

CHAPTER 9

DEVELOPMENT AGREEMENTS

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11-9-1: PURPOSE:

A. The purpose of the development agreement process described in this Chapter is to provide the City with a method of offering exceptions to existing City land use, infrastructure, and subdivision requirements in order to attract unique development opportunities that:

1. Align with the General Plan;
2. Improve more than one hundred (100) acres; and
3. Offer extreme benefits to the City. (Ord. 2025-09, 6-19-2025)

11-9-2: DEFINITIONS:

As used in this Chapter 9:

DEVELOPER: Any individual or entity seeking a development agreement, including property owners, professional developers, and agents of the same.

DEVELOPMENT AGREEMENT PROPOSAL and PROPOSAL: A formalized draft of a contract, not yet accepted by all parties, prepared for signing and intended as an offer by the developer to the City or vice versa. These terms do not refer to any Preliminary Materials.

PRELIMINARY MATERIALS: Concept plans and maps, term sheets, and other documents intended as tools for discussing the feasibility of a project and negotiating the basic terms of a Development Agreement Proposal. (Ord. 2025-09, 6-19-2025)

11-9-3: FORM:

A development agreement is a contract between the City and the Developer who proposes the agreement. Subject to any applicable federal, state, and county regulations, a development agreement may bestow exceptions to City ordinances. (Ord. 2025-09, 6-19-2025)

11-9-4: LIMITATIONS:

A. The City may reject a Development Agreement Proposal at any time before approval and for any reason, whether political or technical. Developers are not entitled to Proposal approval, even for applications that comply with existing City ordinances, that have been extensively discussed by the City, or that the City initiated.

B. If the City rejects a proposal to enter into a development agreement, the Developer may pursue approval of the project by complying with City ordinances and submitting the required land use and subdivision applications individually and in compliance with all existing federal, state, county, and City standards.

C. In accordance with Utah Code § 10-9a-532(2), development agreements are void to the extent that they:

1. Limit the City's future authority to enact land use regulations or other ordinances and rules that are necessary and proper to protect property in the City or to promote the health, safety, prosperity, morals, peace and good order, comfort, and convenience of the City and its inhabitants; or

2. Require the City to change the zoning designation of any land in the future.

D. Change Of Ownership:

1. In accordance with Utah Code § 10-9a-532(2)(f), development requirements, regulations, or controls described in a development agreement do not run with the land and are enforceable only against the named parties to the contract.

2. If a Developer who becomes party to a development agreement is not an individual (e.g., where the Developer is a partnership, corporation, LLC, trust, or other entity), the development agreement shall remain enforceable against the City only as long as the Developer, including any parent company, is owned by the same individuals who owned the Developer at the time the development agreement is entered into. Any change of ownership of Developer by merger, acquisition, stock sale, redemption, or sale of more than fifty percent (50%) of the Developer's assets shall, at the City's option, terminate the development agreement and the Developer's rights and entitlements thereunder. The City's option to terminate the development agreement for a change in Developer's ownership may be exercised by the City Council and shall be construed as an addition to any of the City's rights and remedies described in the development agreement. The Developer shall not have a right to terminate the development agreement in the case of a change of ownership described in this paragraph.

E. Expiration: Each development agreement shall terminate no later than ten (10) years after the day the agreement is executed. Upon termination of the agreement, all vested rights under the agreement held by the Developer or other private parties and concerning undeveloped or partially developed parcels shall terminate. All vested rights under the agreement shall continue on fully developed parcels. After the agreement terminates, the Developer may submit a new Proposal to continue developing any undeveloped or partially developed parcels. This paragraph shall be interpreted as an addition to any termination effects or breach of contract remedies described in the agreement.

F. Milestones: To the extent described in a development agreement, the City may require the Developer to meet certain milestones of development completion as a condition of Developer retaining entitlements under the agreement.

G. Amenities: To the extent described in a development agreement, the City may require the Developer to construct certain infrastructure, improvements, and community amenities and to do so prior to certain development phases. (Ord. 2025-09, 6-19-2025)

11-9-5: CITY COUNCIL APPROVAL:

A. The City Council is solely authorized to enter into development agreements with private parties and public entities:

1. Through a majority vote of the Council, evidenced by the Mayor's signature on a Development Agreement Proposal;
2. Following a public hearing and recommendation by the Planning Commission;
3. After reviewing any applicable staff reports;
4. After ensuring that adequate public notice was achieved for the above actions;
5. After the developer has paid all fees and outstanding invoices from the City; and
6. In accordance with Utah Code §10-9a-532, as amended.

B. The City Council may amend any Development Agreement Proposal before entering in to the development agreement. The City Council may accept, revise, or reject any Proposal terms suggested by a Developer, the Planning Commission, or the TRC.

C. The City Council may review a Proposal indefinitely.



DEVELOPMENT AGREEMENT PROCEDURE: OVERVIEW



(Ord. 2025-09, 6-19-2025)

11-9-6: REQUIRED RETAINER AND CITY REVIEW FEES:

A. A Developer seeking a development agreement shall be liable to reimburse the City for the City's personnel costs incurred in reviewing and revising Preliminary Materials and Development Agreement Proposals. The City's

personnel costs include the time of City employees and outside consultants, engineers, and contractors, assessed at the City's standard hourly rates.

B. Before the City reviews any Preliminary Materials or Development Agreement Proposal, the Developer must:

1. Provide a retainer to the City of at least twenty thousand dollars (\$20,000.00); and
2. Acknowledge in writing the City's applicable hourly rates and authorize the City to reimburse itself from the retainer at said hourly rates.

C. The Developer must promptly replenish the retainer to its original amount at any time that the retainer decreases below four thousand dollars (\$4,000.00). Unused funds shall be returned to the Developer at the time the development agreement is signed or earlier at the Developer's request.

D. The City's use of retained funds does not entitle the Developer to City approval of any Proposal. In reimbursing the City under this Section and in paying any other fee required by the City, the Developer proceeds at the risk that the City may reject any Proposal at any time. (Ord. 2025-09, 6-19-2025)

11-9-7: OPTIONAL TERM SHEET AND CONCEPT PLAN/MAP REVIEW:

The Technical Review Committee (TRC), Planning Commission, and City Council may produce or review Preliminary Materials and provide comments on the same to a Developer. These Preliminary Materials and City comments on, concurrence with, or suggestions based on the same shall not in any way be construed as binding against the City. (Ord. 2025-09, 6-19-2025)

11-9-8: TRC REVIEW AND REPORT:

A. Upon the City's receipt of a Development Agreement Proposal, the Technical Review Committee shall review the Proposal for feasibility and desirability and compile all comments into a report for review by the Planning Commission and City Council.

B. The TRC may discuss the Proposal with the Developer to request information or suggest changes. The TRC may consider comments from outside consultants contracted with the City and any City staff member or affected entity.

C. Once the report is complete, or upon request by the Planning Commission or City Council, City staff shall schedule the Proposal for consideration at the next Planning Commission meeting for which adequate public notice can be achieved. (Ord. 2025-09, 6-19-2025)

11-9-9: PLANNING COMMISSION RECOMMENDATION:

A. The Planning Commission shall review all Development Agreement Proposals and shall provide a recommendation on the same to the City Council. The recommendation may be for, against, or for with modifications and must include all written and oral objections received from the public.

B. Before providing its recommendation, the Planning Commission shall hold a public hearing and consider all written and oral objections received at the public hearing. (Ord. 2025-09, 6-19-2025)

11-9-10: PUBLIC NOTICE:

All public meetings and hearings by the City to consider a Development Agreement Proposal must be noticed as if the meetings and hearings were intended to adopt or amend a land use regulation under Utah Code § 10-9a-205. (Ord. 2025-09, 6-19-2025)

11-9-11: RECORDING:

City staff shall cause any fully executed development agreement to be recorded in the County Recorder's Office.
(Ord. 2025-09, 6-19-2025)

CHAPTER 20

RESIDENTIAL OVERLAY ZONE WITH PUBLIC AMENITIES

SECTION:

10-20-1: Purpose And Intent

10-20-2: Use Regulations

10-20-3: General Regulations

10-20-4: Submission Of Conditional Rezone Application

10-20-5: Technical Review Committee, Planning Commission And City Council Consideration

10-20-6: Technical Review Committee

10-20-7: Planning Commission Action

10-20-8: City Council Action

10-20-1: PURPOSE AND INTENT:

The Residential Overlay Zone with Public Amenities is established to provide for and encourage better planned and more desirable residential developments that provide various lot sizes and public amenities, including the preservation of open space and the development of parks, trails, and other open space.

A. It is expressly provided that the Residential Overlay Zone with Public Amenities is not intended to be utilized for all residential development within the City. The Residential Overlay Zone with Public Amenities shall only be permitted for property approved by the City Council.

B. It is established to promote development of pathways (multi-purpose routes accessible to pedestrians, bicyclists and equestrians) and as such, will solely be considered for areas comprising or adjacent to existing or proposed pathway corridors, set forth in the Plain City Parks, Trails, and Open Space Master Plan. (Ord. 2019-04, 1-17-2019, eff. 1-17-2019; amd. Ord. 2019-12, 11-21-2019; Ord. 2021-09, 6-3-2021)

10-20-2: USE REGULATIONS:

A. Zones Allowed: Residential uses in the Medium Density Residential (MDR) 1, 2, and 3 areas as indicated on the Future Land Use Map of the General Plan (including only properties that have already been rezoned as RE-18.5, RE-15 and R-1-11) after the review and recommendation by the Planning Commission and review and approval by the City Council.

B. Permitted Housing Types: If the Residential Overlay Zone with Public Amenities is approved: single-family, detached dwelling units may be permitted in MDR 1 and 2 (RE-18.5 and RE-15); single-family, detached dwelling units and two-family, attached (duplex) dwelling units may be permitted in MDR 3 (R-1-

11); after the review and recommendation by the Planning Commission and review and approval by the City Council.

1. Lots utilized for the construction of two-family, attached (duplex) dwelling units shall not exceed ten percent (10%) of the total lots in the subdivision.

2. Two-family, attached (duplex) dwelling units shall be constructed on a minimum lot area of one-half (1/2) acre (21,780 square feet). (Ord. 2019-04, 1-17-2019, eff. 1-17-2019; amd. Ord. 2019-12, 11-21-2019; Ord. 2021-09, 6-3-2021)

10-20-3: GENERAL REGULATIONS:

Residential subdivisions with public amenities may be granted the exceptions described herein to site development standards within each zone when the applicant has demonstrated that the subdivision meets the following standards:

A. The subdivision provides an exceptional amenity or amenities (deemed acceptable by the Planning Commission and City Council) that are made available to the public or provides developed open space comprised of thirty three percent (33%) of the proposed development (1:2 ratio of developed open space to housing). Any developed open space shall be dedicated to the City, subject to approval by the City Council, and made available for public use and shall include a park and/or trails that have been identified in the General Plan or other parks and/or trails requested specifically by the Planning Commission or City Council in consultation with the City Parks and Recreation Department. Formations that provide State mandated stormwater detention or retention do not qualify as developed open space unless occupying more than five (5) acres and determined by the Planning Commission to be suitable for multiple uses. In cases of approved multi-use stormwater detention or retention basins, the developer shall (at City's discretion) provide restrooms and parking spaces.

B. In cases of approved multi-use stormwater detention or retention basins:

1. Seventy-five percent (75%) of the approved basin area shall qualify as developed open space.
2. The developer shall (at City's discretion) provide restrooms and parking.

C. The subdivision does not exceed a gross maximum density in the Medium Density Residential (MDR) areas indicated on the Future Land Use Map of the General Plan of:

1. Three (3) units per acre in MDR 1;
2. Four (4) units per acre in MDR 2; and
3. Five (5) units per acre in MDR 3.

Gross maximum density is calculated by taking the number of proposed residential lots and dividing by the total acreage of the development (including roads).

D. The subdivision meets the following overall minimum development standards:

1. Minimum Lot Area: Seven thousand (7,000) square feet.
2. Minimum Yard Setbacks:
 - a. Front: Twenty-five feet (25').
 - b. Side: Total of eighteen feet (18'), minimum eight feet (8') on one side.
 - c. Street Side On Corner Lot: Twenty-five feet (25').
 - d. Rear: Twenty feet (20').

3. Building Height:

- a. Minimum: One story.
- b. Maximum: Twenty-eight feet (28') - not more than two (2) stories.

4. Minimum Frontage: Sixty-five feet (65') for single-family dwelling units and one hundred forty feet (140') for duplexes.

E. Separate single-family dwellings and multi-family dwelling units in a Residential Overlay Zone shall comply with the following standard:

1. Garage Doors: Where a garage is placed on the front building facade, the width of the garage door(s) shall not exceed fifty percent (50%) of the total width of the front building facade. All garage doors shall not exceed twelve feet (12') in height. (Ord. 2019-04, 1-17-2019, eff. 1-17-2019; amd. Ord. 2019-12, 11-21-2019; Ord. 2021-09, 6-3-2021)

10-20-4: SUBMISSION OF CONDITIONAL REZONE APPLICATION:

A. Required: A conditional rezone application for a Residential Overlay Zone with Public Amenities shall be submitted to the Technical Review Committee. A concept plan including the following items shall be submitted with the application for the conditional rezone:

1. Proposed layout including streets, lots, and setbacks;
2. Development density, coverage, and open space characteristics including landscaping, fencing, screening, and parking;
3. Proposed location(s) for mailbox(es) in accordance with USPS requirements, shown on the proposed layout;
4. A description of architectural elevations and floor plans demonstrating the general design, character, and exterior building materials of the proposed structures. (Ord. 2019-04, 1-17-2019, eff. 1-17-2019; amd. Ord. 2019-12, 11-21-2019; Ord. 2021-09, 6-3-2021)

10-20-5: TECHNICAL REVIEW COMMITTEE, PLANNING COMMISSION AND CITY COUNCIL CONSIDERATION:

In considering the proposed Residential Overlay Zone, the Technical Review Committee, Planning Commission and City Council shall consider:

- A. Design: The design, exterior materials, housing type and quality of buildings and their relationship to the site and their relationship to development beyond the boundaries of the development.
- B. Streets, Traffic, Parking: Which streets shall be public and which shall be private, the entrances and exits to the development and the provisions for internal and external traffic circulation and off-street parking.
- C. Open Space: The proposed open space as a means of its integration into the City and the neighborhood.
 1. All attendant open space, privately or otherwise owned, shall be publicly accessible and contained within the perimeter of the development.
 2. Formations that provide State mandated stormwater detention or retention do not qualify as developed open space unless occupying more than five (5) acres and determined by the Planning Commission to be suitable for multiple uses. In cases of approved multi-use stormwater detention or retention basins, the developer shall (at City's discretion) provide restrooms and parking spaces.
- D. Density: The residential density of the proposed development and its distribution as compared with the residential density of the surrounding lands.

E. Property Discrepancies: Conflicts associated with property characteristics and/or ownership, such as, but not limited to recorded property line inconsistencies, ambiguous or contested ownership, etc. (Ord. 2019-04, 1-17-2019, eff. 1-17-2019; amd. Ord. 2021-09, 6-3-2021)

10-20-6: TECHNICAL REVIEW COMMITTEE:

The Technical Review Committee shall review the conditional rezone application to be sure the proposed rezone meets certain minimum requirements and that the proposed project is in harmony with the intent of the City's General Plan. Prior to the conditional rezone application going before the Planning Commission, the Technical Review Committee must document that the minimum requirements of the application have been met. (Ord. 2021-09, 6-3-2021)

10-20-7: PLANNING COMMISSION ACTION:

A. The Planning Commission shall hold a public hearing on the proposed Residential Overlay Zone with Public Amenities.

B. The Planning Commission, subject to the requirements of this chapter, shall recommend to approve, modify with conditions, or deny the Residential Overlay Zone with Public Amenities. (Ord. 2019-04, 1-17-2019, eff. 1-17-2019; amd. Ord. 2019-12, 11-21-2019; Ord. 2021-09, 6-3-2021)

10-20-8: CITY COUNCIL ACTION:

A. The City Council may hold a public hearing on the proposed Residential Overlay Zone. The City Council shall approve the conditional rezone application or deny the conditional rezone of the Residential Overlay Zone with Public Amenities. Approval of the conditional rezone application shall include, but shall not be limited to the following conditions:

1. Submission, review and approval of a development agreement between the applicant and the City.
2. Submission, review and approval of a site plan.
3. Submission, review and approval of a final subdivision plat.

Upon approval of the conditional rezone application, an applicant may proceed with the preparation of a detailed development agreement, Site plan and subdivision application per title 11, chapter 3 of this Code. (Ord. 2019-04, 1-17-2019, eff. 1-17-2019; amd. Ord. 2019-12, 11-21-2019; Ord. 2021-09, 6-3-2021)

1st Draft

**AGREEMENT FOR DEVELOPMENT OF LAND BETWEEN
PLAIN CITY AND OPHIR MOUNTAIN LAND LLC
(2500 N 5100 W)**

THIS AGREEMENT for the development of land (hereinafter referred to as this "Agreement") is made and entered into this _____ of _____, 2026 between PLAIN CITY, a municipal corporation of the State of Utah (hereinafter referred to as "City"), and Ophir Mountain Land LLC, (hereinafter referred to as "Master Developer"). City and Master Developer collectively referred to as the "Parties" and separately as "Party."

RECITALS

WHEREAS, the city has considered an application for a Residential Overlay Zone for certain property located at approximately 2500 n 5100 W and contained by the following tax identification numbers: 190270026, 190270004, 190340008, 190340006, 190340005, 190340019 and 190310006 (hereinafter the "**Subject Area**") and,

WHEREAS, the overall Subject Area consists of approximately 84.4 acres; and WHEREAS, the overall Subject Area is described in legal descriptions in more detail in "**Exhibit A**" attached hereto; and

WHEREAS, Master Developer is the current owner of the Subject Area and has presented a proposal for development of the Subject Area to the City, which provides for development in a manner consistent with the overall objectives of Plain City's General Plan, and is depicted in more detail on "**Exhibit B**" attached hereto (the "**Concept Plan**"); and

WHEREAS, City believes that entering into the Agreement with Master Developer is in the best interest of the City and the health, safety, and welfare of its residents.

NOW, THEREFORE each of the Parties hereto, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, covenant and agree as follows:

**ARTICLE I
DEFINITIONS**

The following terms have the meaning and content set forth in this Article I, in this Agreement:

1.1 "City" shall mean Plain City, a body corporate and politic of the State of Utah. The principal office of City is located at 4160 W 2200 N , Plain City, UT 84404.

1.2 "City's Undertakings" shall mean the obligations of the City set forth in Article III.

1.3 "Master Developer" shall mean Ophir Mountain Land LLC. Except where expressly indicated in this Agreement, all provisions of the Agreement shall apply jointly and severally to the Master Developer or any successor in interest to the Master Developer's interest hereunder. In the interest of advancing the development of the Subject Property, however, any responsibility under this Agreement may be completed by any Project Developer so that the completing Project Developer may proceed with their Project on their respective parcel.

1.4 "Master Developer' Undertakings" shall have the meaning set forth in Article IV.

1.5 "Project" means a separate phase or area of the Subject Property to be developed by a Project Developer pursuant to the terms of this Agreement.

1.6 "Project Developer" means the developer of a separate phase or area of the Subject Property that has received assumed the rights and obligation of Master Developer under this Agreement with respect to a Project.

1.7 "Subject Area" shall mean the 84.4 acres +/- as legally described in Exhibit A.

ARTICLE II CONDITIONS PRECEDENT

2.1 The Overlay Zoning of the Subject Area consistent with the Concept Plan is a condition precedent to Master Developer' Undertakings in Article IV. The Overlay Zoning of the Subject Area shall reflect the general concept and schematic layout of the Concept Plan, which means 67.22 acres of Ee 18.5 zoning and 17.18 acres of Open Space.

2.2 With respect to all zoning designations, Master Developer agrees to design and construct superior quality structures and to comply with all provisions of the Plain City Ordinances and specific setback requirements of Article IV of this agreement.

2.3 This Agreement shall not take effect until City has approved this Agreement pursuant to an ordinance of the Plain City Council.

ARTICLE III CITY'S UNDERTAKINGS

3.1 Subject to the satisfaction of the conditions set forth in Article II, the City shall accept an application for a subdivision of the Subject Area from the Developer. The subdivision reviews

and approvals shall be made pursuant to City ordinances. Nothing herein shall be construed as a waiver of the required reviews and approvals required by City ordinance.

ARTICLE IV
MASTER DEVELOPER' UNDERTAKINGS

Conditioned upon City's performance of its undertakings set forth in Article III, and provided Master Developer has not terminated this Agreement pursuant to Section 8.8, Master Developer agrees to the following:

4.1 Master Developer shall have the right to develop up to 151 single family lots on the property.

4.2 Master Developer acknowledges that the development of 151 single family lots requires the subdivision application comply with all City ordinances and the terms of this agreement. The City's entry into this agreement does not guarantee that the Developer will be able to construct all 151 single family lots.

4.3 Architectural Control. The following restrictions on single-family homes built in the subdivision:

- i. Exterior materials must meet one of the following two options:
 - a. A minimum of 30 percent brick or stone on the front of the home.
 - b. All front and side exterior walls, including corner lots, shall be constructed of 100 percent brick, rock, stone, stucco or engineered siding (includes fiber cement boards such as Hardie or engineered wood siding such as LP Smartside) as a stand-alone product or in combination with other materials previously mentioned. Specific to the front face of the house, homes with 100 percent engineered siding, must use a different pattern on the gables.
- ii. Minimum square footage of 1,400 sq. ft. on main level for rambler style homes.
- iii. Minimum square footage of 1,900 sq. ft. above grade for two story style homes.
- iv. Minimum square footage of 1,750 sq. ft. for one story, slab on grade style homes.

- v. All homes must have a minimum 4-12 pitched roof.
- vi. All homes will have a minimum 2 car garage.
- vii. No vinyl siding will be allowed.

4.4 Open Space Dedication. Master Developer shall dedicate 17.16 acres of parcel(s) 190270026 and 190250024 to Plain City as follows:

- i. Prior to recordation of Phase 1 Developer shall cause a financial guarantee (bond) in favor of the city in the amount of 1,200,000 to guarantee the dedication of the 17.16 acres.
- ii. Prior to recordation of Phase 2 Developer shall dedicate the 17.16 acres to the city.
- iii. Upon dedication of the 17.16 acres City shall cause the financial guarantee to be released within 30 days.
- iv. Once the property is dedicated to the City, then it will be maintained by the City.
- v. City agrees that the property shall be used for city park or open space and shall not be used for extension of the landfill or sewer treatment facilities.

4.5 Lot Width. No lot shall be less than 90' wide.

4.6 Minimum Lot Size. No lot shall be less than 15,000 square feet.

4.7 Off Site Improvements.

- i. Developer shall repave the existing section of 2500 N street from 4425 W street westward to the boundary of the proposed subdivision (being 4500 W) to a width of 28'.
- ii. Developer shall install secondary water from its current location in 5100 W north along 5100 W to approximately 2600 N.

4.8 Basements. The maximum basement depth allowed will be 0 inches measured from the existing grade and the top of the footing.

4.9 Amendments. Master Developer agrees to limit development of the Subject Area to the residential space provided for herein. If other uses are desired, Master Developer agrees to seek an amendment of this Agreement providing for such additional uses.

4.10 Conflicts. Except as otherwise provided, any conflict between the provisions of this Agreement and the City's standards for improvements, shall be resolved in favor of the stricter requirement.

ARTICLE V GENERAL REQUIREMENTS AND RIGHTS OF THE CITY

5.1 Issuance of Permits - Master Developer. Master Developer, or the applicable Project Developer, shall have the sole responsibility for obtaining all necessary building permits in connection with Master Developer' Undertakings pertaining to the applicable Project and shall make application for such permits directly to Plain City and other appropriate agencies having authority to issue such permits in connection with the performance of Master Developer' Undertakings. City shall not unreasonably withhold or delay the issuance of its permits.

5.2 Completion Date. The Master Developer or applicable Project Developer shall, in good faith, reasonably pursue completion of the applicable Project or Projects. Each phase or completed portion of a Project must independently meet the requirements of this Agreement and the City's ordinances and regulations applicable thereto, such that it will stand alone, if no further work takes place on the Project.

5.3 Access to the Subject Area. For the purpose of assuring compliance with this Agreement, so long as they comply with all safety rules of Master Developer and their contractor, representatives of City shall have the right to access the Subject Area without charges or fees during the period of performance of the Master Developer' Undertakings.

5.4 Federal and State Requirements. If any portion of the Property is located in areas with sensitive lands that are regulated by state and federal laws, development of that portion of the Property shall comply with all such regulations, which pertain to issues including but not limited to wetlands, sensitive lands, flood plains, and high-water tables.

ARTICLE VI REMEDIES

6.1 Remedies for Breach. In the event of any default or breach of this Agreement or any of its terms or conditions, the defaulting Party or any permitted successor to such Party shall, upon written notice from the other, proceed immediately to cure or remedy such default or breach, and in any event cure or remedy the breach within thirty (30) days after receipt of such notice. In the event that such default or breach cannot be reasonably be cured within said thirty

(30) day period, the Party receiving such notice shall, within such thirty (30) day period, take reasonable steps to commence the cure or remedy of such default or breach, and shall continue diligently thereafter to cure or remedy such default or breach in a timely manner. In case such action is not taken or diligently pursued, the aggrieved Party may institute such proceedings as may be necessary or desirable in its opinion to:

6.1.1 Cure or remedy such default is pursued, including, but not limited to, proceedings to compel specific performance by the Party in default or breach of its obligations; and

6.1.2 If Master Developer or the applicable Project Developer fails to comply with applicable City codes, regulations, laws, agreements, conditions of approval, or other established requirements, City is authorized to issue orders requiring that all activities within the applicable Project cease and desist, that all work therein be stopped, also known as a "Stop Work" order.

6.2 Enforced Delay Beyond Parties' Control. For the purpose of any other provisions of this Agreement, neither City nor Master Developer, as the case may be, nor any successor in interest, shall be considered in breach or default of its obligations with respect to its construction obligations pursuant to this Agreement, in the event the delay in the performance of such obligations is due to unforeseeable causes beyond its fault or negligence, including, but not restricted to, acts of God or of the public enemy, acts of the government, acts of the other Party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes or unusually severe weather, or delays of contractors or subcontractors due to such causes or defaults of contractors or subcontractors. Unforeseeable causes shall not include the financial inability of the Parties to perform under the terms of this Agreement.

6.3 Extension. Any Party may extend, in writing, the time for the other Party's performance of any term, covenant or condition of this Agreement or permit the curing of any default or breach upon such terms and conditions as may be mutually agreeable to the Parties; provided, however, that any such extension or permissive curing of any particular default shall not operate to eliminate any of any other obligations and shall not constitute a waiver with respect to any other term, covenant or condition of this Agreement nor any other default or breach of this Agreement.

6.4 Rights of Master Developer. In the event of a default by a Project Developer, Master Developer may elect, in their discretion, to cure the default of such Project Developer, provided, Master Developer's cure period shall be extended by thirty (30) days.

ARTICLE VII
GENERAL PROVISIONS

7.1 Successors and Assigns of Master Developer. This Agreement shall be binding upon Master Developer and its successors and assigns, and where the term “Master Developer” is used in this Agreement it shall mean and include the successors and assigns of Master Developer. The City shall not unreasonably withhold or delay its consent to any assignment or change in Master Developer (successor or assign of Master Developer) of the Subject Area.

7.2 Notices. All notices, demands and requests required or permitted to be given under this Agreement (collectively the “Notices”) must be in writing and must be delivered personally or by nationally recognized overnight courier or sent by United States certified mail, return receipt requested, postage prepaid and addressed to the Parties at their respective addresses set forth below, and the same shall be effective upon receipt if delivered personally or on the next business day if sent by overnight courier, or three (3) business days after deposit in the mail if mailed. The initial addresses of the Parties shall be:

To Master Developer: Ophir Mountain Land LLC:
David Pitcher
4474 N Heather Meadows Dr
Morgan, UT 84050

To City: Plain City Corporation
4160 W 220 N
Plain City, Utah 84404

Upon at least ten (10) days prior written notice to the other Party, either Party shall have the right to change its address to any other address within the United States of America.

If any Notice is transmitted by facsimile or similar means, the same shall be deemed served or delivered upon confirmation of transmission thereof, provided a copy of such Notice is deposited in regular mail on the same day of transmission.

7.3 Third Party Beneficiaries. Any claims of third-party benefits under this Agreement are expressly denied, except with respect to permitted assignees and successors of Master Developer.

7.4 Governing Law. It is mutually understood and agreed that this Agreement shall be governed by the laws of the State of Utah, both as to interpretation and performance. Any action at law, suit in equity, or other judicial proceeding for the enforcement of this Agreement or any provision thereof shall be instituted only in the courts of the State of Utah.

7.5 Integration Clause. This document constitutes the entire agreement between the Parties and may not be amended except in writing, signed by the City and the Master Developer or Project Developer affected by the amendment.

7.6 Exhibits Incorporated. Each Exhibit attached to and referred to in this Agreement is hereby incorporated by reference as though set forth in full where referred to herein.

7.7 Attorneys' Fees. In the event of any action or suit by a Party against the other Party for reason of any breach of any of the covenants, conditions, agreements or provisions on the part of the other Party arising out of this Agreement, the prevailing Party in such action or suit shall be entitled to have and recover from the other Party all costs and expenses incurred therein, including reasonable attorneys' fees.

7.8 Termination. Except as otherwise expressly provided herein, the obligation of the Parties shall terminate upon the satisfaction of the following conditions:

7.8.1 With regard to Master Developer' Undertakings, performance of the Master Developer' Undertakings as set forth herein.

7.8.2 With regard to City's Undertakings, performance by City of City's Undertakings as set forth herein.

Upon Master Developer's request (or the request of Master Developer' assignee), the other Party agrees to enter into a written acknowledgment of the termination of this Agreement, or part thereof, so long as such termination (or partial termination) has occurred.

7.9 Recordation. This Agreement shall be recorded upon approval and execution of this Agreement by the Master Developer and the City's granting of the zoning approvals contemplated in Article II.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives effective as of the day and year first above written.

Plain City Corporation

,Mayor

ATTEST:

, City Recorder

Ophir Mountain Land LLC, a Utah
limited liability company

Kent Hoggan, Operations Manager

EXHIBIT A

Legal Description of Property

