model home prior to completion and acceptance of the public improvements. Pursuant to City Code an express written agreement is required for a building permit to be issued early. Section 2.1.4 B. of the proposed development agreement includes language indicating that one model home (up to six units) can be constructed for each phase, provided that: (1) there are adequate road and water facilities for fire service to the building, and (2) the developer notifies purchasers of the units that no permanent or temporary occupancy will be permitted until the public improvements are complete and accepted by the City.

THE CITY OF WEST JORDAN, UTAH

A Municipal Corporation

RESOLUTION NO. 15-17

A RESOLUTION AUTHORIZING THE EXECUTION BY THE MAYOR OF THE CREEKSIDE SUBDIVISION DEVELOPMENT AGREEMENT BY AND AMONG THE CITY OF WEST JORDAN, PETERSON DEVELOPMENT, LLC AND BACH LAND AND DEVELOPMENT, LLC

Whereas, the City Council of the City of West Jordan has reviewed the Development Agreement for the Creekside at the Highlands Subdivision (a copy of which is attached); and

Whereas, the City Council of the City of West Jordan desires that Creekside at the Highlands Subdivision Development Agreement be executed by the Mayor; and

Whereas, the Mayor is authorized to execute the agreement.

NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF WEST JORDAN, UTAH, THAT:

Section 1. After approval as to legal form by the City Attorney, the Mayor is hereby authorized and directed to execute the Development Agreement for the Creekside at the Highlands Subdivision.

Section 2. This Resolution shall take effect immediately upon passage.

Adopted by the City Council of West Jordan, Utah, this day of

CITY OF WEST JORDAN

By:_____
Mayor Kim V. Rolfe

ATTEST:

_____
Melanie S. Briggs, City Clerk/Recorder

Res. 15-17

Voting by the City Council	"AYE"	"NAY"
Jeff Haaga	_____	_____
Judy Hansen	_____	_____
Chris McConnehey	_____	_____
Chad Nichols	_____	_____
Ben Southworth	_____	_____
Justin D. Stoker	_____	_____
Mayor Kim V. Rolfe	_____	_____

Recording Requested By and
When Recorded Return to:
West Jordan City
Attention: City Clerk
8000 South Redwood Road
West Jordan, Utah 84088

For Recording Purposes Do
Not Write Above This Line

DEVELOPMENT AGREEMENT

This Development Agreement (this "**Agreement**") is made and entered into and made effective as of the date entered below (the "**Effective Date**"), by and among West Jordan City, a municipality and political subdivision of the State of Utah (the "**City**"), Peterson Development Company, LLC, a Utah limited liability company (the "**Master Developer**") and Bach Land and Development, LLC, a Utah limited liability company (the "**Developer**"). The City and the Developer may from time to time be collectively referred to as the "**Parties**."

RECITALS

A. Developer has prepared and presented to the City a development application for the Creekside at the Highlands Subdivision, which is a multi-phase development (the "**Project**"), to be recorded as multiple dependent and interrelated phases upon the property described in **Exhibit A**(the "**Property**"). Currently, it is anticipated that there will be three phases, but the Developer may desire to add a fourth phase. The application package has been submitted and reviewed by the City pursuant to the requirements of the 2009 City Code and related protocols and policies and other applicable zoning, engineering, fire safety and building requirements. The resulting preliminary and final approved development plan, preliminary and final approved site plan(s), preliminary and final approved subdivision plat(s), approved engineering drawings, landscape plans, conveyance documents, title reports and other documents submitted during the City's review and approval process will be referred to herein as the "**Creekside Development Documents**" or the "**Development Documents**".

B. Pursuant to the authority of *Utah Code Ann.* §10-9a-102(2) and the specific provisions of the 2009 City Code, the City has determined to enter into this Agreement with Developer for the purpose of formalizing certain obligations of the Parties with

respect to the Project, and such other matters as the City and the Developer have agreed.

C. The City has asserted that the Property is subject to a Reimbursement Agreement for Bloomfield Estates Phase I and Phase II entered into by and between the City and Ivory Development, LLC on or about September 20, 2005.

D. On or about September 27, 2012, the City entered into a development agreement by and between City of West Jordan and Peterson Development Company, LLC (the "Master Developer"), entitled "Development Agreement The Highlands Sub-Areas Master Plan" (the "Master Develoment Agreement"), to which the Property is subject. Developer desires to acknowledge its awareness of the City's creation of the assessment area envisioned in said agreement and to confirm that Developer will not object to the creation of such district.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I
LEGAL AUTHORITY AND PURPOSE

1.1 **City Laws and Purpose**. The City and Developer represent that they have the legal authority to enter into and perform their respective obligations under this Agreement and that the City has determined that this Agreement effectuates the above-referenced public purposes, objectives and benefits. The City's 2009 City Code, this Agreement and the approved Development Documents will govern the City and the Developer with respect to development of the Project.

1.2 **Recitals and Exhibits**. The above Recitals and all Exhibits hereto are hereby incorporated by reference into this Agreement.

1.3 **Conditions.** Each of the City and Developer is entering into this Agreement in anticipation of the satisfaction of certain conditions precedent and subsequent (the "**Conditions**"), which, if not satisfied, will frustrate the purposes of this Agreement. Accordingly, if the Conditions are not satisfied or otherwise waived by the Parties, this Agreement shall be rendered null and void and none of the Parties shall have any further

obligation to the other arising out of this Agreement. The Parties recognize that some of the Conditions may be satisfied contemporaneously with or prior to the execution of this Agreement, but such Conditions have been indentified herein for purposes of setting forth the intent of the Parties. For purposes of this Agreement, the following shall constitute the Conditions:

1.5.1 the final non-appealable approval and acceptance of this Agreement by the City Council;

1.5.2 the City Council's final non-appealable approval of the Development Plan;

1.5.3 final approval of the Creekside at the Highlands Phase 1 Subdivision plat;

1.5.4 recordation of the final subdivision plat for Creekside at the Highlands Phase 1 Subdivision.

ARTICLE II
PROJECT DEVELOPMENT

2.1 Developer Obligations.

2.1.1 **Phased Development.** The Project will consist of three subdivision phases as shown in **Exhibit A**, or four phases if approved by the City in accordance with the West West Jordan City Code. The plats shall be recorded and construction shall be performed in the following sequence: phase 1 first, phase 2 second, phase 3 third, phase 4 fourth, etc.. The Parties understand and agree that the City will not accept, approve or allow recording of the plats out of sequence, but multiple sequential phases may be accepted, approved and recorded concurrently. Pursuant to the West Jordan City Code and other policies and procedures effective at the time of application, a new and separate application must be made to the City to amend or modify the phasing shown in **Exhibit A.** Provided that the application is approved by the City in accordance with the West Jordan City Code and other applicable policies and procedures, **Exhibit A** of this Development Agreement will be replaced with the approved phasing plan.

2.1.2 **Conveyance or Dedication of Required Easements**. Developer shall convey or dedicate to the City or other applicable utility provider at no cost such required utility easements on or across the Project as are necessary to facilitate the extension of required utility services to and throughout the Project.

2.1.3 **Access Roads.**

A. Access Roads Required. Access and connecting roads will provide for safe and efficient circulation within, and adequate entrances and exits for the Project. All access and connecting roads shall be completed in accordance with the approved plans and specifications submitted in connection with one or more subdivision plats for the various phases of the Project as set forth in the approved Development Documents.

B. Timing. Developer agrees that on or before issuance of building permits within any phase, Developer shall design, construct and dedicate to the City all public improvements for that phase and preceding phases. No building permit shall be issued until after public improvements are accepted by the City. Plat recordation may occur prior to completion of public improvement construction and acceptance, provided that a financial guarantee and public improvement construction agreement are provided in accordance with the West Jordan City Code.

2.1.4 **Public Streets, Culinary Water, Sanitary Sewer and Stormwater Improvements.**

A. Required. Developer shall design, construct and dedicate to the City all public streets and other public infrastructure required by the West Jordan City Code and City standards or shown on the approved Final Plat (hereinafter referred to as the "**Public Improvements**"), which, except as otherwise agreed by the City in writing, shall not be approved unless they comply with the Development Documents. Developer agrees that on or before issuance of building permits within any Phase, it shall complete a design and dedicate property to the City for all Public Improvements for that Phase and all preceding Phases as shown on the applicable Final Plats therefore.

B. Timing of Construction. Building permits will not be issued in any Phase until after the City has accepted all Public Iimprovements for that Phase, except specifically as follows. One building permit for a single building with up to six (6) units may be issued within each Phase provided that the following requirements are met for that Phase: (1) Developer has recorded a plat for the Phase; (2) Developer has posted the required improvement assurance with the City; (3) There is a paved, 20 foot wide, fire apparatus access road designed to carry 80,000 GVW that will allow emergency response access within 150 feet of all portions of the exterior of the structure; (4) any portion of the access road that is a dead end

greater than 150 feet has a turnaround; (5) all fire lines and hydrants have been installed, tested, approved and operable; and (6) All other City Code requirements (except the requirement for City acceptance of public improvements) for building permit issuance have been met. Notwithstanding building permit issuance, permanent or temporary occupancy will not be permitted prior to the City's acceptance of all Public Improvements for the applicable Phase, except limited occupancy for showing units. If any unit(s) is sold prior to the City's acceptance of Public Improvements, Developer will notify the purchaser via the purchase agreement of this restriction for obtaining a certificate of occupancy. If the City Engineer determines that weather prevents installation of public landscaping improvements, up to but no more than 50% of building permits may be issued for each phase prior to completion and acceptance of public landscaping improvements. Issuance of building permits will not affect Developer's obligation to complete all public improvements.

A. Transportation, Culinary Water, Sanitary Sewer and Stormwater Master Plans. Without limiting the foregoing, the Developer shall be required to construct all master planned streets, culinary water, sanitary sewer and stormwater improvements running along or through the Project (the **"Master Planned Improvements"**) in connection with the first phase of the Project, or Developer shall deposit with the City cash equal to a pro-rated portion of the estimated cost of construction of such master planned improvements at the start of each phase. At this time, however, no Master Planned Improvements are anticipated for inclusion in any phase of the Creekside at the Highlands Subdivision.

B. Improvement Construction. Prior to recording the Final Plat for any phase, Developer shall construct and warrant all public improvements for that phase, or Developer shall provide a financial guarantee and public improvement construction agreement in accordance with the West Jordan City Code.

C. Required Improvements. **Exhibit B**, attached hereto and hereby made a part hereof, lists and otherwise describes all required and agreed improvements and dedications required of Developer in connection with Phase 1 of the Project, all of which are accepted by Developer and agreed upon. Developer accepts transfer and assignment of the following obligations from Master Developer under section 1.4.1 of the Master Development Agreement: none.

Per section 2.1.2 of the Master Development Agreement, the Master Planned Improvements are prorated and coordinated for this Project as follows: No Master Planned Improvements are included within any phase of the Creekside

Development.

2.1.5. **Construction Standards**. Notwithstanding any other provisions of this Development Agreement, all Public Improvements shall be constructed in compliance with: the approved Development Documents; all applicable federal, state and local laws and regulations; and the City of West Jordan public improvement standards, specifications, and plans as adopted at the time of design.

2.1.6 **Compliance with the Master Development Agreement.** The Project shall comply with and be governed by the Master Development Agreement and the concept plan attached thereto, except as modified by this Agreement and the Creekside Development Documents.

2.1.7. **Construction Process.**

A. Following City approval of the Development Documents, Developer shall not make any changes to the Development Documents without the prior written consent of the City.

B. Developer shall pay for and complete all soils and materials, and traffic testing required by the 2009 City Code, and the City's public improvement standards, specifications, and plans. The work shall be performed by testing agencies acceptable to the City Engineer. Copies of all test results shall be submitted to the City Engineer within thirty-six hours after they are issued by the testing agency. The City Engineer may request that the test reports be certified by the testing agency.

2.1.8. **File Record Documents.** Developer shall file with the City Engineer "Record Documents" or "As-Builts" conforming to City requirements.

2.1.9. **Indemnification.** Developer shall, at all times, protect, indemnify, save harmless and defend the City and its agents, employees, officers and elected officials from and against any and all claims, demands, judgments, expense, and all other damages of every kind and nature made, rendered, or incurred by or in behalf of any person or persons whomsoever, including the parties hereto and their employees, which may arise out of any act or failure to act, work or other activity related in any way to the Project, by Developer, Developer's agents, employees, subcontractors, or suppliers in the performance and execution of the work/development contemplated by this Agreement.

2.2 **Provision of Certain Utility Services.** The City agrees that it shall make available (subject to extension of the City's system by Developer, application for service, issuance of applicable permits and payment of connection fees and applicable commodity usage rates) culinary water, sanitary sewer and storm water, as well as garbage collection on public streets for residential properties and related services provided by the City to its citizens generally. Culinary water, sanitary sewer and storm water utility services will be provided through delivery and retention systems constructed by the Developer as depicted in the Development Documents. To the extent the delivery systems are properly and timely constructed by Developer, such services shall be provided as reflected in the Development Documents. Construction of infrastructure to serve later constructed phases shall be the Developer's responsibility. The City shall have no obligation to extend infrastructure to serve any Phase. The City shall not be required to permit connection at any location or bay an method other than as shown and approved in the Development Documents.

2.3 **Development to be Consistent with the Development Documents.** Except as expressly provided in this Agreement, all development, whether by the Developer or a successor in interest, will be consistent with this Agreement and the approved Development Documents.

2.4 **Parks, Trails and Pathways.** The Development Documents may provide for public use spaces consistent with the requirements of the 2009 City Code and the West Jordan Trails & Open Space Master Plan. The Developer and City will cooperate in reasonably locating and refining the location of such open spaces, trails and pathway systems.

2.5 **8200 South Reimbursement.** This Development Agreement is not intended to modify, amend or address the terms, conditions, benefits or obligations of the Reimbursement Agreement for Bloomfield Estates Phase I and Phase II. The City maintains that Developer is obligated to pay an amount described in the Reimbursement Agreement for Bloomfield Estates Phase I and Phase II prior to recording a final plat for Phase 1 of the Project. By Developer's signature(s) below, Developer acknowledges the City's position but does not admit obligation to pay any such amount.

ARTICLE III
IMPACT FEES

3.1 **Impact Fees; Costs of Application Processing.** The Developer will be assessed and required to pay impact fees calculated by the City in accordance with the Utah Impact Fees Act. In addition, Developer will be responsible for paying all City fees and

charges appropriately assessed for projects of the type being presented by Developer, including payment of hourly charges for all internal expert reviews and involvement. Because impact fees are assessed at the time of development, impact fees may be assessed in each phase of the Project.

3.2 **Maintenance of Detention Basins, Planters, Trees and Other Landscaping in Street Median Spaces and Alongside Streets and Sidewalks Appurtenant to, or Within, the Development.** The City shall have the long term and permanent responsibility for the maintenance of all detention basins, parks, open space, trails and landscaping along the public streets and sidewalks that are within the Project area and dedicated to the City. In connection with such maintenance, the City has created an assessment area for the purposes of funding in whole or in part such maintenance obligation. Developer shall notify all lot purchasers and other successors and assigns of the existence of the assessment area . There shall be no club houses, swimming pools or other features within the dedicated areas that are not approved by the City.

ARTICLE IV
DEFAULT AND COSTS

4.1 **Default**. In the event of a failure by any party to comply with the commitments set forth herein, within thirty (30) days of written notice of such failure from the other party, the non-defaulting party shall have the right to pursue any or all of the following remedies, which right shall be cumulative:

4.1.1 To cure such default or enjoin such violation and otherwise enforce the requirements contained in this Agreement; and

4.1.2 To enforce all rights and remedies available at law and in equity including, but not limited to, injunctive relief, specific performance and/or damages.

4.2 **Insolvency**. Insolvency, bankruptcy or any voluntary or involuntary assignment by any party for the benefit of creditors, which action(s) are unresolved for a period of 180 days shall be deemed to be a default by such party under this Article IV.

4.3 **Court Costs and Attorneys Fees**. In the event of any legal action or defense between the Parties arising out of or related to this Agreement, or any of the documents provided for herein, the prevailing party shall be entitled, in addition to the remedies and damages, if any awarded in such proceedings, to recover their costs and reasonable attorneys' fees.

ARTICLE V
ASSIGNMENT AND RECORDATION

5.1 **Assignment and Transfer of Development**. The Developer shall not assign its obligations under this Agreement or any rights or interests herein, and except as provided below shall not convey the Project or any portion thereof, without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed if the proposed transferee: (a) shall have the qualifications and financial responsibility necessary and adequate to fulfill the obligations undertaken pursuant to this Agreement and any then applicable Development Documents; and (b) by instrument in writing, shall have expressly assumed all of the obligations of the Developer under this Agreement and any then applicable additional agreements and agreed to be subject to all of the conditions and restrictions arising under this Agreement or any Development Documents.

If only a portion of the Project is assigned and/or conveyed under this section 5.1, a reasonable allocation of the Developer's duties appurtenant to that portion will be made.

Developer agrees that any Developer responsibility for constructing the Master Planned Improvements and other material public improvements in connection with the Project as originally presented and approved, and as agreed to herein, cannot be avoided by assigning portions of the Project to one or more third parties and then claiming that Developer's building of the required public improvements is not justified by the impact of the remainder of the Project.

5.1.1 The provisions of this Section 5.1 shall not prohibit the granting of any security interests for financing the acquisition and development of the Project, subject to the Developer complying with applicable law and the requirements of this Agreement.

5.1.2 A change in the majority ownership or control of the Developer shall be deemed a transfer requiring the consent of the City pursuant to the requirements of this Section 5.1. Notwithstanding the foregoing sentence, a transfer of all or a portion of the Project or change in the majority ownership or control of the Developer is permitted without the City's or Agency's consent under the following circumstances: (i) a transfer occurs to an entity that is an affiliate of the Developer, (ii) a transfer or change in ownership occurs as a result of a merger or acquisition of Developer resulting in Developer and its principal(s) having the

majority interest and control of the succeeding or resulting entity, and/or (iii) a transfer occurs only by way of security for, and only for, the purpose of obtaining financing necessary to enable the Developer, or its permitted successor in interest, to perform its obligations under this Agreement or any of the Development Documents. If as a result of any of these described actions one or more new principals become associated with the Project, such principals shall sign a counterpart of this Agreement evidencing their personal guaranty of the Developer's obligations hereunder.

5.1.3 In the event of a City approved transfer of any portion of the Project and upon assumption by the transferee of the Developer's obligations under this Agreement and the Development Documents, the respective transferee shall have the same rights and obligations as the Developer under this Agreement and the Development Documents, and the Developer shall be released from any further obligations with respect to that portion of the Project, provided that any successor shall first execute and deliver such agreements and instruments as the City may require to bind the successor under the terms of this Agreement and any related and subsequent agreements between the parties; and provided further that the provisions of this Agreement with respect to master planned roads and other public improvements shall continue as an obligation of Developer unless expressly waived in writing by the City.

5.2 **Recordation**. After its execution, this Agreement shall be recorded in the office of the County Recorder at the expense of the Developer. Each commitment and restriction on development set forth herein shall be a burden on the real property constituting the Project, shall be appurtenant to and for the benefit of the City and shall run with the land.

ARTICLE VI
REIMBURSEMENT

6.1 **Reimbursement for Public Improvements.** There will be no reimbursement for public improvements for any phase of the Project.

ARTICLE VII
GENERAL MATTERS

7.1 **Amendments**. Any alteration or change to this Agreement shall be made only after complying with the same procedures followed for the adoption and approval of this

Agreement.

7.2 **Captions and Construction**. This Agreement shall be construed according to its fair and plain meaning and as if prepared by all Parties hereto. Titles and captions are for convenience only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates. Furthermore, this Agreement shall be construed so as to effectuate the public purposes, objectives and benefits set forth herein. As used in this Agreement, the words "include" and "including" shall mean "including, but not limited to" and shall not be interpreted to limit the generality of the terms preceding such word.

7.3 **Laws and Forum**. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns, and shall be construed in accordance with Utah law. Any action brought in connection with this Agreement shall be brought in a court of competent jurisdiction located in Salt Lake County, Utah.

7.4 **Legal Representation**. Each of the Parties hereto acknowledge that they either have been represented by legal counsel in negotiating this Agreement or that they had the opportunity to consult legal counsel and chose not to do so. In either event this Agreement has no presumptions associated with the drafter thereof.

7.5 **Non-Liability of City Officials.** No officer, representative, agent or employee of a party hereto shall be personally liable to any other party hereto or any successor in interest or assignee of such party in the event of any default or breach by the defaulting party, or for any amount which may become due the non-defaulting party, or its successors or assigns, or for any obligation(s) arising under the terms of this Agreement.

7.6 **No Third Party Rights.** Unless otherwise specifically provided herein, the obligations of the Parties set forth in this Agreement shall not create any rights in or obligations to any other persons or third parties.

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

of that prevention, delay or stoppage. Any party seeking relief under the provisions of this paragraph must have notified the other party in writing of a force majeure event within thirty (30) days following occurrence of the claimed force majeure event.

7.8 **Notices.** All notices shall be in writing and shall be deemed to have been sufficiently given or served when presented personally or when deposited in the United States mail, by registered or certified mail, addressed as follows:

The City: West Jordan City
8000 South Redwood Road
West Jordan, Utah 84088
Attention: City Clerk

Developer: Bach Land and Development, LLC
11650 South State Street, #300
Draper, Utah 84020
Attention: Randy Rindlisbacher

Such addresses may be changed by notice to the other party given in the same manner as above provided. Any notice given hereunder shall be deemed given as of the date delivered or mailed.

7.9 **Entire Agreement.** This Agreement, together with the Exhibits attached hereto, documents referenced herein and all regulatory approvals given by the City for the Project, contain and constitute the entire agreement of the Parties with respect to the subject matter hereof and supersede any prior promises, representations, warranties, inducements or understandings between the Parties which are not contained in such agreements, regulatory approvals and related conditions. It is expressly agreed by the Parties that this Agreement and the additional agreements between the Developer and the City, as contemplated and referred to elsewhere in this Agreement, are intended to and shall govern the development. It is expressly acknowledged by the Parties that additional agreements may be entered into by or among the Parties and all such shall be included as Development Documents.

7.10 **Effective Date.** This Agreement shall be effective upon the signing and execution of this Agreement by all Parties which, upon its occurrence, shall be deemed to have occurred as of the Effective Date.

7.11 **Termination.** Unless amended in writing, this Agreement shall terminate upon mutual written agreement of the parties hereto, failure of the Conditions to occur on or before two years from the Effective Date, or ten (10) years after the Effective Date, whichever occurs first.

7.12 **Further Action**. The Parties hereby agree to execute and deliver such additional documents and to take all further actions as may become necessary or desirable to fully carry out the provisions and intent of this Agreement.

7.13 **Effect of Agreement; Release of Claims**. Nothing in this Agreement shall be construed to relieve Developer of any obligations imposed on Developer by Federal or State laws, City and County ordinances, regulations, or standards. It is the intent of the Parties that this Agreement serve as a complete release and waiver by Developer of any and all claims Developer has or may claim to have with respect to the City's application of the 2009 City Code to the development or the imposition of any requirement expressly set forth in this Agreement, the Master Development Agreement or the Development Documents. Moreover, Developer hereby releases and waives any and all claims Developer may have against the City with respect to any land use application submittals, acceptances, approvals, denials or processing with respect to the Project occurring prior to the Effective Date.

IN WITNESS WHEREOF, the Parties have executed this Development Agreement.

[Signatures on following three pages]

WEST JORDAN CITY, a municipality and political subdivision of the State of Utah

By:_____
Kim V. Rolfe, Mayor

ATTEST:

_____
_____, City Recorder

CITY ACKNOWLEDGEMENT

STATE OF UTAH)
: ss.
County of Salt Lake)

On this ____ day of _____, 2014, before the undersigned notary public in and for the said state, personally appeared _____, known or identified to me to be the Mayor of West Jordan City and the person who executed the foregoing instrument on behalf of said City and acknowledged to me that said City executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

_____
Notary Public for Utah
Residing at:_____
My Commission Expires:_____

Bach Land and Development, LLC
a Utah limited liability company,

By _____

Printed Name: _____

Title: _____

Date: _____, 2014

DEVELOPER ACKNOWLEDGEMENT

STATE OF UTAH)
: ss.
County of Salt Lake)

On this ____ day of _____, 2014, before the undersigned notary public in and for the said state, personally appeared _____, known or identified to me to be the manager of Bach Land and Development, LLC, and the person who executed the foregoing instrument and acknowledged to me that said company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

_____
Notary Public for Utah
Residing at:_____
My Commission Expires:_____

Peterson Development Company, LLC,
a Utah limited liability company,

By _____

Printed Name: _____

Title: _____

Date: _____, 2014

DEVELOPER ACKNOWLEDGEMENT

STATE OF UTAH)
: ss.
County of Salt Lake)

On this ____ day of _____, 2014, before the undersigned notary public in and for the said state, personally appeared _____, known or identified to me to be the manager of Peterson Development Company, LLC, and the person who executed the foregoing instrument and acknowledged to me that said company executed the same.

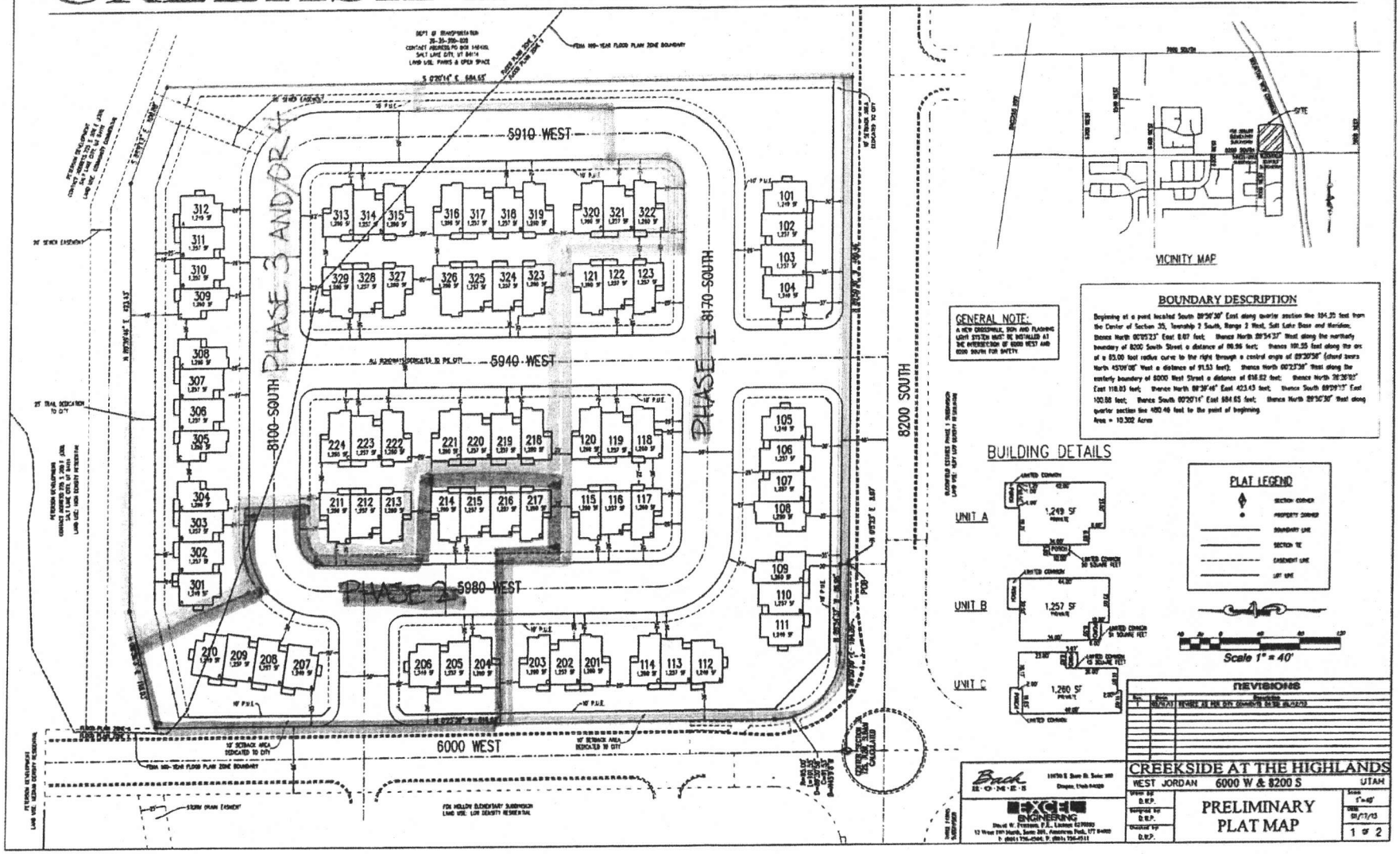
IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

_____
Notary Public for Utah
Residing at:_____
My Commission Expires:_____

EFFECTIVE DATE: _____

EXHIBIT A
(Copy of Plat and Legal Description)

CREEKSIDE AT THE HIGHLANDS



BOUNDARY DESCRIPTION

Beginning at a point located South 89°50'30" East along quarter section line 184.35 feet from the Center of Section 35, Township 2 South, Range 2 West, Salt Lake Base and Meridian; thence North 00°05'23" East 8.07 feet; thence North 89°54'37" West along the northerly boundary of 8200 South Street a distance of 86.96 feet; thence 101.55 feet along the arc of a 65.00 foot radius curve to the right through a central angle of 89°30'58" (chord bears North 45°09'08" West a distance of 91.53 feet); thence North 00°23'39" West along the easterly boundary of 6000 West Street a distance of 616.62 feet; thence North 76°36'03" East 118.03 feet; thence North 89°39'46" East 423.43 feet; thence South 69°09'13" East 100.88 feet; thence South 00°20'14" East 684.65 feet; thence North 89°50'30" West along quarter section line 480.46 feet to the point of beginning.

Area = 10.302 Acres

EXHIBIT B
(Required Improvements)

West Jordan Bond Calculation Worksheet for PUBLIC IMPROVEMENTS

Project: Creekside Subdivision Ph.1

Date: 2/6/14

DESCRIPTION	Unit	Quant.	$/Unit	Total
Sanitary Sewer				
8" PVC Sewer	LF	2,111	$33.00	$69,663.00
5' Manhole	EA	13	$4,000.00	$52,000.00
Laterals	EA	26	$650.00	$16,900.00
Subtotal				**$138,563.00**
Culinary Water				
8" PVC Waterline (Culinary)	LF	1,365	$30.00	$40,950.00
8" Gate Valve	EA	13	$1,200.00	$15,600.00
12" Fittings	EA	2	$1,150.00	$2,300.00
8" Fittings	EA	6	$950.00	$5,700.00
Fire Hydrants	EA	2	$3,200.00	$6,400.00
2" Blow off	EA	3	$1,235.00	$3,705.00
Air/Vac Valve	EA	1	$4,200.00	$4,200.00
Sample Station	EA	1	$650.00	$650.00
Laterals	EA	26	$650.00	$16,900.00
Subtotal				**$96,405.00**
Storm Drain				
18" RCP Class III	LF	45	$47.00	$2,115.00
15" RCP Class III	LF	402	$45.00	$18,090.00
8" PVC	LF	78	$30.00	$2,340.00
Combination Catch/Clean Box	EA	1	$3,500.00	$3,500.00
Double Combination Box	EA	1	$4,000.00	$4,000.00
Single Inlet Box	EA	1	$1,700.00	$1,700.00
Double Inlet Box	EA	1	$2,100.00	$2,100.00
4'x6' Cleanout Box	EA	1	$4,500.00	$4,500.00
5' Manhole	EA	2	$2,500.00	$5,000.00
Detention Basin	CY	517	$5.00	$2,585.00
Subtotal				**$45,930.00**
Street Improvements				
Curb & Gutter w/Road Base	LF	1,880	$15.00	$28,200.00
5' Sidewalk w/Road Base, Back Fill Parkstrip	LF	1,880	$16.00	$30,080.00
3" Asphalt w/ 8" Road Base	SF	23,500	$2.00	$47,000.00
1-inch overlay	SF	23,500	$1.50	$35,250.00
Temporary turnaround	SF	750	$1.50	$1,125.00
Disabled Pedestrian Ramp	EA	6	$260.00	$1,560.00
Monuments	EA		$300.00	$0.00
Subtotal				**$143,215.00**
Miscellaneous				
Street Signs	EA	5	$250.00	$1,250.00
Traffic Signs	EA	8	$250.00	$2,000.00
Speed Tables	EA	1	$5,000.00	$5,000.00
Medians	LF	140	$16.00	$2,240.00
Mass Grading	CY	11,710	$3.50	$40,985.00
As-Builts (2x Mylar, 1x digital)	LS	1	$1,000.00	$1,000.00
Subtotal				**$52,475.00**
Total				**$476,588.00**

Prepared By: Todd Johnson
Staff Engineer

Reviewed By: [signature]
City Engineer

West Jordan Bond Worksheet for LANDSCAPING and STREET LIGHTS

Project: Creekside Subdivision Ph.1

Date: 2/6/14

DESCRIPTION	Unit	Quant.	$/Unit	Total
Item				
Street Lights 30' Pole	EA	1	$3,900.00	$3,900.00
Street Lights 12' Pole	EA	6	$2,600.00	$15,600.00
Trees	EA	21	$300.00	$6,300.00
Sod/Cobbles/Gravel	SF	3845	$0.40	$1,538.00
Irrigation	SF	3845	$0.50	$1,922.50
Weed Fabric	SF	945	$0.50	$472.50
Mulch (colored bark)	Cu YDS	945	$100.00	$94,500.00
6" x 6" Mow Strips (concrete)	LF	378	$5.50	$2,079.00
Irrigation 2" Valve lateral line	EA	1	$1,500.00	$1,500.00
2" Backflow Device (R.P.)	EA	1	$800.00	$800.00
2" Backflow Device Protective Cover	EA	1	$1,010.00	$1,010.00
Irrigation Controller (Calsense ET2000e)	EA	1	$12,000.00	$12,000.00
Subtotal				**$141,622.00**
Total				**$141,622.00**

Prepared By: Todd Johnson
Staff Engineer

Reviewed By: [signature]
City Engineer

West Jordan City Bond Calculation Worksheet for Non-Public Improvements

Project: Creekside Ph.1 Site Plan

Date: 2/6/14

DESCRIPTION	Unit	Quant.	$/Unit	Total
Miscellaneous				
6' Rhinorock Fence	LF	1105	$60.00	$66,300.00
Landscaping Tree/Irrigation/sod	SF	73181	$2.00	$146,362.00
Amenities - Play ground, Drinking fountains, Benches, Pavilions, Picnic Tables, Lights, etc.	EA	1	$5,000.00	$5,000.00
Subtotal				**$217,662.00**
Total				**$217,662.00**

Prepared By: Todd Johnson
Staff Engineer

Reviewed By: _____
City Engineer