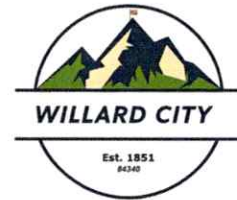


ITEM 5D

**Planning Commission
Staff Report
Canyon Bay MPC
Rezone Application
9/27/2026**



Total acreage: 24.83
Number of Lots: 48
Net Density: 2 units per acre
Average Lot Size: 16,285 square feet (0.37 acre)
Existing Zone: Agriculture 5 acre
Desired Zone: Master Planned Community
Unit Type: Single Family

Background

KSA Willard LLC has submitted an application to rezone approximately 24.83 acres of property to the Master Planned Community (MPC) Zone and establish the development standards and commitments applicable to the proposed Canyon Bay development. The application was originally submitted on January 29, 2025, before the MPC Ordinance was amended on March 28, 2025. Please see the packet for the correct version of the MPC Ordinance.

The property is currently zoned A-5. The proposed MPC zoning would establish a coordinated development plan for the property through the MPC zoning ordinance, Master Plan, Development Agreement, and associated documents. The Development Agreement identifies a maximum of 48 single-family dwelling units for the project.

The application before the Planning Commission includes the proposed Development Agreement, Agricultural Conservation Easement, and associated exhibits and agreements. These documents have been developed through an extended review process between the applicant and City staff and are intended to establish the development standards, infrastructure obligations, open space commitments, and long-term protections associated with the proposed MPC development.

Previous Review

A public hearing regarding the proposed rezone of approximately 24.83 acres from A-5 to Master Planned Community (MPC) was held by the Planning Commission on November 6, 2025. The Canyon Bay project was last presented to the Planning Commission on February 5, 2026.

Following that meeting, City staff continued working with the applicant on the proposed development agreement, agricultural conservation easement, and associated documents.

Over the subsequent months, the documents have undergone multiple rounds of review and revision by City staff and the applicant. The current documents are being presented to the Planning Commission for consideration of the proposed MPC rezone and the associated development framework.

Proposed MPC Development

The proposed Canyon Bay development consists of 48 single-family residential lots on approximately 24.83 acres, resulting in a proposed density of approximately 1.9 dwelling units per acre. The smallest lot is 14,260 square feet and the largest is 25,654 square feet. The average lot size is 16,285 square feet, about 0.374 acre.

The Master Plan provides approximately 20% open space, consisting of approximately 1.33 acres of Open Space 1 and Open Space 2 and 3.72 acres of Open Space 3, for a total of approximately 4.97 acres. Open Space 1 and Open Space 2 are proposed for dedication to the City for public park and/or trail purposes. Open Space 3 is proposed to be protected through a perpetual agricultural conservation easement.

The Master Plan also identifies an interconnected trail system, public open space, and park amenities. The proposed amenities are further described in Exhibit E of the Development Agreement.

Public Benefits and Development Commitments

Because the MPC Zone provides flexibility beyond conventional zoning, the City Code requires consideration of the public benefits associated with an MPC proposal. The proposed Development Agreement identifies the following public benefits and development commitments.

1. Preservation of Agricultural Land

The proposed development includes a 3.72-acre perpetual agricultural conservation easement over an existing peach orchard.

The easement would prohibit subdivision and nonagricultural development of the protected property and require the property to remain in active agricultural production. The easement would run with the land in perpetuity.

The easement also establishes ongoing maintenance standards for the property and authorizes City monitoring and enforcement of those standards.

This creates a long-term mechanism for preserving the agricultural use of the property rather than simply identifying the area as open space on a development plan.

2. Preservation of Agricultural Water

The agricultural easement is accompanied by provisions addressing the irrigation water necessary to maintain the protected orchard.

The associated documents provide for the transfer of 89.28 Willard Water Company shares to the City, with the City holding the shares for the benefit of the protected agricultural property and leasing them to the current agricultural operator for an annual fee of \$1.00. The water shares are required to remain associated with the protected property and may not be severed or otherwise disposed of without the required approval.

3. Public Open Space and Recreational Amenities

The project proposes approximately 4.97 acres of total open space, or approximately 20% of the project area.

Approximately 1.33 acres of Open Space 1 and Open Space 2 would be dedicated to the City for public park and/or trail purposes. The Development Agreement also commits the project to providing the minimum amenities shown in Exhibit E.

The Master Plan and associated exhibits depict a connected trail system and park/open-space amenities, including areas intended for recreational use.

4. Long-Term Development Standards

The Development Agreement establishes the development standards that will govern the project, including the Master Plan, maximum number of dwelling units, lot and building standards, open space requirements, infrastructure obligations, phasing, and other development requirements.

The agreement is also intended to be recorded in the Box Elder County Recorder's Office and run with the land.

Staff Analysis

WZC 24.24.140 states the MPC Zone should demonstrate the following:

1. Enhancing public spaces and amenities.
2. Improving transportation infrastructure.

3. Promoting environmental sustainability.
4. Supporting local economic growth and job creation.
5. Providing high-quality housing options.
6. Developments within the MPC Zone should align with the city's long-term strategic goals and enhance the overall quality of life for Willard's residents.

The proposed MPC zoning allows the Canyon Bay property to be developed under a coordinated plan with specific standards and commitments established through the Development Agreement and related agreements. The proposal includes 48 single-family homes, approximately 20% open space, a 3.72-acre perpetual agricultural conservation easement, park and trail improvements, and transportation and utility improvements. The agreements also establish the responsibilities of the Developer for construction, water dedication, warranties, and financial security for required improvements.

The agricultural conservation easement provides for the long-term preservation of the existing agricultural property by restricting future subdivision and non-agricultural development. The Development Agreement also establishes the standards and requirements that will apply as the project moves forward through subdivision and construction.

Staff Recommendation

Staff recommends that the Planning Commission review the proposed MPC rezone, Development Agreement, Agricultural Conservation Easement, and associated exhibits and make the findings required by WZC 24.24.140. If the Planning Commission determines that the applicable MPC requirements have been satisfied, staff recommends forwarding the application and associated agreements to the City Council for consideration of the rezone and Development Agreement.

Positive Recommendation

I move that the Planning Commission recommend approval to the Willard City Council of the proposed Canyon Bay rezone to the Master Planned Community (MPC) Zone, together with the proposed Development Agreement, Agricultural Conservation Easement, and associated exhibits and agreements.

Negative Recommendation

I move that the Planning Commission recommend denial of the proposed Canyon Bay rezone to the Master Planned Community (MPC) Zone and the associated Development Agreement, Agricultural Conservation Easement, and exhibits and agreements, finding that the proposal does not satisfy the applicable requirements of Willard City Code, including the requirements of Section 24.24.140, for the reasons discussed by the Planning Commission.

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “**Agreement**”) is entered into as of _____, 20__ (the “**Effective Date**”), by and between WILLARD CITY, a political subdivision of the State of Utah (the “**City**”) and KSA WILLARD LLC, a Utah limited liability company (“**Developer**”), for the Canyon Bay Subdivision (“**Canyon Bay**”). The City and Developer may be referred to individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

A. Developer owns and is developing that certain real property as more particularly described on Exhibit A attached hereto (the “**Property**”), which Property is currently located in the City, and which is approximately 24.83 acres; and

B. The Property, as part of the City, was recently located in the City’s A-5 zone, but concurrently with the approval of this Agreement, the Property was rezoned to the City’s MPC zone; and

C. The MPC Zone Ordinance requires the submission of a preliminary site plan, a zone description for the Zoning District, and a development agreement, all of which set forth the standards and regulations that guide development in the MPC Zone; and

D. Developer desires to develop the Property in accordance with Applicable Law and this Agreement; and

E. Developer is proposing to develop the Property as shown on the document attached as Exhibit B, labeled “Master Plan”; and

F. The City has determined that the Project satisfies the requirements of Section 24.24.140 of the City Municipal Zoning Ordinance by providing clear and measurable public benefits to the City, conforming to the City’s General Plan, providing equal or greater compatibility with surrounding land uses, and furthering the purposes and intent of the MPC Zone through coordinated and flexible development standards; and

G. The City and Developer recognize that the development of the Project may result in tangible benefits to the City through the stimulation of development in the City, including a possible increase of the City’s tax base and the development of amenities, and the Parties are therefore willing to enter into this Agreement, subject to the terms and conditions set forth herein.

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

1. *Recitals; Definitions.*

1.1 Recitals. The Recitals set forth above are incorporated herein by this reference.

1.2 Defined Terms. Unless the context requires a different meaning, any term or phrase used in this Agreement that has its first letter capitalized has the meaning given to it by this Agreement. Certain terms and phrases are referenced below; others are defined where they appear in the text of this Agreement, including the Exhibits. Any capitalized term used but not otherwise defined in this Agreement shall have the meaning ascribed to such term in the Land Use Code.

1.2.1 “Agreement” means this Agreement including all of its exhibits.

1.2.2 “Amenity” means an individual Private Amenity or Public Amenity.

1.2.3 “Amenities” means collectively the Private Amenities and Public Amenities identified on the Master Plan, as attached as Exhibit B.

1.2.4 “Applicable Law” has the meaning set forth in Subsection 13.1.

1.2.5 “City” means Willard City, and includes, unless otherwise provided, any and all of the City’s agencies, departments, officials, employees or agents.

1.2.6 “City Code” means the Willard City Code, including the Land Use Code, in effect as of the Effective Date (provided, however, the applicable version of the MPC Zone Ordinance is that version discussed in Section 13.1 herein).

1.2.7 “City Council” means the City Council of Willard City.

1.2.8 “Dwelling Units” means a structure or portion thereof designed and capable of daily residential occupancy.

1.2.9 “Effective Date” means the date set forth in the Preamble of this Agreement.

1.2.10 “Final Plat” means the recordable map or other geographical graphical representation of land, and Section 24.80.050(D) of the City Code, and approved by the City, effectuating a subdivision of any portion of the Project.

1.2.11 “Future Law” means the laws, ordinances, policies, standards, guidelines, directives, procedures and processing fee schedules of the City which may or may not apply to the Project as provided in Section 4.2 below.

1.2.12 “Land Use Code” means the City’s land use ordinances and Zoning Code in effect as of the Effective Date (provided, however, the applicable version of the MPC Zone Ordinance is that version discussed in Section 13.1 herein).

1.2.13 “Lender” means one or more financial institutions or entities that loan money to Developer to enable Developer to develop the Project.

1.2.14 “Maximum Density” means the forty-eight (48) Dwelling Units, consisting only of single-family homes, that Developer may construct as part of the Project.

1.2.15 “MPC Zone Ordinance” has the meaning set forth in Subsection 13.1 of this Agreement.

1.2.16 “Non-Residential Development” means development within the Project, excluding the Dwelling Units, and includes without limitation the Amenities and Open Space.

1.2.17 “Open Space” has the same meaning as provided in Section 24.24.030 of the MPC Zone Ordinance.

1.2.18 “Preliminary Plat” means the preliminary map or other geographical graphical representation of land prepared in accordance with Section 24.80.040(D) of the City Code.

1.2.19 “Private Amenities” means any Amenity owned or managed by a private entity and not considered a Public Amenity.

1.2.20 “Project” means the development to be constructed by Developer on the Property as conceptually depicted on the Master Plan, as attached as Exhibit B.

1.2.21 “Public Amenities” means any Amenity that will be dedicated by Developer to the City or that are owned or managed by a private entity but are open to public use.

1.2.22 “Public Roads” means the public roads and rights of way depicted on the Master Plan, as attached as Exhibit B, located in the Project that will be dedicated by the Developer to the City.

1.2.23 “System Improvement” means an improvement that is designed to serve areas within the City and community at large and which may serve the Project as a part of the City and community at large.

1.2.24 “Term” has the meaning set forth in Subsection 13.2 below.

1.2.25 “Zoning Code” means the Willard Zoning Code.

1.2.26 “Zoning District” means the Master Planned Community Zone (“MPC Zone”), as depicted on the Master Plan, attached as Exhibit B.

2. *Conditions Precedent.* The Parties enter this Agreement in anticipation of the satisfaction of certain conditions precedent, which if not satisfied, will frustrate the purposes of this Agreement. Developer’s obligations under this Agreement are expressly contingent upon the following (collectively, “**Conditions Precedent**”):

2.1 The City Council enacts, and the Mayor acknowledges, an ordinance approving the rezone of the Property to the MPC Zone and approving a Zoning Map Amendment.

2.2 The City Council approves, and the Mayor acknowledges and executes, this Agreement, as required by the MPC Zone Ordinance. The City Council specifically makes the findings as required under Section 24.24.140 of the MPC Zone Ordinance, as follows:

2.2.1 City Zoning Ordinance 24.24.140(A) - Clear and Measurable Benefit to the City.

(a) Enhancing Public Spaces and Amenities. The Project will preserve over 4.97 acres as open space out of 24.83 acres for the Property, or 20% open space, including 3.72 acres of the Property for an existing peach orchard under an agricultural easement, an integrated trail network throughout the Project, and a park, which would include a pavilion and connections to adjacent open space areas, such as The Orchards and Deer Run.

(b) Improving Transportation Infrastructure. As part of the Project, Developer plans to improve a significant segment of 200 West, helping (i) implement Goal 2 of the City's General Plan Transportation Action Table to "[i]mprove safety and accessibility for pedestrian and non-motorized vehicles to all public facilities and recreational areas", and (ii) improve connectivity to Highway 89. The Project will continue paths to other trails in the public open space.

(c) Promoting Environmental Sustainability. Developer will (i) retain an existing peach orchard through an agricultural easement, as described in Exhibit F, which will occupy 3.72 acres of the Property, and (ii) integrate a public open space with a play ground, gazebo, and green space, to collectively support long-term environmental and agricultural sustainability.

(d) Supporting Local Economic Growth and Job Creation. The Project will preserve local productive land and support small-scale farming activities with the 3.72 acre peach orchard, which is also consistent with Objective 3.3 of the City's General Plan Land Use Action Table to "[i]mprove local food access".

(e) Providing High-Quality Housing Options. The Project will consist of forty-eight (48) Dwelling Units, offering residential development within the City, while maintaining a rural character and providing a lower-density development of 1.9 units per acre.

(f) Aligning with City's Long-term Strategic Goals. As described in Section 2.2.2, the Project implements the City's General Plan (i) promoting effective land use, such as preserving agricultural areas through an agricultural easement, as described in Exhibit F; (ii) integrating safe and accessible transportation improvements, such as renovating 200 West and creating a pathway connecting to other City trails in the open space; and (iii) providing flexible,

well-planned development areas by developing forty-eight (48) Dwelling Units, with a lower-density of 1.9 units per acre.

(g) Enhancing Overall Quality of Life for the City's Residents. The Project will enhance the overall quality of life for the City by (i) integrating a portion of the open space into the City public trail system with recreational opportunities, such as a gazebo and play area for children (ii) retaining agricultural use in the peach orchard as an open space area, (iii) improving 200 West, while including street lights as part of the Project; and (iv) building housing in the City.

2.2.2 City Zoning Ordinance 24.24.140(B) - Conforming to Guidelines and Policies of the City's General Plan. The City and Developer agrees that the Project conforms to the applicable goals and objectives of the City's General Plan in the following manner:

(a) Land Use Action Table.

(i) Goal 1, "Evaluate all City decisions, actions, and budget expenditures to achieve General Plan consistency". Developer has met with City leaders through periodic meetings and has subsequently implemented and incorporated City and public comments and requested concepts.

(ii) Goal 2, "Protect the City's naturally occurring sensitive lands, views, features, and other amenities". The Project will preserve the City's viewsheds by incorporating appropriate building heights and setbacks and minimum 77-foot frontages for each lot. The Project will also preserve the City's natural landscape through an agricultural easement maintaining a peach orchard and by setting aside land for a park area, including a playground and gazebo.

(iii) Goal 3, "Protect the City's agricultural areas". Developer will enter into an agricultural conservation easement with a local small-scale farmer to preserve a 3.72-acre peach orchard. Developer will also preserve a portion of open space as a park area, including a trail, playground and gazebo.

(iv) Goal 4, "Promote efficiencies in the use of all water resources and protect local water sources". The City's Flood Control Division has reviewed the plans to ensure feasibility with local water resources.

(v) Goal 8, "Continue to require quality developments that promote and enhance the City's small-town character and ambiance and to remain a safe and desired location for residential and nonresidential uses". The Project will consist of forty-eight (48) Dwelling Units, at 1.9 units per acre, which demonstrates a small-town character and ambiance; combined with a small farm setting, and a park with trees, bushes and other vegetation, thereby creating a balanced mix of residential and nonresidential uses.

(b) Transportation Action Table.

(i) Goal 2, “Improve safety and accessibility for pedestrian and non-motorized vehicles to all public facilities and recreational areas”. The Project will connect to existing trails and provide public open space.

(ii) Goal 3, “Improve mobility and accessibility through innovation and advances in transportation improvements”. The Project will develop and improve portions of 200 West as part of improving the City’s overall transportation network and connectivity and build a street bisecting the western parcel to provide access from 200 West to the frontage road.

(c) Housing Action Table.

(i) Goal 2, “Support the ability of residents to remain in their homes”. Developer will construct forty-eight (48) Dwelling Units at 1.9 units per acre, which will increase the City’s housing supply and support lower-density housing.

2.2.3 City Zoning Ordinance 24.24.140(C) - Providing Equal or Greater Compatibility with Surrounding Land Uses. The Project provides equal or greater compatibility with surrounding land uses than the existing A-5 zoning and future R-½ designation by (i) aligning the surrounding approved MPC development (Orchards at Willard) and PUD development (Deer Run), as well as the surrounding R-½ zoning; (2) providing lower proposed density lots of 1.9 units per acre, compared to the adjacent higher-density portions of Deer Run at about 3.3 units per acre; (3) preserving a 3.72-acre area for agricultural cultivation and additional open space as a buffer; and (4) creating meaningful open space with a park area and a peach orchard, which would not be achievable under conventional zoning.

2.2.4 City Zoning Ordinance 24.24.140(D) - Additional Considerations. Approving the MPC Zone for the Project will:

(a) Subsection 1 – Provide land use and design standards within the City that cannot be provided through conventional zoning to permit flexibility and development of the 600 South and 200 West area while maintaining the rural nature of the City.

(b) Subsection 4 – Promote efficient and coordinated land use by creating a new MPC-zoned transitioning density of 1.9 units per acre, that blends with surrounding developments, such as neighboring PUD-zoned Deer Run (approximately 3.3 units per acre) and MPC-zoned Orchards at Willard (approximately 1.9 units per acre).

(c) Subsection 5 – Expand opportunities for alternative transportation, including walking and bicycling through the interconnected trail system and park, and delivering infrastructure by improving 200 West.

The foregoing considerations demonstrate that applying the MPC Zone structure would provide infrastructure and community benefits exceeding those required under standard zoning designations.

If any of the Conditions Precedent are not satisfied within sixty (60) days of the Effective Date (“**Conditions Precedent Deadline**”), this Agreement shall be rendered null and void upon written notice by Developer delivered to the City no later than thirty (30) days after the Conditions Precedent Deadline and upon delivery of such written notice none of the Parties shall have any further obligation to the other arising out of this Agreement. The Parties recognize that the Conditions Precedent identified in this Section will be satisfied contemporaneously with or prior to the execution of this Agreement, but such Conditions Precedent have been identified herein for purposes of setting forth the intent of the Parties.

3. *Governing Standards.* This Agreement, the MPC Zone, the Land Use Code, and all applicable state and federal statutes, rules, and regulations establish the development rights for the Project, including the approved uses, Maximum Density, and configuration for the Project as shown on the Master Plan, attached as Exhibit B.

4. *Vested Rights and Legislative Powers.*

4.1 Vested Rights. As of the Effective Date, Developer has the vested right to proceed with the development of the Property in accordance with this Agreement, including the Master Plan, attached as Exhibit B. This Agreement memorializes Developer’s rights to develop the Project in fulfillment of this Agreement and Applicable Law. Specifically, Developer is vested with the right to: (i) develop and construct the Project in accordance with Applicable Law; (ii) develop the Project consistent with the Maximum Density as depicted on the Master Plan attached as Exhibit B; (iii) develop Non-Residential Development as allowed by Applicable Law and as depicted on the Master Plan, attached as Exhibit B; (iv) connect to existing public roads and infrastructure as depicted on the Master Plan, as attached as Exhibit B; and (v) connect to existing public infrastructure, upon the payment of generally applicable fees and design approval by the City. The Parties intend that the rights granted to Developer under this Agreement are the contractual rights and also those rights that exist under the Applicable Law. The Parties specifically intend that this Agreement grants to Developer “vested rights” as that term is construed pursuant to Utah Code Ann., §10-20-902. However, Developer agrees and acknowledges that upon execution of this Agreement, Developer’s approval and vested rights are contingent upon commencement of the Project, being pursued with diligence and consistency, within one (1) year of approval of the MPC Zone and this Agreement. In the event that Developer does not proceed with the commencement of the Project, then such approval of the Project and this Agreement shall lapse, and Developer’s vested rights shall be deemed null and void. “Commencement of Project” is defined as construction has started on the site after a preconstruction meeting has been held and the Developer has been given approval to move forward by the City Engineer. If vested rights lapse, any future development must comply with ordinances in effect at the time of reapplication.

4.2 Applicable Law. The City’s Future Laws with respect to the Project or the Property shall not apply except as follows:

4.2.1 Developer Agreement. Future Laws that Developer agrees in writing to the application thereof;

4.2.2 Compliance with State and Federal Laws. Future Laws which are generally applicable to all properties in the City and which are required to comply with State and Federal laws and regulations affecting the Project and do not effectuate a taking of the right to develop the uses in the densities described in this Agreement;

4.2.3 Safety Code Updates. Future Laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, International Fire Code ("IFC"), or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety, or welfare.

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

4.2.5 Fees. Changes to the amounts of fees for the processing of land use applications that are generally applicable to all development within the City (or a portion of the City as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law; and

4.2.6 Impact Fees. Impact fees or modifications thereto which are lawfully adopted, imposed, and collected on all areas of the City.

5. *Future Approvals and Building Permits.*

5.1 Final Project Plans. Developer shall prepare and submit to the City for review and approval, a preliminary site plan that conforms to the Master Plan attached as Exhibit B, a Preliminary Plat, a Final Plat and all other documentation required by the Land Use Code to lawfully develop the Property in accordance with the Land Use Code, this Agreement, and the MPC Zoning Ordinance, for each phase of the project. Provided that any preliminary site plan, Preliminary Plat, or Final Plat submitted by Developer conforms to the Master Plan, as attached as Exhibit B to this Agreement and complies with the Applicable Law, the City shall approve the Preliminary Plat and Final Plat. A Preliminary Plat or Final Plat conforms to the Master Plan if the same does not: i) increase the density shown on the Master Plan; ii) introduce new uses not identified on the Master Plan; iii) omit any amenities or reduce the overall Open Space of the Project; iv) fail to meet the requirements for a Preliminary Plat application under Section 24.80.040 of the Land Use Code or for a Final Plat application under Section 24.80.050 of the Land Use Code; or v) decrease any frontages that are depicted on the Master Plan. Each phase will be completed according to the phasing schedule as shown in Exhibit D. Each subdivision phase will come to the Planning Commission for recommendation to the City Council for both the preliminary and final approval. An amendment to this Agreement requires a public hearing at the Planning Commission, the Planning Commission's recommendation to the City Council, and then

the City Council taking action on the amendment. Both parties have to agree to the amendment and the City Council has no obligation to agree to additional phases.

5.2 **Building Permit.** For each phase of the project, Developer shall provide all documents and information required by the Land Use Code and by the City's departments for the issuance of a building permit by the City. Prior to the issuance of building permits for homes or other vertical construction, Developer shall also provide evidence that all individual lots within the final plat for each phase of the Project have been staked by a licensed surveyor; public water lines and secondary water lines have been installed and stubbed to each lot; charged fire hydrants have been installed; sanitary sewer lines have been installed and stubbed to each lot; fiber optic conduit has been installed (by Developer or the applicable provider); street lights and public streets (including all weather access, curb, gutter, and pavement with at least the base course completed) have been installed; and certifies such structures have been completed and accepted by the City. Immediately following the pre-construction meeting with the City Engineer and Public Works Director and upon their approval, the Developer may commence construction of the approved project improvements. The City retains full discretion to approve, deny, or condition any phasing request.

5.3 **Certificate of Occupancy.** No Certificates of Occupancy shall be issued by the City for any structure within the applicable phase of the Project until water, sewer, and gas lines to the structure are installed and functional, street signs are installed, all electric lines are installed and functional, and any other requirements of the City Code, International Fire Code, and any other state or federal code or requirements have been met.

6. *Zoning and Use*

6.1 **Development and Use.** Developer shall develop the Property in a manner consistent with the Master Plan as attached as Exhibit B.

6.2 **Permitted Residential Use.** Residential lots within the Project shall be limited to single-family detached dwellings and customary accessory uses and structures, except as otherwise permitted by applicable City Code.

6.3 **Development Standards.** Developer shall develop the Property in a manner consistent with the following:

Standard	Requirement
Minimum Lot Area	14,000 square feet
Minimum Lot Frontage	77 feet
Primary Front Setback	30 feet
Primary Side Setback	10 feet minimum each side, 25 feet combined
Primary Rear Setback	20 feet

Maximum Primary Building Height	35 feet
Maximum Lot Coverage	25%

6.4 **Accessory Buildings.** Accessory buildings shall be subordinate and incidental to the primary residential use of the lot and shall not be used as a separate dwelling unit unless otherwise permitted by applicable City Code. No accessory building shall be constructed on a lot prior to construction of the primary residential building. Accessory buildings shall maintain a minimum separation of ten (10) feet from all other structures.

Front	Side	Rear	Height
Accessory buildings shall not be located between the primary building and front property line.	5 ft	10 ft	25 ft

6.5 The development standards in Section 6.5 shall apply to corner lots in lieu of the corresponding side-yard standards established in Section 6.4.

Structure	Front	Street Side	Interior Side	Rear	Height
Corner Lot Primary	30 ft	30 ft	10 ft	20 ft	35 ft
Corner Lot Accessory	Accessory buildings shall not be located between the primary building and front property line.	30 ft	5 ft	10 ft	25 ft

6.6 **Lot Coverage.** The total lot coverage of all buildings on each residential lot shall not exceed twenty-five percent (25%) of the total lot area. Lot coverage shall be calculated based on the combined building footprint of all primary and accessory buildings located on the lot.

7. *Developer Obligations.*

7.1 **Construction Standards.** Developer shall develop the Project in accordance with the City Code, this Agreement including the Master Plan, and the City's rules, regulations

and development standards. Developer shall provide the City with copies of “as built” drawings of the Utilities (defined below) and Transportation Improvements (defined below).

7.2 Utility Improvements. Developer shall be responsible for constructing and installing the culinary water, secondary water, sewer, stormwater detention basin, and storm drain distributions lines within the Project that are necessary to connect to existing public infrastructure (collectively, the “**Utilities**”); provided, however, City acknowledges and agrees that in the event there are any existing dry and/or wet utilities within adjacent developments (“**Existing Infrastructure**”) that may be used by Developer for the Utilities required for the Project, Developer may use such Existing Infrastructure to the extent necessary and/or applicable in-lieu of constructing and installing the Utilities required for the Project. Developer shall pay for the construction and installation of all Utilities necessary for the Project. Notwithstanding the foregoing, the Project is reliant on the adjoining Deer Run Subdivision Development to complete their sewer improvements, specifically Deer Run’s southwest corner of the development due to gravity and flow. Because of this issue, prior to the City’s issuance of any building permits relating to the construction of sewer improvements on the Property, either of the following conditions shall have been first been satisfied: (i) the developer of the adjacent community known as “Deer Run” shall have substantially completed that certain sewer line contemplated to be constructed within the right-of-way known as 300 West and Parcel A of Deer Run as shown on the construction drawings for Deer Run Phase 2, Part 3, Phase 2, Part 4, and Phase 2, Part 5 (the “**Deer Run Sewer Line**”), or (ii) Developer shall have provided to the City another design of the sewer improvements and sewer connections to be constructed on the Property that is acceptable to the City and is otherwise adequate to serve Developer’s proposed development of the Property. As used in the foregoing sentence, the term “substantially completed” shall mean the City and/or applicable utility provider have inspected the constructed Deer Run Sewer Line and agree that the Deer Run Sewer Line, as constructed, meets the applicable City and utility requirements for use. The City has no obligation to expedite or enforce Deer Run’s timeline. Developer shall be responsible for complying with all applicable City, state, and federal laws, regulations, and rules with respect to the Utilities. Upon completion of the Utilities, Developer and Owner shall dedicate the Utilities to the applicable governmental authority or service provider.

7.3 Transportation Improvements. Developer shall also construct all streets, curbs, gutters, sidewalks, streetlights, trails, and those required improvements to 200 West, 100 West, and 600 South (collectively, “**Transportation Improvements**”) within the Project in accordance with the City Code and the City’s roadway standards in effect as of the Effective Date.

7.4 Warranty of Improvements. Developer shall warrant the materials and workmanship of all Utilities and Transportation Improvements and any other public improvements installed within the Project for a period of two (2) years (as outlined in Section 24.80.150 of the City Code) from and after the date of final inspection and approval by the City of the public improvements. Upon final approval by the City, Developer shall provide a ten percent (10%) guarantee of the total current cost of the approved improvements to be held for two (2) years and must be provided using either an escrow account or a letter of credit as outlined in City Code Section 24.80.150(A) (2) or (3). At the end of the two (2) years warranty period, the City may, at its sole discretion, complete any development improvements that have not been satisfactorily completed or repaired by Developer, and may draw upon the guarantee to complete or correct such improvements. Developer shall enter into a subdivision improvement agreement for each phase,

attached as Exhibit G , and the agreement and documents aforesaid shall contain such terms and conditions required by the City Manager and shall be approved as to form by the City Attorney and City Engineer.

7.5 Open Space. The Project will include Open Space and Amenities as shown on the Master Plan. A portion of the Open Space within the Project (i.e. Open Space 1 and Open Space 2, each as depicted on the Master Plan attached as Exhibit B), and consisting of 1.25 acres, shall be dedicated to the City of Willard as public park or trails system in accordance with MPC Zone Ordinance Section 24.24.030; provided, however, the Dedicated Open Space may also be used for flood control purposes, including without limitation, as one or more stormwater detention basins, but only if they comply with MPC Zone Ordinance Section 24.24.030(A) and provide recreational amenities as defined in that section. The Project commits to providing, at a minimum, amenities as shown on Exhibit E. Declarant shall subject three and seventy-two hundredths (3.72) acres of Open Space within the Project (i.e. Open Space 3 as depicted on the Master Plan, attached as Exhibit B) to a perpetual agricultural conservation easement granted to the City (the “**Easement**”). The Easement shall conform to the requirements of City Code Section 24.24.030(C) and shall be attached as Exhibit F to this Agreement. Other than the Shed (defined below), the Easement will restrict the construction of structures, roads, or other above-ground infrastructure. Crop and livestock production facilities below 11 feet in height, such as fences and irrigation systems, will be allowed. The Easement shall reserve to Developer reasonable use rights including, without limitation, (i) the right to engage in agricultural uses on the property subject to the Easement, including but not limited to cultivating orchards, pastures and/or crops, including row crops, and allowing any current operations to remain in place, (ii) the right to construct a single-level structure below 11 feet in height and no larger than 300 square feet of floor area for crop and livestock production facilities including farm equipment storage, which shall not be used for recreational vehicle storage, a bathroom, or a residence (the “**Shed**”) and shall be located only in areas specifically allowed for in the Easement, and (iii) the right to use the property subject to the Easement for access and for the use, maintenance, repair and replacement of Utilities as set forth in Section 7.2 above. The Easement shall restrict future subdivision of the property subject to the Easement and any industrial or other developmental activity on such property (other than construction of the Shed), including the construction of Dwelling Units.

7.6 The property subject to the Easement shall be continuously maintained by the landowner in active agricultural production consistent with its current and intended use as a peach orchard or alternative agricultural uses consistent with the Easement (the “**Maintenance Standard**”). The Maintenance Standard shall require that:

7.6.1 Peach trees, or other approved agricultural uses in the Easement, are actively cultivated and/or maintained in accordance with generally accepted agricultural practices in Utah, including appropriate pruning, irrigation, pest and disease control, and soil management;

7.6.2 Dead or diseased trees are removed within a commercially reasonable time, not greater than one (1) year;

7.6.3 Irrigation systems, fencing, and other permitted agricultural improvements are maintained in good repair and operational condition;

7.6.4 The property is kept free from noxious weeds as defined under Utah law, invasive vegetation, debris, refuse, or hazardous conditions that materially impair agricultural use or constitute a public nuisance;

7.6.5 The property is not abandoned or used for non-agricultural purposes inconsistent with the Easement.

7.7 A "Breach" of the Maintenance Standard shall be deemed to exist if, based on physical site inspection and written findings by the City, the landowner fails to meet any of the conditions above. Upon determining that a Breach exists, the City shall provide written notice by certified mail to the landowner describing the nature of the Breach and the corrective actions required. The landowner shall have thirty (30) days from the date of the notice to cure the Breach or to commence and diligently pursue corrective action to the reasonable satisfaction of the City. The City may choose to send out additional notices following the thirty (30) day cure period of the first notice. However, if after the City has provided the initial notice and the landowner fails to cure the Breach within the applicable cure period, the City may, pursuant to its authority under Utah Code Title 10, enter the property to abate the condition and perform such maintenance or restoration work as reasonably necessary to return the property to the Maintenance Standard. Entry for such purposes shall not constitute a trespass. All reasonable costs incurred by the City in performing maintenance or abatement, including administrative, labor, equipment, and contractor costs, shall be assessed against the landowner. The City shall provide written notice of the assessed costs, which shall be due and payable within ninety (90) days from the date of the notice. If the assessed costs are not paid within ninety (90) days, the City may record a municipal lien against the property pursuant to Utah Code Title 10. The lien shall secure repayment of all unpaid costs, together with interest, penalties, and administrative expenses as permitted by law, and shall run with the land until satisfied. If the lien remains unpaid for three hundred sixty-five (365) days from the date of recording, the City may enforce the lien through foreclosure or other lawful collection proceedings as authorized under Utah law. Upon acquisition of title by the City through foreclosure, deed in lieu of foreclosure, or other lawful transfer: 1) The City may, at its sole discretion, terminate the Easement and 2) the City may thereafter use, manage, lease, convey, or dispose of the property in any manner permitted by law and determined by the City to be in its best interest.

7.8 If the landowner ceases to use the property for agricultural purposes, as defined in the Easement, and cannot find a willing buyer to purchase the property and continue to use it for agricultural purposes, then the landowner shall offer to dedicate the property to the City. The City may thereafter use, manage, lease, convey, or dispose of the property in any manner permitted by law and determined to be in the City's best interests.

7.9 The Developer shall be responsible for any maintenance of the Open Space and Amenities; provided, however, upon the dedication of the Dedicated Open Space to the City, the City shall be solely responsible for any maintenance of such Dedicated Open Space and Developer's maintenance obligations with respect to such dedicated areas shall terminate. If this Agreement and the Master Plan, attached as Exhibit B, shows the total open space of the Project as less than 20% of the total Project size per the definition outlined in Section 24.24.030 of the City Code, the Developer shall be responsible for a fee-in-lieu payment making up the difference between the percentage of Open Space in the Project and the MPC Zone Ordinance's Open Space

requirement of 20%. To determine the dollar amount required for the fee in lieu of Open Space, Developer shall pay, at its sole cost and expense, for a certified real estate appraiser to conduct an appraisal of the Property based on the "highest and best use" to determine the fair market value of the Property. In the event the City disagrees with the appraised value, the City shall have the right to conduct its own appraisal of the Property. In the event there is a discrepancy between the two (2) appraisals of \$30,000.00 or less, then the median value between the two (2) appraisals will be used for the fair market value of the Property and to calculate the fee in lieu of Open Space. In the event the difference between the two (2) appraisals is \$30,001.00 or more, then the parties will mutually agree to select a different appraiser to conduct a third and final appraisal. Solely as related to the fee-in-lieu payment discussed in this Section 7.5, the parties agree to abide by the appraised value of the Property as determined by the third appraisal. The appraisal shall be completed by the Developer after the Preliminary Plat is approved and the payment of the fee in lieu of Open Space shall be made by the Developer before the Final Plat is recorded with the County Recorder.

7.10 Street Light Details. Developer shall install street lighting throughout the project in the locations generally depicted in the attached Exhibit C. All streetlight designs will conform to City Code Section 24.100 (Outdoor Lighting) which follows the Dark Sky initiative, and be approved by the City Engineer and Public Works Director for lighting levels and spacing.

7.11 Soil Study and Wells. Prior to the commencement of any construction activities, including Transportation and Utilities Improvements, the Developer shall provide a geotechnical and groundwater report. The construction of basements shall be limited in accordance with groundwater conditions and soil characteristics identified in such report. A note shall be placed on the Master Plan and reflected on the Preliminary Plat and Final Plat regarding the restriction on the construction of basements subject to the geotechnical and groundwater report and the City Engineer's approval. The Developer shall also address the condition and use of any existing wells located on the property in a manner acceptable to the City.

8. *City's Obligations.*

8.1 General Obligations. The City shall not impose any further conditions on the Project other than those detailed in this Agreement, unless otherwise agreed to in writing by both Parties. The City shall cooperate as required by Applicable Law, but shall not be obligated to incur costs, waive standards, or expedite approvals. Developer shall remain bound by Applicable Law and this Agreement and Master Plan, unless specifically agreed to otherwise.

8.2 City and Other Governmental Permits. The City shall according to Applicable Law, as outlined in Section 13.1: (a) review, consider and execute all consents, submittals or other documents as may be required in connection with the Preliminary Plat, Final Plat, or other required governmental approvals; (b) have a representative available to attend all appropriate meetings with respect to Developer's activities under this Agreement; and (c) meet and consider such actions as required by Utah Municipal Code, the City Code, Applicable Law, and the Utah Open Meetings Act to provide all appropriate consents, approvals, and opinions as requested by Developer from time to time. The City shall cooperate with Developer and contractors working on the Project in their endeavors to obtain any other permits and approvals as may be required from other governmental or quasi-governmental agencies having jurisdiction over the Property or portions thereof (such as, by way of example, public utilities or utility districts or

agencies) and, at the request of Developer, in the execution of such permit applications and agreements as may be required to be entered into with such other agencies, which request shall not be denied unless prohibited by City Code or other Applicable Law. The term "cooperate" as used in the foregoing sentence shall be construed as meaning administrative cooperation and facilitation, including, without limitation, reviewing, signing or otherwise advancing the applicable permits and approvals only as required by Applicable Law.

8.3 Acceptance of Improvements. The City shall, after proper inspection and approval of each phase, accept dedication of all Transportation Improvements and Utilities intended for the City and constructed by the Developer or the Developer's contractors, subcontractors, agents or employees.

8.4 Reimbursement for Improvements. Developer and City may enter into a written agreement whereby the Parties mutually agree that Developer shall be reimbursed by the City for the cost of constructing eligible public facilities. All reimbursement agreements shall comply with the City Code and any Applicable Law.

9. *Mortgagee Protections.* In the event of a foreclosure by the Developer's Lender, this Agreement shall be binding on the Lender and its assigns, and any purchaser of the Property at foreclosure. In the event of a default by Developer to the Lender, the City agrees to allow the Lender, or a purchaser in foreclosure of the Lender's lien, to assume the obligations of this Agreement and to complete the Project pursuant hereto; provided that any such foreclosure purchaser has reasonably demonstrated that it has the development experience and financial ability to complete the Project in accordance with the terms of this Agreement. In the event of an assumption of this Agreement as permitted by this Section, the City agrees to perform its obligations under this Agreement to the Lender or to such purchaser.

10. *Water Dedication.* In accordance with City Code Section 24.80.140, Developer agrees and shall convey water rights, both culinary and secondary water including irrigation shares for the Open Space 1 and 2, to the City in an amount of seventeen and 73/100 (17.73) shares for culinary water and such conveyance shall occur on or before the City's execution of the Final Plat. Developer shall provide a title report showing the water rights are free of liens and shall provide an engineer's certification of sufficiency of the water rights for the Project and Open Spaces 1 and 2, to be attached as Exhibit H. Developer also must demonstrate ownership of sufficient water rights or shares to irrigate Open Space 3, which is determined to be eighty-nine and 28/100 (89.28) shares in Willard Water Company or equivalent. Developer shall provide assurance through easement deed or other legal means that Willard Water Company or equivalent irrigation shares are perpetually tied to the agricultural Open Space 3. The City will not sign the Final Plat to be recorded until such time as the City Engineer has confirmed in writing that sufficient water rights have been dedicated, or are otherwise perpetually tied to Open Space 3, as related to the water needed for Open Space 3, and that such water rights are free of any lien or encumbrance that would prohibit their use on Open Space 3.

11. *Notices.* All notices and other communications under this Agreement shall be in writing and shall be deemed duly given when personally delivered; or one day after sent by a reputable national overnight courier service to the address set forth below; or three (3) days after mailing if sent by registered or certified mail, return receipt requested, first class, postage prepaid

to the address shown below; or when sent by e-mail at the e-mail address shown below provided that such e-mail is sent during the normal business hours of the party to whom it was sent, and electronic confirmation of the successful transmission of such e-mail is obtained:

If to the City, to:

Willard City
80 W. 50 S.
P.O. Box 593
Willard, UT 84340
Attn: City Manager

With copy to:

Amy F. Hugie, Attorney at Law
9 West Forest Street, Ste. 208
Brigham City, UT 84302
Attn: Amy F. Hugie
Email: amyhugie@xmission.com

If to Developer, to:

KSA Willard LLC
Attn: Kyle White
2217 E Evergreen Ave, Salt Lake City, UT 84109
Email: Kyle@westernlanddev.com

With a copy to:

Kirton McConkie
Attn: Loyal Hulme
50 E. South Temple, Suite 400
Salt Lake City, Utah 84111
Email: lhulme@kmclaw.com

or such other address or addresses as a Party may hereafter designate.

12. *Amendment.* The Parties or their successors in interest may, by written agreement, choose to amend this Agreement at any time. This may be done by submitting the proposed amendment to the Planning Commission, a public hearing being held by the Planning Commission who will then make a recommendation to the City Council, and then the City Council voting

whether to approve the amendment. Any approved amendment hereto shall be recorded in the Box Elder County Recorder's Office and shall be deemed to run with the land.

13. *General Terms and Conditions.*

13.1 Applicable Law. This Agreement is entered into under and pursuant to and is to be construed and enforceable in accordance with the rules, regulations, official policies, standards and specifications applicable to the development of the Project (the "**Applicable Law**"), including the applicable City Code, ordinances, resolutions, state law, and federal law including the International Building Code, APWA Specifications, and the International Fire Code; provided, however, the applicable version of Sections 24.24.010 et seq. of the City Code (24.24 Master Planned Community Zone) (the "**MPC Zone Ordinance**") is the version adopted by Ordinance 2025-06 on February 13, 2025.

13.2 Termination of Agreement. The Term of this Agreement shall commence on the Effective Date of this Agreement and shall continue in full force and effect until the earlier of the following events: (i) certificates of occupancy have been issued for all Dwelling Units to be constructed in the Project and all Non-Residential Development including amenities has been completed in accordance with this Agreement, any amendments to this Agreement, and the approved Final Plat and construction drawings, or (ii) ten (10) years from the Effective Date of this Agreement; provided, however, that if Developer is not in breach of any material provisions of this Agreement when said 10-year period expires, and any portions of the Project have not been completely built-out, then this Agreement shall automatically be extended for an additional period of five (5) years (as applicable, the "**Term**"). At the expiration of the Term, this Agreement shall automatically terminate and be of no further force and effect except for those provisions herein that expressly survive this Agreement's termination. When all Transportation Improvements and Utilities have been constructed and accepted by City (after expiration of applicable warranty periods), the Developer and/or the subsequent Developer shall be released from and have no continuing obligations with respect to such improvements.

13.3 No Assignment Without the City's Written Consent. The City is willing to enter into this Agreement because Developer has represented that it has the ability and experience to, and has committed to, develop the Project in accordance with the Master Plan attached to this Agreement as Exhibit B, the MPC Zone, this Agreement, the Applicable Law, and the approved Final Plat and construction drawings. Except for an assignment to a Permitted Assignee (as defined below), which shall not require the prior written consent of the City, Developer may not assign this Agreement or any of Developer's rights hereunder without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed. Any assignee approval by the City shall consent to be bound by the terms of this Agreement as a condition of the Assignment. The City agrees that the City's consent to any such assignment may be granted by the City's Mayor, after review by the City Manager and City Attorney, and that the consent of the City Council or a public hearing process shall not be required. Any assignment consented to by the City shall not relieve Developer or transferee or successor of any obligations, conditions, or restrictions set forth herein, or deprive or limit the City of or with respect to any rights or remedies or controls with respect to the Property, except to the extent such terms are specifically set forth in a writing approved and executed by the City with the approval of their governing bodies. The Property must at all times be under single ownership or a single owner agent, provided

that any phase of the Project for which Developer has completed all of its obligations under this Agreement with respect to such phase may be sold by Developer without restriction of this section. As used herein, the term “**Permitted Assignee**” shall mean any affiliate of Developer, including, without limitation, any entity that controls, is controlled by or is under common control with Developer or the owners, members, or principals of Developer or that would generally be referred to as an affiliate of Developer or the owners, members, or principals of Developer.

13.4 **Default & Remedies.** If a Party fails to perform their respective obligations under the terms of this Agreement (as applicable, the “**Defaulting Party**”), the non-defaulting Party shall provide written notice to the Defaulting Party (“**Notice of Default**”) specifically identifying the claimed event of default and the applicable provisions of this Agreement claimed to be in default. In the Notice of Default, the non-Defaulting Party, in its discretion, may propose a method and time for curing the Default which shall be no more than thirty (30) days’ duration.

The City and Developer shall meet and confer (“**Meet and Confer**”) within fifteen (15) business days of any Notice of Default to resolve the issues specified in the Notice of Default. The Defaulting Party shall also immediately proceed to cure or remedy such default or breach within thirty (30) calendar days after receipt of the Notice of Default. If after the Parties meet and confer and mutually agree that the Default cannot be reasonably cured within thirty (30) days, then the Parties can mutually agree that such cure period can be extended to a different period of time so long as the defaulting party is pursuing a cure with reasonable diligence.

Mediation. In the event the Parties are not able to resolve the Default by Meet and Confer, the Parties shall attempt within ten (10) business days of such Meet and Confer (the “**First Appointment Deadline**”) to appoint a mutually acceptable mediator with knowledge of the legal issue in dispute. If the Parties are unable to agree on a single acceptable mediator they shall each, within ten (10) business days of the First Appointment Deadline, appoint their own representative. These two representatives shall, between them, choose the single mediator. The Defaulting Party shall pay the fees of the chosen mediator. The chosen mediator shall within fifteen (15) business days of being appointed, review the positions of the Parties regarding the mediation issue, and promptly attempt to mediate the issue between the Parties. If the Parties are unable to reach agreement, the chosen mediator shall notify the Parties in writing of the resolution that the chosen mediator deems appropriate. The chosen mediator's opinion shall not be binding on the Parties.

Remedies. If the Parties are not able to resolve the Default by "Meet and Confer" or by Mediation, then the Parties may have the following remedies:

- a. **Law and Equity.** All rights and remedies available at law and in equity, including, but not limited to, injunctive relief, specific performance, and/or termination of the Agreement.
- b. **Security.** The right to draw on any security posted or provided in connection with the Project and relating to remedying the particular Default.
- c. **Future Approvals.** The right to withhold all further reviews, approvals, licenses, building permits and/or other permits for development of the Project until the Default is resolved.

Public Meeting. Before any remedy listed above may be imposed by the City, the City shall give the Developer written notice of the City's intent to pursue one or more of the listed remedies to remedy the Default outlined in the Notice of Default. This written notice will include notice of the Developer's rights to attend a public meeting before the City Council and address the City Council regarding the claimed Default. Developer shall have the right to offer written and oral evidence prior to or at the time of said public meeting regarding the Default. If City's legislative body determines that an uncured Default has occurred and is continuing, the City shall make a motion regarding which remedy it shall thereafter pursue. If the remedy is a combination of using the security to remedy the Default and/or withhold future approvals until the Default is remedied, then City may vote to do so and then subsequently take that action. If the City votes to pursue the remedy of terminating this Agreement because it determines that a material, uncured Default has occurred and cannot be cured, the City may pursue that termination action through an appropriate judicial proceeding.

Limitation on Recovery for Default- No Damages. No party shall be entitled to any claim for any monetary damages as a result of any breach of this Agreement, and each Party waives any claims thereto. The sole remedy available to Developer or any other Party shall be that of specific performance.

Any delay by a Party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights regarding Default shall not operate as a waiver of such rights.

13.5 Non-liability of City Officials or Employees. No officer, representative, agent, or employee of the City shall be personally liable to Developer, or any successor-in-interest or assignee of Developer, in the event of any default or breach by the City or for any amount which may become due to Developer, or its successors or assignee, for any obligation arising out of the terms of this Agreement.

13.6 Referendum or Challenge. The Parties understand that any legislative action by the City Council is subject to referral or challenge by individuals or groups of residents, including approval of development agreements and a rezone of the Property. If a referendum or challenge relates to the City Council's approval of this Agreement or the rezoning, and the referendum or challenge is submitted to a vote of the people pursuant to Utah Code Ann. §20A-7-601, then Developer may deliver a written notice of rescission to the City to terminate this Agreement. Upon delivery of such notice of rescission pursuant to this Subsection 13.6, this Agreement shall automatically terminate whereupon the applicable Parties shall have no further rights or obligations under this Agreement. If the referendum or a legal challenge is successful in overturning the rezone of the Property or the approval of this Agreement, then either Party may terminate this Agreement by delivery of written notice of rescission, whereupon this Agreement shall automatically terminate, and the Parties shall have no further rights or obligations under this Agreement.

13.7 Ethical Standards. Developer represents that it has not: (a) provided an illegal gift or payoff to any officer or employee of the City, or former officer or employee of the City, or to any relative or business entity of an officer or employee of the City; (b) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards set forth in Utah Code Ann. §10-3-1301 et seq. and §67-16-3 et seq.; or (d) knowingly influenced, and hereby promises that it will not knowingly influence, any officer or employee of the City or former officer or employee of the City to breach any of the ethical standards set forth in State statute or City ordinances.

13.8 No Officer or Employee Interest. It is agreed that no officer or employee of the City has or shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds resulting from the performance of this Agreement. No officer, manager, employee, or member of the Developer, or any member of any such persons' families shall serve on any City board or committee or hold any such position which either by rule, practice, or action nominates, recommends, or supervises the Developer's operations, or authorizes funding or payments to the Developer. This Subsection 13.8 does not apply to elected offices.

13.9 Performance. Each Party, person, and/or entity governed by this Agreement shall perform its respective obligations under this Agreement in a manner that will not unreasonably or materially delay or disrupt any other Party, person, and/or entity governed by this Agreement, the development of any portion of the Property or the issuance of final plats, certificates of occupancy, or other approvals associated therewith. This Subsection 13.9 shall not be construed to require a Party or its representatives to provide an approval contrary to Applicable Law, federal and state regulations, City Code, or this Agreement.

13.10 Governing Law & Venue. This Agreement and the performance hereunder shall be governed by the laws of the State of Utah. Any action taken to enforce the provisions of this Agreement shall have exclusive venue in the First Judicial District Court of the State of Utah or the United States District Court for the District of Utah.

13.11 Third Party Right. The Parties to this Agreement are Developer and City. There are no other intended third-party beneficiaries of this Agreement. The Parties acknowledge that this Agreement refers to a private development and that the City has no interest in, responsibility for, or duty to any third parties concerning any improvements to the Property unless the City has accepted the dedication of such improvements.

13.12 Further Documentation. This Agreement is entered into by the Parties with the recognition and anticipation that subsequent agreements, plans, profiles, engineering, and other documentation implementing and carrying out the provisions of this Agreement may be necessary. The Parties agree to negotiate and act in good faith with respect to all such future items.

13.13 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 therefore; acts of nature; governmental restrictions, regulations or controls; judicial orders; enemy or hostile government actions; wars;

civil commotions; pandemics; fires or other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay, or stoppage. The Party experiencing any issues possibly defined under this section as "Force Majeure" shall promptly inform the other Party in writing of the issues upon occurrence.

13.14 Relationship of Parties. This Agreement does not create any joint venture, partnership, undertaking, business arrangement, or fiduciary relationship between the City or the Developer.

13.15 Name Designation of MPC Zone. Contingent upon the execution of this Agreement, the Property shall be zoned as an MPC Zone and shall be designated and known as "MPC Canyon Bay at Willard".

13.16 Headings. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

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

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

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

13.20 Appointment of Representatives. To further the commitment of the Parties to cooperate in the implementation of this Agreement, the City and Developer each shall designate and appoint a representative to act as a liaison between the City and its various departments and the Developer. The initial representative for the City shall be the City Manager and the initial representative for Developer shall be Kyle White. The parties may change their designated representatives by Notice. The representatives shall be available at all reasonable times to discuss and review the performance of the parties to this Agreement and the development of the Project.

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

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

14. Recordation and Running with the Land. This Agreement shall be recorded in the chain of title in the Box Elder County Recorder's Office and shall be deemed to run with the land.

15. Authority. The parties to this Agreement each warrant that they have all of the necessary authority to execute this Agreement. Specifically, on behalf of the City, the signature of the Mayor of the City is affixed to this Agreement and lawfully binds the City pursuant to Resolution No. _____ adopted by the City on _____, _____.

[Signature pages follow]

IN WITNESS WHEREOF, the Parties have executed this Development Agreement by and through their respective duly authorized representatives as of the day and year first hereinabove written.

DEVELOPER:

KSA WILLARD LLC,
a Utah limited liability company

By: _____
Name: _____
Its: _____

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

On the ____ day of _____, 2026, personally appeared before me, _____, who being duly sworn, did say that he/she is the _____ of KSA Willard LLC, a Utah limited liability company, and that said instrument was duly authorized by the limited liability company and signed in behalf of said limited liability company.

Notary Public

CITY:

WILLARD CITY,
a political subdivision of the State of Utah

Name: _____
Its: _____

ATTEST:

Name

STATE OF UTAH)
):ss
COUNTY OF BOX ELDER)

On the ____ day of _____, 2026, personally appeared before me,
_____, who being by me duly sworn, did say that he/she is the
_____ of Willard City, a municipal corporation, and that said instrument was signed in
behalf of the Willard City by authority of its governing body acknowledged to me that the Willard
City executed the same.

Notary Public

EXHIBITS:

- EXHIBIT A: Legal Description of the Property
- EXHIBIT B: Master Plan
- EXHIBIT C: Streetlight Plan
- EXHIBIT D: Phasing Plan
- EXHIBIT E: Open Space Amenities
- EXHIBIT F: Agricultural Easement
- EXHIBIT G: Subdivision Improvement Agreement
- EXHIBIT H: Title Report for Water Rights and Engineer's Certification of Sufficiency of Water Rights for the Project and Open Spaces 1 and 2

EXHIBIT A
(Legal Description of the Property)

Harding Parcel

Beginning at a point 8 rods North and 7 rods 1-1/4 feet East of the Northwest corner of the Southwest quarter of section 26, township 8 North, range 2 west, salt lake meridian, thence East 44.32 rods, thence Southeast 54-2/3 rods, thence West 47.29 rods, thence North 54 rods to beginning. Less and excepting therefrom any portion lying within the bounds of a public street and/or right of way.

Lemon Parcels

Parcel 1:

Beginning 2-1/2 rods North and 1 rod 3 feet 6 inches West of the Northwest corner of the Southwest Quarter of Section 26, Township 8 North, Range 2 West, Salt Lake Base and Meridian; and running thence East 8 rods, 14 feet 3 inches; thence South 54 rods; thence West 8 rods 14 feet 3 inches; thence North 54 rods to the point of beginning.

LESS AND EXCEPTING therefrom any portion lying within the bounds of a public street and/or right of way.

Parcel 2:

Beginning at a point 5.57 chains South and 14 chains West of the Northeast corner of the Southwest quarter of Section 26, Township 8 North, Range 2 West, Salt Lake Meridian, and running thence South 01°23' West 5.77 chains; thence North 89°33' West 11.53 chains; thence North 40' East 5.77 chains; thence South 89°33' East 11.60 chains to the place of beginning. The same being part of Lot 3, in the Northeast quarter of the Southwest quarter of said Section 26.

Description per new HAI Survey (14-3-190):

A part of the Southwest quarter of section 26, township 8 North, range 2 West of the salt lake base and meridian.

Beginning at the Southeast corner of Lot 3, Plat "A" of the WILLARD TOWNSITE SURVEY located in said Southwest quarter being a point located 1724.40 feet South 89°03'30" East along the North line of said Section 26 and 3425.97 feet South 02°01'07" West from the Northwest corner of said Section 26; running thence North 88°18'15" West 725.72 feet along the North side of an existing lane to the East right-of-way line of 200 West street; thence North 01°20'03" East 380.82 feet along said East right-of-way line; thence South 88°18'02" East 730.27 feet to the West right-of-way line of a 33.00 foot wide alley and a point described of record as being located 5.57 chains South and 14 chains West of the Northeast corner of said Southwest quarter; thence South 02°01'07" West 380.78 feet along said West right-of-way line to the point of beginning.

LESS AND EXCEPTING therefrom any portion lying within the bounds of a public street and/or right of way.

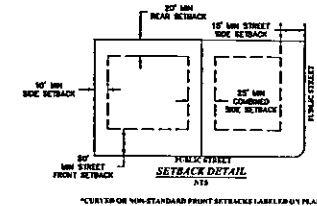
EXHIBIT B
(Master Plan)

[Attached herein and incorporated by reference.]

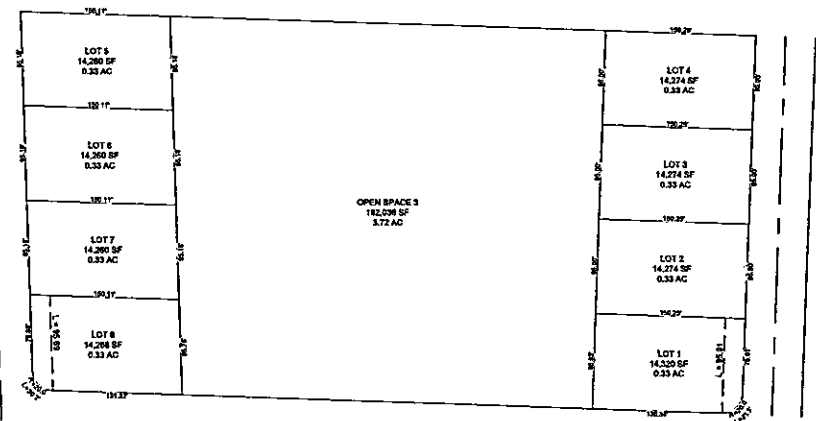
EXHIBIT B (Master Plan)

OPEN SPACE REQUIRED: 4.97ac

OPEN SPACE PROVIDED: Open Space 1 (0.38ac) + Open Space 2 (0.87ac) + Open Space 3 (3.72ac) = 4.97ac



LOTS: 48
AREA: 24.83-ac
OPEN SPACE: 20.0%



Dimensions shown are approximate and subject to field verification. Final dimensions, areas, and configurations may vary.

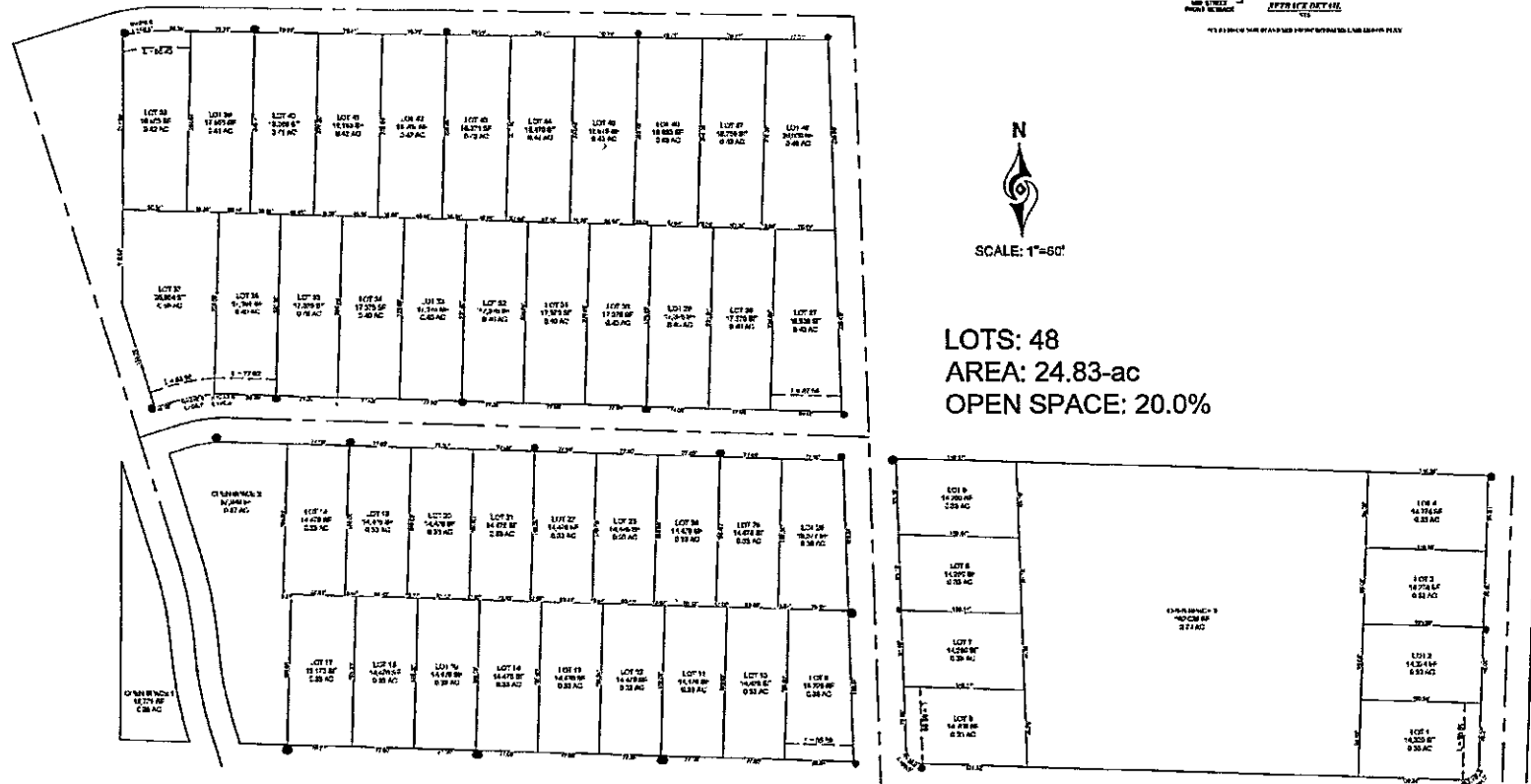
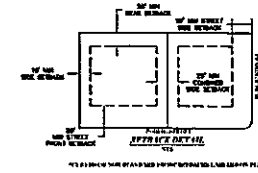
EXHIBIT C
(Preliminary Streetlight Plan)

[Attached herein and incorporated by reference.]

(Preliminary Streetlight Plan)

OPEN SPACE REQUIRED: 4.97ac

OPEN SPACE PROVIDED: Open Space 1 (0.38ac) + Open Space 2 (0.87ac) + Open Space 3 (3.72ac) = 4.97ac

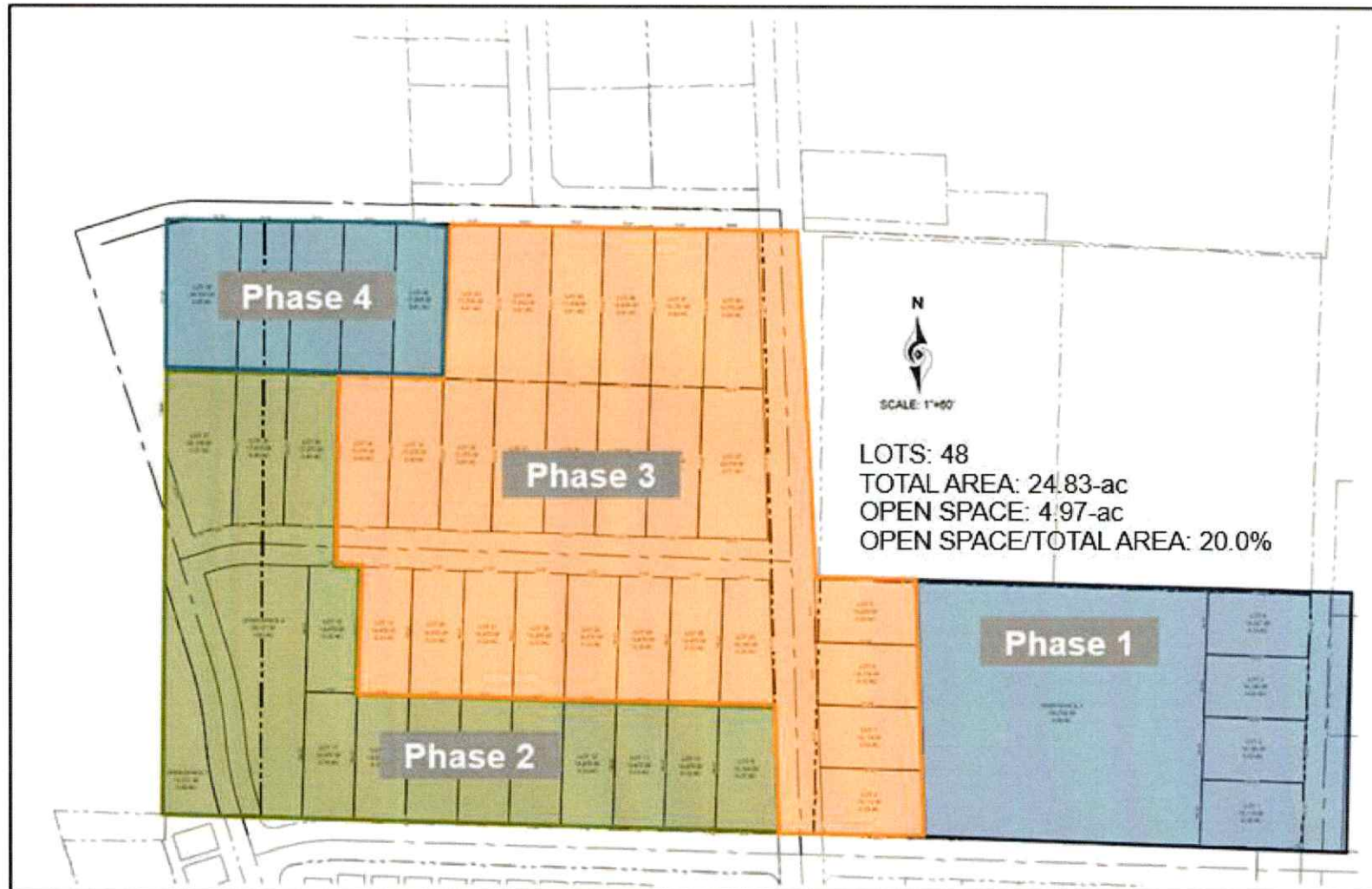


Dimensions shown are approximate and subject to field verification. Final dimensions, areas, and configurations may vary.

EXHIBIT D
(Phasing Plan)

[Attached herein and incorporated by reference.]

EXHIBIT D:
(Proposed Phasing Plan)



Dimensions shown are approximate and subject to field verification. Final dimensions, areas, and configurations may vary.

EXHIBIT E
(Minimum Open Space Amenity Standards)

[Attached herein and incorporated by reference.]

EXHIBIT E:
(Minimum Open Space Amenity Standards)
Proposed Play Ground Improvements:

CONCEPT GRAPHICS SCHEDULE



TURF



PLAYGROUND



LANDSCAPE AREA
THESE AREAS WILL CONSIST OF MULCH AND
PLANTINGS SUCH AS TREES, SHRUBS, PERENNIALS,
AND ORNAMENTAL GRASSES.

CONCEPT PLANT SCHEDULE



SHADE TREE

13



ORNAMENTAL TREE

17



SMALL EVERGREEN TREE

15

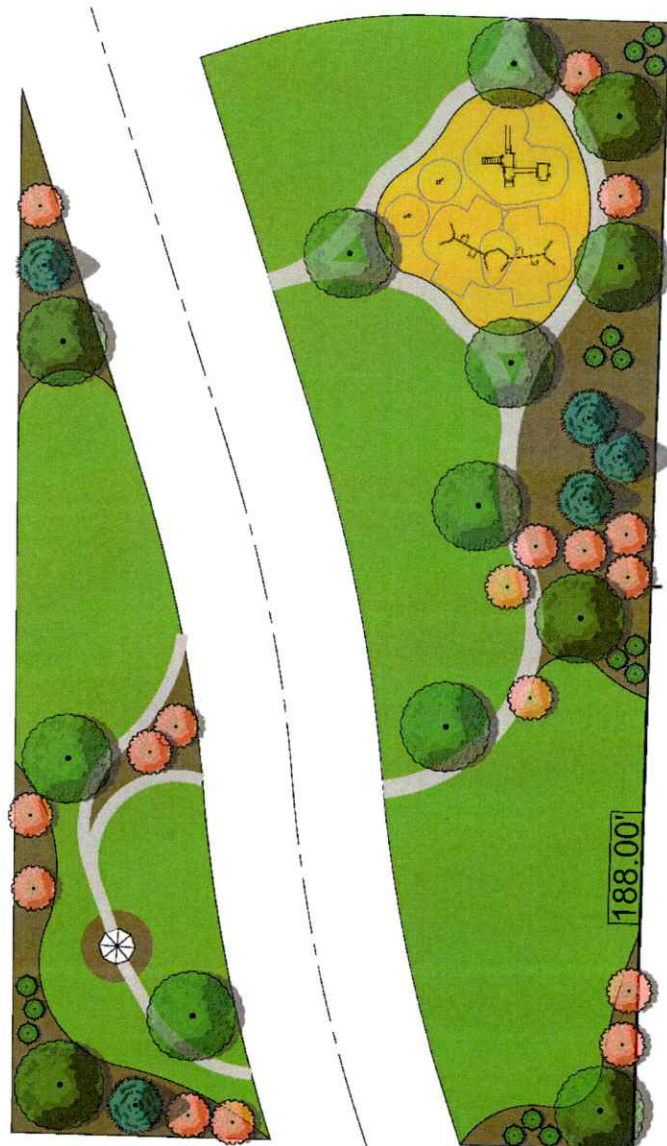


LARGE EVERGREEN TREE

5

NOTE:

1. THESE PLANS ARE PRELIMINARY AND SUBJECT TO CHANGE
OVER THE COURSE OF THE DESIGN PROCESS





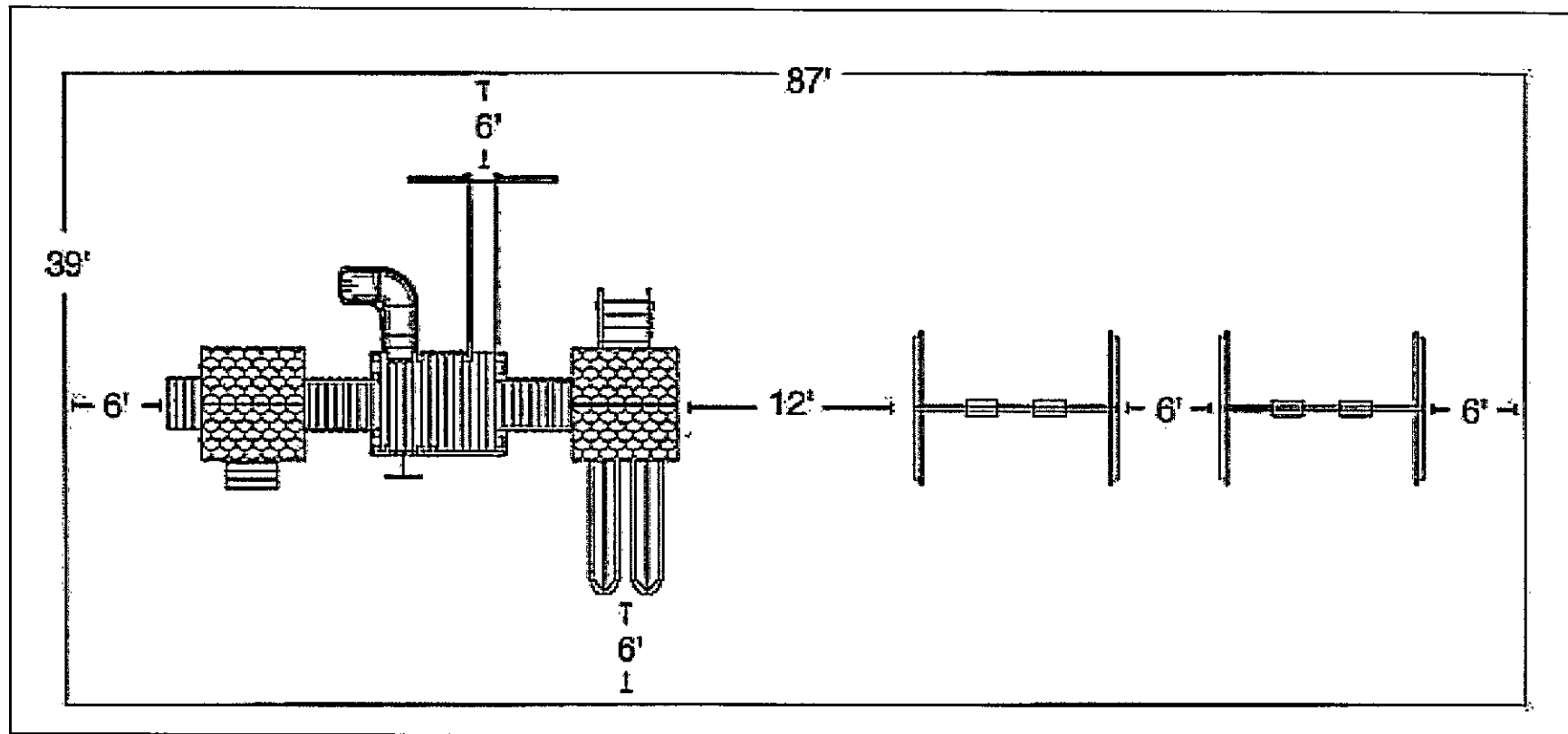




EXHIBIT F

(Agricultural Easement)

[Attached herein and incorporated by reference.]

EXHIBIT F

AGRICULTURAL CONSERVATION EASEMENT DEED

Box Elder County, Utah

THIS DEED OF AGRICULTURAL CONSERVATION EASEMENT ("Easement") is made this ____ day of _____, 2026, by and between KSA Willard, LLC, a Utah limited liability company ("Grantor"), and Willard City, a Utah municipal corporation ("City" or "Grantee") to be held and enforced in perpetuity for the benefit of the public in accordance with the terms and for the conservation purpose set forth herein.

RECITALS

1. Grantor is the fee simple owner of approximately 3.72 acres of real property located in Box Elder County, Utah, more particularly described in Exhibit A and shown in Exhibit B attached hereto and incorporated herein ("Protected Property").
2. The Protected Property is presently utilized for agricultural purposes, including peach orchard production. Photos of the existing condition and use of the property are included as Exhibit 1 of the Agricultural Land Easement Plan.
3. The purpose of this Easement is to preserve the Property for agricultural use in perpetuity, prevent subdivision and nonagricultural development, and ensure responsible agricultural practices.
4. This Easement is created pursuant to the Utah Conservation Easement Act, Utah Code Ann. § 57-18-1 et seq., and shall constitute a conservation easement running with the land in perpetuity.

ARTICLE I – PURPOSE AND TERM

- 1.1. Purpose. This Easement is granted for the purpose of protecting the agriculture and long-term viability of the Protected Property, preserving agriculture production, restricting subdivision, protecting and preserving the Water Shares (as defined below) for the perpetual irrigation and agricultural use of the Protected Property, and preventing the separation or impairment of the Water Shares from the Protected Property, and maintaining irrigation water rights.
- 1.2. For purposes of the Easement, 'agricultural purpose' shall mean active production of orchard crops, row crops, hay, pasture, or livestock husbandry as permitted herein. Intermittent cultivation shall not satisfy this requirement.
- 1.3. Term. This Easement is perpetual and runs with the land pursuant to Utah Code Title 57, Chapter 18.
- 1.4. ALE Plan. Agricultural operations on the Protected Property shall be conducted in accordance with the Agricultural Land Easement Plan ("ALE Plan") attached hereto as Exhibit D. The ALE Plan provides operational agricultural management guidance for the Property. In the event of any conflict between the ALE Plan and this Easement, the terms of this Easement shall control.

ARTICLE II – RESTRICTIONS

- 2.1 Subdivision Prohibited. The Protected Property shall not be subdivided or separately conveyed.
- 2.2 Impervious Surface Limitation. Total impervious surface coverage shall not exceed one percent (1%) of the total acreage (maximum 1,620 square feet). An “impervious surface” means a hard, non-porous surface that prevents or significantly impedes the infiltration of water into the soil, causing stormwater to run off instead of recharging groundwater. These include human-created surfaces, such as asphalt, concrete, rooftops, and compacted soil.
- 2.3 Nonagricultural Development Prohibited. Industrial, commercial (except agricultural-related), and residential development is prohibited.
- 2.4 Surface Alteration – Grading, blasting, filling, sod farming, earth removal or any other activity that will disturb the soil surface or materially alter the topography, surface or subsurface water systems, or wetlands of the Protected Property is prohibited, except as follows:
 - 2.4.1 Erosion and sediment control pursuant to a plan approved by the Grantee;
 - 2.4.2 As required in the construction of approved buildings, structures, roads, and utilities provided that the required alteration has been approved in writing by Grantee as being consistent with the conservation purpose of this Easement; or
 - 2.4.3 Oil, Gas, or Mineral Exploration and Extraction – Mining or extraction of soil, sand, gravel, oil, natural gas, fuel, coal, or any other mineral substance owned by Grantor as of the date of the ALE attached hereto as Exhibit D or later acquired by Grantor, using any surface mining, subsurface mining, or dredging method, from Protected Property is prohibited, except for limited mining activities for materials (e.g., sand, gravel, or shale) used for agricultural operations on the Protected Property.
 - 2.4.4 Land Leveling and Smoothing for Irrigation – Land leveling, smoothing, grading, or similar surface alteration reasonably necessary for the efficient application, distribution, or management of irrigation water for agricultural operations on the Protected Property.
- 2.5 Roads. New roads over, through, or across the Property are prohibited, though pervious trails may be constructed with written permission from Grantee.
- 2.6 Camping and Manmade Fires. Camping and manmade fires are prohibited on the Property.
- 2.7 Dumping. The dumping or other disposal of trash, debris, ashes, sawdust, or other refuse on the Property is prohibited, including hazardous waste. Use of small quantities of hazardous materials necessary to accomplish a permitted use or practice is allowed but only if such use does not violate any federal, state, or local environmental law, regulation, or other requirement.
- 2.8 Signs and Billboards. The construction, maintenance, lease or erection of any signs or billboards on the property is prohibited without written permission from Grantee.

ARTICLE III – PERMITTED USES

- 3.1 **Agricultural Uses.** The Protected Property may be used for general agricultural purposes, including but not limited to: cultivation, harvesting, replanting, and maintenance of perennial orchards (including peach orchards); row crops; hay and alfalfa production and harvesting; pasture and forage production; rotational livestock grazing is allowed during the growing season of April 15th to October 15th; livestock husbandry consistent with accepted agricultural practices; soil preparation and fertility management; irrigation and drainage systems; frost protection measures; integrated pest management; agricultural equipment storage as permitted herein; and other customary agricultural activities consistent with maintaining the Property in active agricultural production. Agricultural production shall remain the primary and dominant use of the Protected Property. Animal Feeding Operations are not allowed. An Animal Feeding Operation (AFO) is defined as an agricultural facility where animals are confined, stabled, or fed for at least forty-five (45) days in a 12-month period.
- 3.2 **Agricultural Shed.** One agricultural accessory structure not exceeding eleven (11) feet in height and three hundred (300) square feet in footprint is permitted and shall count toward the 1% impervious cap. The Agricultural Shed must be constructed within the Building Envelope Area depicted on Exhibit C and will require a building permit subject to City permitting requirements. The buildable area represents a 50 foot by 50 foot area in both the Southwest and Southeast corner of the site. Only one such buildable area may be used and the only approved structure is the Agricultural Shed referenced in 3.2 and up to 100 square feet of concrete or asphalt to load equipment into Shed.
- 3.3 **Fences.** Fences may be added, maintained and replaced and new fences installed if they are necessary for agricultural operations on the Protected Property or to mark boundaries of the Protected Property. Fences are not to exceed 4' in height unless Grantee and Grantor agree in a separate agreement. All fences shall be maintained in good condition and repair, including, without limitation, keeping fence materials structurally sound, securely fastened, reasonably plumb and aligned, free from broken or missing components, excessive leaning, peeling paint, significant discoloration, and other visible signs of deterioration.

ARTICLE IV – IRRIGATION WATER RIGHTS

- 4.1 **Water Shares Defined.** "Water Shares" means a minimum of eighty-nine and 28/100 (89.28) shares of Willard Water Company irrigation, rounded to the nearest whole number, shall remain appurtenant to the Protected Property.
- 4.2 **Assignment of Water Shares.** Upon the approval and execution of this Easement and all related documents by all parties, Grantor shall assign, transfer and convey all right, title and interest in the Water Shares to the City, substantially in the form attached as Exhibit E. The City shall hold the Water Shares for the benefit of the

Protected Property and in furtherance of the conservation purposes of this Easement.

- 4.3 Lease-Back Covenant. The City covenants and agrees that, upon receipt of the Water Shares, it shall lease the Water Shares to the then-current operator of the Protected Property ("Landowner"), at an annual rental rate of One Dollar (\$1.00) pursuant to a lease substantially in the form attached as Exhibit F ("Lease"). Landowner shall use the Water Shares solely for agricultural purposes on the Protected Property in accordance with this Easement. The Lease shall automatically renew annually and shall terminate only upon the termination of this Easement or a material breach by the City or Landowner. If Landowner lawfully transfers the Protected Property to another operator, then new operator shall enter into a new Lease with the City under the same terms as Landowner and substantially in the form attached as Exhibit F.
- 4.4 Termination and Reversion. If City terminates the Easement due to a Breach under Article V, the Protected Property and the Water Shares shall be dedicated to and vest in the City.
- 4.5 No Severance. The Water Shares shall not be severed, encumbered, leased (except as provided in Section 4.3), transferred, pledged or otherwise reduced or disposed without the prior written consent of Grantee.

ARTICLE V – ENFORCEMENT

- 5.1 The property subject to the Easement shall be continuously maintained by the Landowner in active agricultural production consistent with its current and intended use as a peach orchard or alternative agricultural uses consistent with the Easement, including using the Water Shares for agricultural purposes (the "Maintenance Standard"). The Maintenance Standard shall require that:
- 5.1.1 Peach trees, or other approved agricultural uses in the Easement, are actively cultivated and/or maintained in accordance with generally accepted agricultural practices in Utah, including appropriate pruning, irrigation, pest and disease control, and soil management;
 - 5.1.2 Dead or diseased trees are removed within a commercially reasonable time, not greater than one (1) year;
 - 5.1.3 Irrigation systems, fencing, and other permitted agricultural improvements are maintained in good repair and operational condition;
 - 5.1.4 The property is kept free from noxious weeds as defined under Utah law, invasive vegetation, debris, refuse, or hazardous conditions that materially impair agricultural use or constitute a public nuisance;
 - 5.1.5 The property is not abandoned or used for non-agricultural purposes inconsistent with the Easement.
 - 5.1.6 Water Shares are used solely for the agricultural purposes on the Protected Property.
 - 5.1.7 A "Breach" of the Maintenance Standard shall be deemed to exist if, based on physical site inspection and written findings by the City, the Landowner

fails to meet any of the conditions above. Upon determining that a Breach exists, the City shall provide written notice by certified mail to the Landowner describing the nature of the Breach and the corrective actions required. The Landowner shall have thirty (30) days from the date of the notice to cure the Breach or to commence and diligently pursue corrective action to the reasonable satisfaction of the City. The City may choose to send out additional notices following the thirty (30) day cure period of the first notice. However, if after the City has provided the initial notice and the Landowner fails to cure the Breach within the applicable cure period, the City may, pursuant to its authority under Utah Code Title 10, enter the property to abate the condition and perform such maintenance or restoration work as reasonably necessary to return the property to the Maintenance Standard. Entry for such purposes shall not constitute a trespass. Grantee's entry onto the Property to perform corrective action shall not be construed as creating any ongoing duty, obligation, or standard of care for future maintenance of the Property. Grantee's actions are discretionary and undertaken solely to enforce the Easement. All reasonable costs incurred by the City in performing maintenance or abatement, including administrative, labor, equipment, and contractor costs, shall be assessed against the Landowner. The City shall provide written notice of the assessed costs, which shall be due and payable within ninety (90) days from the date of the notice. If the assessed costs are not paid within ninety (90) days, the City may record a municipal lien against the property pursuant to Utah Code Title 10. The lien shall secure repayment of all unpaid costs, together with interest, penalties, and administrative expenses as permitted by law, and shall run with the land until satisfied. If the lien remains unpaid for three hundred sixty-five (365) days from the date of recording, the City may enforce the lien through foreclosure or other lawful collection proceedings as authorized under Utah law. Upon acquisition of title by the City through foreclosure, deed in lieu of foreclosure, or other lawful transfer: 1) The City may, at its sole discretion, terminate the Easement and 2) the City may thereafter use, manage, lease, convey, or dispose of the property in any manner permitted by law and determined by the City to be in its best interest.

- 5.1.8 If the Landowner ceases to use the Protected Property for agricultural purposes, as defined in the Easement, and cannot find within six months a willing buyer to purchase the Protected Property and continue to use the Protected Property for agricultural purposes, then the Landowner shall dedicate the Protected Property to the City. Acceptance of such dedication shall be at the sole discretion of the City Council. The City may thereafter use, manage, lease, convey, or dispose of the Protected Property in any manner permitted by law and determined to be in the City's best interests.

ARTICLE VI – AMENDMENT

- 6.1 Except as limited by Section 5.1.7, this Easement may be amended only by written instrument approved by both parties and recorded in Box Elder County, provided no amendment permits subdivision, increases impervious surface above 1%, or reduces, removes or otherwise modifies Water Shares, and no amendment shall alter the assignment or lease-back provisions of Article IV.

ARTICLE VII – MISCELLANEOUS

- 7.1 This Easement shall be recorded in the official records of Box Elder County, Utah, and shall be binding upon Grantor and all successors and assigns.
- 7.2 Entire Agreement. This Easement sets forth the entire agreement of the Parties. It is intended to supersede all prior discussions or understandings.
- 7.3 Compliance with Law. All uses and practices permitted by this Easement shall comply with all applicable local, state, and federal laws.
- 7.4 Effective Date. The effective date of this Easement shall be the date of its recordation (the "Effective Date").
- 7.5 Jurisdiction. If any court action is necessary to enforce any provisions of this Easement, jurisdiction shall be the First District Court in Box Elder County, Utah.
- 7.6 Attorney Fees. In the event of any action between the parties to enforce any of the provisions or rights hereunder, the court may award costs and reasonable attorney fees to the prevailing party.

ARTICLE VIII – Prior Approval From Grantee

- 8.1 If any provision of this Easement requires Grantor to obtain Grantee's approval prior to the performance of an act or the undertaking of a use or practice, Grantor shall not perform that act or undertake that use or practice (whether directly or through an agent) until the notice and approval provisions of this Section have been fully satisfied. Grantee shall grant approval pursuant to this Section only if the proposed act, use, or practice will not have a material adverse impact on the Purpose of this Easement. This Section is not intended for any other purpose, including, without limitation, to request approval of: (i) an act, use, or practice that is expressly prohibited by this Easement, (ii) an existing or threatened violation of this Easement, or (iii) an act, use, or practice for which an amendment to this Easement would be needed. Nothing in this Section shall in any way prohibit or limit Grantee's ability to obtain writs or injunctive relief or otherwise enforce this Easement.
- 8.2 **Grantor's Written Notice.** Prior to the performance of any act or the undertaking of any use or practice that requires Grantee's approval, Grantor must notify Grantee in writing of the proposed act, use, or practice. The notice must fully inform Grantee of all material aspects of the proposed act, use, or practice (including the nature, scope, design, location, and timetable for such proposed act, use, or practice).

8.3 Grantee's Written Request or Response. Grantee shall have forty-five (45) days from the date such notice is received to review the proposed act, use, or practice and, in writing, either approve the proposed act, use, or practice or notify Grantor of any objections it may have. The forty-five (45) day period shall not begin to run for purposes of this paragraph until such time as Grantee has received adequate information from Grantor to effectively evaluate the proposed act, use, or practice. In the event Grantee requires additional information to evaluate the proposed act, use, or practice, Grantee shall, in writing, request the information from Grantor as soon as practicable and in any case no later than forty-five (45) days after receipt of the notice. Grantee's objections to a proposed act, use, or practice, if any, shall be based upon Grantee's reasonable opinion that the proposed act, use, or practice is likely to cause material damage to the Purpose or provisions of this Easement. If, in Grantee's good faith judgment, the proposal presented by Grantor can be modified to avoid material damage to the Property's Purpose and provisions of this Easement, then Grantee's response shall inform Grantor how the proposed act, use, or practice may be modified to comply with this Easement. Grantor may commence the proposed act, use, or practice only after it receives Grantee's express written approval, and only in the manner explicitly proposed by Grantor and approved by Grantee.

8.4 Grantee's Failure to Respond. Grantee agrees to use reasonable diligence to respond to a notice from Grantor within forty-five (45) days from the date such notice is received or within forty-five (45) days after Grantee has received adequate information to evaluate the proposed act, use, or practice, whichever is later. Grantee's failure to respond within the forty-five (45) day period shall be deemed a constructive denial of Grantor's request. Because a constructive denial is not a decision by Grantee based on the merits of Grantor's request, it is not final or binding, and Grantor can resubmit the same or a similar request for approval.

8.5 Notices. The addresses of Grantor and Grantee for purposes of mailing or emailing the notices, requests, and responses addressed in this Section, and the rules governing the sending and deemed receipt of the same, are set forth below. Any notice, demand, request, consent, approval, response, or other communication shall be in writing and shall be sent by registered or certified mail with return receipt requested, or by email with a "read receipt" tracking option to:

8.5.1 To Grantor: KSA Willard

Kyle White

By Mail: 2217 E Evergreen Avenue, Salt Lake City, 84109

By Email: kyle@westernlanddev.com

8.5.2 To Grantee: Willard City

Willard City Manager

By Mail: 80 West 50 South
P.O. Box 593
Willard, UT 84340
By Email: jkimpton@willardcityut.gov

- 8.5.3 Any notice, demand, request, consent, approval, response, or other communication shall be deemed received by Grantor or Grantee upon evidence of Grantor's or Grantee's receipt thereof.
- 8.5.4 Grantor or Grantee may, by written notice to the other, designate a different recipient (i.e., "Attn:") or a different mail or email address.

ARTICLE IX - NOTICE OF TRANSFER, SUPERIORITY OF EASEMENT, FORCE MAJEURE

9.1 Notice of Transfer. To provide Grantee with notice of a change in ownership or other transfer of an interest in the Property, Grantor agrees to notify Grantee in accordance with ARTICLE VIII herein of the names and addresses of any party to whom the Property or any interest therein (including a leasehold interest) is transferred. Grantor shall be the initial Landowner and may select the first successor Landowner by conveying the Protected Property to such successor Landowner. Thereafter, the Landowner shall be the then-current fee simple owner of the Protected Property, including any successor or assignee thereof. Grantor further agrees to make specific reference to this Easement in a separate paragraph of any subsequent deed or other instrument by which any interest in the Property is conveyed and attach a recorded copy of this Easement to such instrument. Grantor also agrees to provide written notice of this Easement to all agents working under the direct control of Grantor in conjunction with the Property and to provide written notice of the recordation of this Easement to the Box Elder County Assessor within ten days of the recordation of this Easement in the official records of the Box Elder County Recorder, Box Elder County. Any failure to comply with the terms of this paragraph shall in no manner render this Easement or any of its provisions unenforceable.

9.2 Superiority of Easement. This Easement shall be superior to all other interests in the Protected Property, whether monetary or otherwise. No lease, mortgage, trust deed, lien, judgment, security interest, pledge or other interest of any kind, whether now existing or hereafter created, executed or entered against the Protected Property, shall encumber, burden, or otherwise affect the Protected Property except for this Easement. Any such interest that may arise or be asserted after the Effective Date after the Effective Date of this Easement shall be subordinate to this Easement and in no way enable the holder of such interest or their successor(s) in interest to breach or impair any term, condition, or purpose of this Easement. In the event of any conflict between

this Easement and any other interest in the Protected Property, this Easement shall control.

9.3 Force Majeure. Grantor will not be obligated to send a notice to Grantee, and Grantee will not be entitled to bring an action against Grantor for Grantor's undertaking of any prudent activity in a bona fide emergency situation to prevent, abate, or mitigate the immediate threat of significant damage to the Property resulting from causes beyond Grantor's control, including fire, flood, storm, and earth movement. Grantor must promptly notify Grantee in accordance with Section VIII herein of any injury to the Property caused by such events and of any efforts to prevent, abate, or mitigate any damage caused by such events.

[signatures follow]

IN WITNESS WHEREOF, the parties have executed this Easement as of the date first written above.

GRANTOR:

KSA WILLARD, LLC

By: _____

Name: _____

Title: _____

GRANTEE:

WILLARD CITY

By: _____

Name: _____

Title: _____

NOTARY ACKNOWLEDGMENT - STATE OF UTAH

State of Utah)

) ss.

County of _____)

On this ____ day of _____, 2026, before me, the undersigned Notary Public, personally appeared _____, who being duly sworn, acknowledged that he/she executed the foregoing instrument on behalf of KSA Willard, LLC.

Notary Public: _____

My Commission Expires: _____

State of Utah)

) ss.

County of _____)

On this ____ day of _____, 2026, before me, the undersigned Notary Public, personally appeared _____, who being duly sworn, acknowledged that he/she executed the foregoing instrument on behalf of Willard City.

Notary Public: _____

EXHIBITS:

- Exhibit A – Legal Description
- Exhibit B – Site Map
- Exhibit C – Building Envelope Area
- Exhibit D – Agricultural Land Easement Plan (ALE Plan)

Exhibit B – Preliminary Site Map

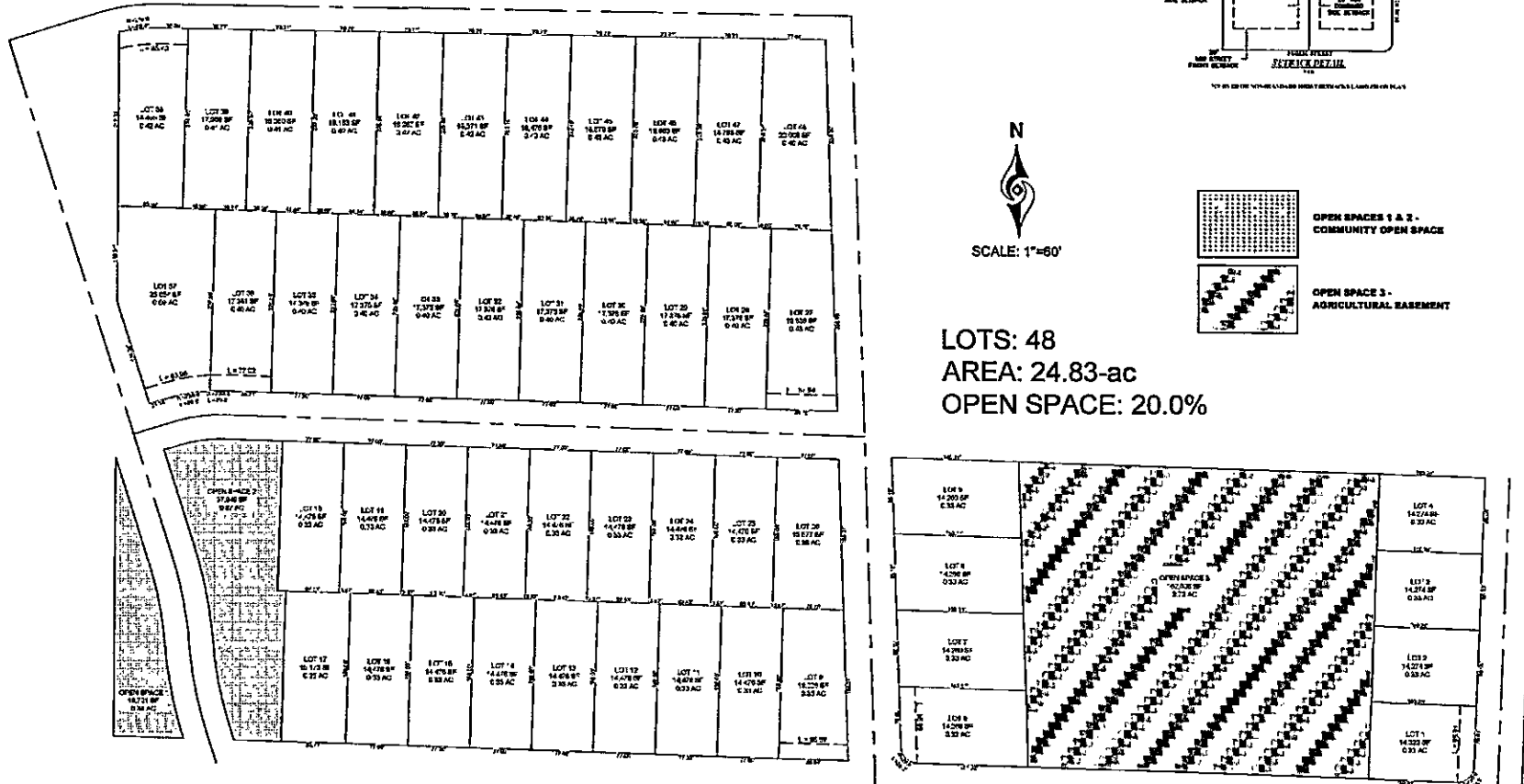
[Attached herein and incorporated by reference.]

Exhibit B – Preliminary Site Map

The Easement is made up of 3.72 acres as Open Space 3, in approximately the location shown below. If there is any conflict between Exhibit A and Exhibit B, the legal description in Exhibit A will control.

OPEN SPACE REQUIRED: 4.97ac

OPEN SPACE PROVIDED: Open Space 1 (0.38ac) + Open Space 2 (0.87ac) + Open Space 3 (3.72ac) = 4.97ac



Dimensions shown are approximate and subject to field verification. Final dimensions, areas, and configurations may vary.

Exhibit B - 1

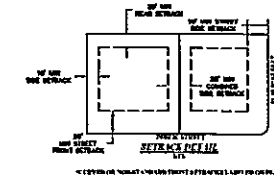
Exhibit C – Preliminary Building Envelope Area

[Attached herein and incorporated by reference.]

Exhibit C – Preliminary Building Envelope Area

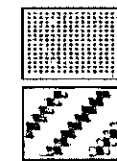
OPEN SPACE REQUIRED: 4.97ac

OPEN SPACE PROVIDED: Open Space 1 (0.38ac) + Open Space 2 (0.87ac) + Open Space 3 (3.72ac) = 4.97ac



SCALE: 1"=60'

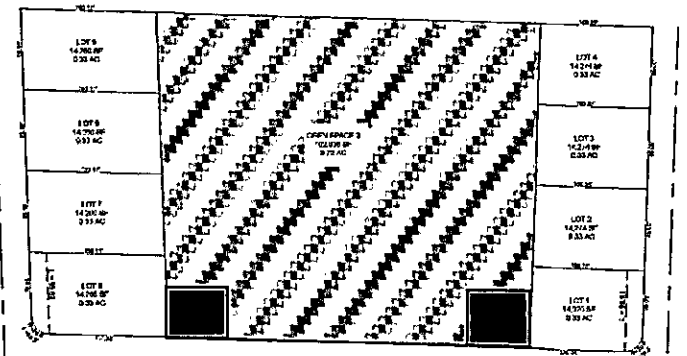
LOTS: 48
AREA: 24.83-ac
OPEN SPACE: 20.0%



OPEN SPACES 1 & 2 -
COMMUNITY OPEN SPACE

OPEN SPACE 3 -
AGRICULTURAL EASEMENT

BUILDABLE AREA



Dimensions shown are approximate and subject to field verification. Final dimensions, areas, and configurations may vary.

Exhibit D – Agricultural Land Easement Plan (ALE Plan)

[Attached herein and incorporated by reference.]

AGRICULTURAL LAND EASEMENT (ALE) PLAN

Protected Property: 3.72 Acres – Box Elder County, Utah

Grantor: KSA Willard, LLC

Grantee: Willard City

Landowner: Grantor and, following any transfer of the Protected Property, the then-current fee simple owner of the Protected Property, including Grantor's successors and assignees.

Date: _____, 2026

1. Plan Overview

This Agricultural Land Easement (ALE) Plan establishes the agricultural management framework for the Protected Property subject to a perpetual Agricultural Conservation Easement held by Willard City. The plan is intended to ensure the property remains in long-term productive agricultural use while protecting soil resources, irrigation capacity, and adjacent residential properties. The plan may be updated from time-to-time only with prior written approval of both Landowner and Grantee, and only if such updates remain consistent with the recorded easement.

2. Property Description

Location: Willard City, Box Elder County, Utah.

Total Acreage: 3.72 acres.

The Protected Property is surrounded in part by residential development. Eight residential backyards directly border the agricultural parcel. No residential structures can be built within 20 feet of the property boundary, though approximately eight homes are located within 100 feet.

3. Baseline Conditions

At the time of easement establishment, the Protected Property contains no permanent buildings or structures. The property is currently irrigated agricultural land suitable for orchard production. Pictures of the existing conditions are incorporated in Exhibit 1.

4. Soil Resources

Soils within the property are typical of irrigated agricultural soils found in the Willard area of Box Elder County. These soils are generally suitable for orchard crops, hay production, pasture, and row crops when irrigated.

- a. Maintain vegetative cover to minimize erosion
- b. Use crop rotation where practical to maintain soil fertility
- c. Minimize compaction by limiting heavy equipment use during wet soil conditions

- d. Maintain soil organic matter through cover crops or crop residue retention

5. Permitted Agricultural Uses

Permitted agricultural uses include, but are not limited to:

- a. Orchard cultivation including peach orchards and other fruit trees
- b. Row crop production
- c. Hay and alfalfa production and harvesting
- d. Forage and pasture crop production
- e. Livestock grazing and husbandry, subject to Section 6. Livestock Management Guidelines section
- f. Soil preparation, planting, cultivation, and harvesting
- g. Irrigation system installation, maintenance, and operation
- h. Integrated pest management
- i. Storage of agricultural machinery and supplies

6. Livestock Management Guidelines

If livestock grazing occurs on the property, management shall follow practices recommended or published by Utah State University Extension.

- a. The Stocking rate is to follow Utah State University Extension guidelines
 - b. Rotational livestock grazing is only allowed during the growing season, defined as April 15 to October 15.
 - c. An Animal Feeding Operation (an "AFO") is not permissible. An AFO is an agricultural facility where animals are confined, stabled, or fed for at least 45 days in a 12-month period.
 - d. Restrict feeding harvested forages
 - e. Maintain adequate vegetative cover to protect soil
 - f. Prevent livestock damage to irrigation infrastructure
- Agricultural operations shall manage manure, irrigation runoff, and soil amendments in a manner that minimizes impacts to adjacent residential properties

7. Irrigation Water Management

The Water Shares are assigned, transferred, and conveyed to the City with all rights, title and interest in the Water Shares. The Water Shares are leased back to the Landowner in accordance with Article IV of the Easement. Water Shares shall be used solely for agricultural purposes on the Protected Property and shall not be severed, separately conveyed, transferred, leased (except as provided in Article IV of the Easement), pledged, encumbered, or otherwise disposed of separately from the Protected Property. Water Shares are necessary to maintain agricultural productivity.

8. Pesticide and Chemical Management

All agricultural chemical applications shall comply with federal and state regulations and with product label instructions. Because of nearby residential development, additional drift-mitigation practices shall be used and shall meet EPA guidelines.

- a. Observe wind speed limits prior to spraying
- b. Use drift-reduction nozzles where appropriate
- c. Follow label setback requirements
- d. Apply integrated pest management techniques where feasible

9. Agricultural-Residential Interface Management

Due to the proximity of residential properties, agricultural operations shall incorporate practices that minimize conflicts with neighboring homes.

- a. Limit nighttime operations except where necessary for irrigation or frost protection
- b. Control dust during tilling or harvesting
- c. Agricultural operations shall manage manure, irrigation runoff, and soil amendments in a manner that minimizes impacts to adjacent residential properties.
- d. Provide reasonable notice to adjacent residents when large-scale spraying is scheduled

10. Monitoring and Compliance

Willard City may conduct periodic monitoring of the Protected Property to ensure compliance with the Agricultural Conservation Easement and this ALE Plan.

11. ALE Plan Updates

This plan may be updated from time to time to reflect changes in agricultural operations provided that updates remain consistent with the recorded easement and preserve the long-term agricultural viability of the property. Changes in ALE Plan require prior written approval of both Landowner and Grantee, and only if such updates remain consistent with the recorded easement.

Exhibit 1 – Baseline Site Photographs

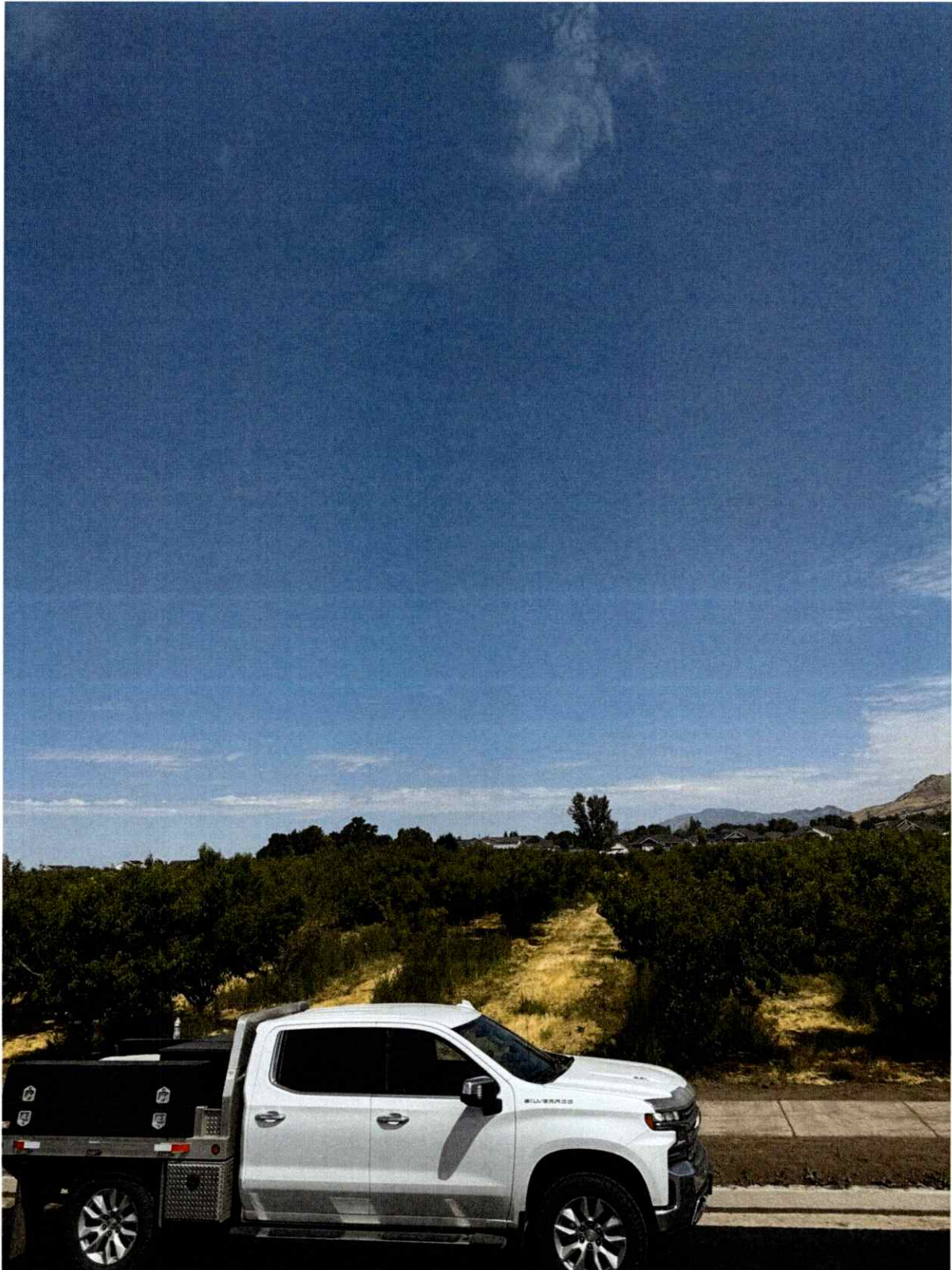
[Attached hereto and incorporated by reference.]

Exhibit 1









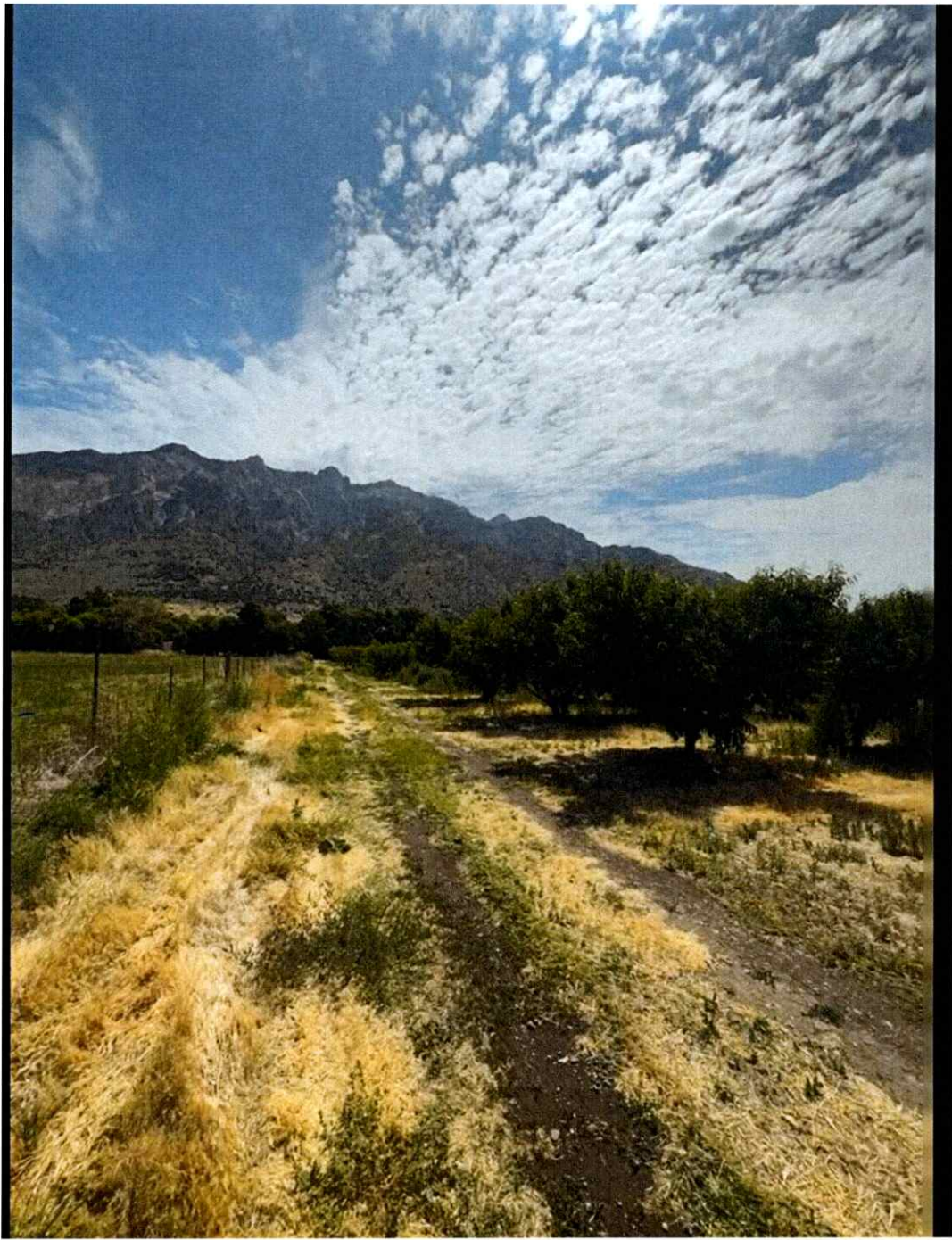


Exhibit D – Form of Water Shares Assignment Agreement

[Attached herein and incorporated by reference.]

WATER SHARES ASSIGNMENT AGREEMENT

This *Water Shares Assignment Agreement* (“**Agreement**”) is made by and between KSA Willard, LLC, a Utah limited liability company (“**Assignor**”), on one hand, and Willard City, a Utah municipal corporation (collectively “**Assignee**”), on the other hand. This Agreement shall be effective when signed by both Assignee and Assignor as indicated on the signature page, below.

RECITALS

A. Assignor is the owner of eighty-nine and 28/100 (89.28) shares (collectively, the “**Water Shares**”) in the Willard Water Company (“**Company**”). The Water Shares are evidenced by stock certificate number [2831] (“**Certificate**”).

B. The Company has determined that each share in the company is equivalent to [__ acre-feet] of water.

C. Assignor is entering into that certain Development Agreement dated _____, 2026 (“**Development Agreement**”), and Agricultural Conservation Easement Deed dated _____, 2026 governing three and 72/100 (3.72) acres of real property (“**Protected Property**”) in the City of Willard, Box Elder County (“**Easement**”, together with the Development Agreement, collectively, “**Governing Documents**”).

D. In connection with the Governing Documents, Assignor has agreed to assign, transfer, and convey all rights, title and interests in the Water Shares to Assignee, subject to the terms and conditions set forth herein.

AGREEMENT

Now, therefore, in consideration of the mutual promises set forth herein, and for other good and valuable consideration, the parties agree as follows:

1. **Recitals Incorporated.** The foregoing Recitals are incorporated into, and made part of, the parties’ agreement.

2. **Delivery of Certificates.** At the approval and execution of the Governing Documents, Assignor shall deliver the Certificate to Assignee and shall execute any stock transfer forms or other instruments required by the Company to effectuate the transfer of the Water Shares on the Company’s books and records.

3. **Governing Documents.** The parties agree that the number of Water Shares to be assigned, transferred, and conveyed by Assignor to Assignee is dependent upon the provisions of the Governing Documents. To that end, the following terms will apply:

a. **Scope of Assignment.** Assignor agrees to assign, transfer, and convey to Assignee all of the Water Shares. The assignment, transfer, and conveyance shall be effective upon the approval and execution of the Governing Documents. Assignee shall hold the Water Shares for

the benefit of the Protected Property and in furtherance of the conservation purposes of the Easement, subject to the terms of the Development Agreement.

b. Assignee's Duties. Subject to the Governing Documents, Assignee shall hold the Water Shares for the benefit of the Protected Property and in furtherance of the conservation purposes of the Easement and under the requirements of the Development Agreement. Assignee covenants and agrees upon the execution of this Agreement to promptly lease the Water Shares to the then-current operator of the Easement ("Lessee") at an annual rental rate of One Dollar (\$1.00) pursuant to the Easement ("Lease"). The Lease shall automatically renew annually and shall terminate only upon the termination of the Easement or a material breach of the Lessee, consistent with the Easement.

4. Purpose; Consideration. The parties acknowledge that the assignment and lease of the Water Shares are integral to the Easement and are intended to ensure that the Water Shares remain available throughout the term of the Easement for the irrigation and maintenance of the Protected Property subject to the Easement. The Water Shares are not being acquired for inclusion in the City's municipal water supply or distribution through its water system. The City shall retain ownership and control of the Water Shares, and the Landowner's use shall remain subject to the Easement and the related lease, including the Landowner's obligations to pay all assessments, delivery charges, and other costs associated with the Water Shares. The parties agree that these obligations and the resulting benefits to the City constitute fair and adequate consideration for the Lease, with the One Dollar (\$1.00) annual rent constituting only the monetary portion of such consideration. The City acknowledges that it has independently determined its authority to accept, own, administer, and lease the Water Shares and assumes all risk concerning such authority. Assignor makes no representation or warranty regarding the City's authority and shall have no liability arising from the City's acceptance, ownership, administration, or lease of the Water Shares. Upon the termination of the Easement for any reason, the Water Shares shall remain with the City, and the City may thereafter hold, operate, use, manage, lease, or dispose of the Water Shares in any manner permitted by law and determined by the City to be in its best interest, consistent with Section 4.4 of the Easement.

5. Representations and Warranties.

a. Assignor's Representations and Warranties. Assignor represents and warrants that: (i) Assignor is the lawful owner of the Water Shares; (ii) Assignor has full authority to enter into this Agreement and to assign, transfer, and convey the Water Shares as contemplated herein; (iii) the Water Shares are free and clear of all liens, pledges, encumbrances, security interests and adverse claims; and (iv) Assignor has not previously assigned the Water Shares.

b. Scope and Limitations. Except as expressly set forth in the preceding paragraph, Assignor makes no representations or warranties of any sort regarding the Water Shares. Without limiting the foregoing,

6. **Further Assurances.** Each party agrees to execute and deliver such additional documents and take such further actions as may be reasonably necessary to carry out the intent of this Agreement.

7. **Default.** No party will be deemed in default under this Agreement unless the other party has provided written notice of the claimed default and the claimed default remains uncured for more than twenty (20) days after receipt of the written notice by the defaulting party. Upon the existence of a default, the non-defaulting party will be entitled to pursue all remedies available at law or in equity, including specific performance.

8. **Miscellaneous.**

a. **Governing Law.** This Agreement shall be governed by the laws of the State of Utah.

b. **Jurisdiction.** If any court action is necessary to enforce any provisions of this Agreement, jurisdiction shall be the First District Court in Box Elder County, Utah.

c. **Attorney Fees.** In the event of any action between the parties to enforce any of the provisions or rights hereunder, the court may award costs and reasonable attorney fees to the prevailing party.

d. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof.

e. **Amendments.** This Agreement shall be amended only by a written document signed by both Parties.

f. **Assignment.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.

g. **Counterparts.** This Agreement may be executed in counterparts.

9. **Address for Notice.** Any notice which may be given under this Agreement shall be in writing and delivered to the appropriate party at the following addresses (email notification being sufficient if sent to the address provided below).

If to Assignee, to:

Willard City
80 W. 50 S.
P.O. Box 593
Willard, UT 84340
Attn: City Manager

With copy to:

Amy F. Hugie, Attorney at Law
9 West Forest Street, Ste. 208
Brigham City, UT 84302
Attn: Amy F. Hugie
Email: amyhugie@xmission.com

If to Assignor, to:

KSA Willard LLC
Attn: Kyle White
2217 E Evergreen Ave, Salt Lake City, UT 84109
Email: Kyle@westernlanddev.com

With a copy to:

Kirton McConkie
Attn: Loyal Hulme
50 E. South Temple, Suite 400
Salt Lake City, Utah 84111
Email: lhulme@kmclaw.com

[Signature pages follow.]

10. **Termination of Easement.** If the Easement is terminated for any reason, including termination by the Operator, the provisions of Section 4.4 of the Easement shall govern the disposition of the Property and the Water Shares. Upon such termination, the Lease shall automatically terminate and the City shall hold the Water Shares free of any obligation to lease them to any party.

WHEREFORE, the parties have evidenced their agreement to this Agreement by their signatures, below.

ASSIGNOR:

KSA WILLARD LLC,
a Utah limited liability company

By: _____
Name: _____
Its: _____

ASSIGNEE:

WILLARD CITY,
a political subdivision of the State of Utah

By: _____
Name: _____
Its: _____

Exhibit F – Form of Water Shares Lease

[Attached herein and incorporated by reference.]

WATER LEASE

[Willard City, a Utah municipal corporation], ("Lessor"), and [REDACTED], a(n) [REDACTED] ("Lessee") hereby make the following agreement of lease of water shares ("Lease").

Addresses for notice:

"Lessor"

Willard City
80 W. 50 S.
P.O. Box 593
Willard, UT 84340
Attn: City Manager

Phone: [REDACTED]
Email: [REDACTED]

"Lessee"

[REDACTED]
[REDACTED]
[REDACTED]
Attn: James Greer

Phone: [REDACTED]
Email: [REDACTED]

"Water Shares" means the following described water shares:

Certificate No. [REDACTED]

Shares: 89.28

Water Company or District Name: Willard Water Company
Address: 256 N 100 W
Willard, UT, 84340, USA

Contact person: [REDACTED]
Phone: [REDACTED]
Email: [REDACTED]

RECITALS

- A. The Water Shares are subject to that certain Agricultural Conservation Easement Deed dated _____, 2026, recorded in the official records of Box Elder County, Utah (the "Easement").
- B. Article IV, Section 4.3 of the Easement requires Lessor to lease the Water Shares to the then-current operator ("Landowner") of the Easement at an annual rental rate of One Dollar (\$1.00) for the duration of the Easement.
- C. Lessee is the current operator of the Easement and desires to lease the Water Shares from Lessor upon the terms and conditions hereinafter specified.

Lessee desires to lease the foregoing Water Shares from Lessor upon the terms and conditions hereinafter specified. In consideration of the promises contained herein, the parties agree as follows:

- 1. **TERM.** This Lease shall commence on [date] ("Effective Date"), and continue for successive one (1) year terms, automatically renewing on each anniversary of the Effective Date without further action by either party. This Lease shall continue to automatically renew until terminated in accordance with Section 9.
- 2. **RENT.** Lessee agrees to pay One Dollar (\$1.00) as rent for the full term of the Lease ("Rent").

3. **USE.** Lessee agrees to use the Water Shares solely for the irrigation and agricultural use of the property, depicted on Schedule 1 ("Protected Property") and for no other purpose without Lessor's prior written consent. Lessee's use of the Water Shares shall at all times be consistent with the terms of the Easement. Lessee shall not use the Water Shares for any illegal purpose. Lessee shall further comply with all federal, state and municipal laws, rules, regulations and ordinances with regard to the use and condition of the Water Shares.
4. **CONDITION OF WATER SHARES AND TRANSPORTATION FACILITIES.** Lessor represents that Lessor owns and controls the Water Shares sufficient to lease the Water Shares to Lessee for Lessee's use. Lessor makes no commitment to supply easements for access to the source or point of diversion of any Water Shares or for transportation facilities for the said Water Shares. Lessee agrees to provide all easements for access and for ditches or other transportation facilities other than those provided by Lessor.
5. **POINT OF DIVERSION.** In the event that a permit to change the point of diversion of all or any part of the Water Shares is required to permit Lessee to use the Water Shares under this Lease, Lessee shall bear the cost and obligation to apply for such permission from the appropriate government authority. Lessee shall furnish Lessor with copies of all materials it submits to the State Engineer, the Water Company, or any other judicial or administrative body with respect to the Water Shares prior to filing them.
6. **OPERATION, TAXES, AND UTILITIES.** Lessee shall pay all assessments, delivery charges and other costs associated with the Water Shares. Lessee shall be solely responsible for the payment of all other costs related to Lessee's use of the Water Shares, including Lessee's operating costs, and any and all fees, licenses, occupation or privilege taxes levied or assessed upon or with respect to the maintenance or use of the Water Shares. Lessee shall cooperate fully with Lessor in filing with governmental agencies or taxing authorities any documents that may be required in connection with the Water Shares.
7. **INDEMNITY.** "Loss" means any loss, damage, injury, or other casualty to the Protected Property or to any person, animal, fish, plant or geological or meteorological feature, including Lessee's, arising out of or resulting from Lessee's use or possession of water arising from the Water Shares. Neither Lessor, nor its agents or employees shall be liable for any Loss, except as arising from Lessor's negligence. Lessee for itself, its successors and assigns, hereby agrees to indemnify Lessor, and its agents or employees and hold Lessor and its agents or employees harmless from and against all claims, demands, liabilities, suits or actions arising from any Loss arising from Lessee's negligence, including all reasonable expenses and attorney fees incurred by or imposed on Lessor and its agents and employees in connection therewith.
8. **DEFAULT.** It is expressly understood and agreed between the parties hereto that all covenants and agreements contained in this Lease are conditions to this Lease and to the term hereby demised to Lessee. If either party defaults in its performance of any covenant or agreements contained in this Lease, such default shall be considered a breach of the Lease by the defaulting party, and should the defaulting party fail to cure such default and remedy such breach within thirty (30) days of receipt of written notice thereof from the non-defaulting party, then the non-defaulting party at its option, may immediately terminate this Lease, in addition to the exercise of any other legal or equitable rights or remedies.
9. **TERMINATION.**
 - a. This Lease shall automatically terminate, without further action by either party, upon the termination of the Easement for any reason. Upon such termination, Lessee shall have no further right to use the Water Shares, and the Water Shares shall be held by Lessor in accordance with Article IV, Section 4.4 of the Easement. Lessee shall surrender and relinquish any and all claims to the Water Shares upon termination of this Lease.
 - b. If Lessee attempts to sever, separately convey, encumber, sublease, transfer, pledge, or otherwise reduce, impair, or dispose of the Water Shares or any interest therein without the prior written consent of Lessor, or uses the Water Shares for any purpose other than the irrigation and agricultural use of the Protected Property as permitted under the Easement and this Lease, or takes any action that results in or is reasonably likely to result in the separation of the Water Shares from the Protected Property, or otherwise materially violates the

terms of the Easement with respect to the Water Shares (each, a "Prohibited Act"), Lessor may terminate this Lease upon fifteen (15) days' written notice to Lessee if such Prohibited Act remains uncured at the expiration of such notice period.

- c. Upon termination under this Section, all rights of Lessee in and to the Water Shares shall immediately cease, Lessee shall cooperate with Lessor and the Willard Water Company in executing any documents necessary to confirm the termination of Lessee's rights, and Lessor shall retain full ownership and control of the Water Shares. Termination under this Section shall not prejudice Lessor's right to pursue any other remedies available at law or in equity.
10. **SUCCESSOR OPERATOR.** In the event that the Protected Property is transferred to a successor owner or operator in accordance with the Easement, this Lease shall be assigned to such successor owner or operator, and Lessee shall cooperate in executing any documents necessary to effectuate such assignment. The successor owner or operator shall assume all of Lessee's obligations under this Lease and shall sign a new Lease with Lessor with the same terms as Lessee.
11. **ATTORNEY FEES.** In the event of any action between Lessor and Lessee to enforce any of the provisions or rights hereunder, the court may award costs and reasonable attorney fees to the prevailing party.
12. **NOTICE.** Except as otherwise required by law, any notice, demand or request given in connection with this Lease will be in writing and will be given by either: (i) personal delivery; (ii) recognized, national overnight courier service; (iii) United States certified mail, return receipt requested, postage or other delivery charge prepaid; or (iv) email. In all events, notice will only be deemed given if properly addressed to Lessor or Lessee, as applicable, at the addresses listed above (or at such other address as Lessor or Lessee may designate in writing given in accordance with this Section).
13. **SUCCESSORS.** All the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto.
14. **WAIVERS.** The waiver of any breach of any covenant, condition or stipulation contained herein shall not be taken to be a waiver of any subsequent breach of the same or any other covenant, condition or stipulation. Any failure of a party to enforce rights or seek remedies upon any default of the other party will not prejudice or affect the rights or remedies of such party in the event of any subsequent default of the other party.
15. **ASSIGNMENTS, SUBLETTING, AND ENCUMBRANCES.** Lessee shall not assign this Lease, nor mortgage, encumber or sublet the Water Shares or any part thereof, and shall not allow any lien or encumbrance to be placed upon the leasehold interest hereby created or any part thereof, without the prior written consent of Lessor, which Lessor may grant or withhold in its reasonable discretion. Notwithstanding the foregoing, this Lease shall be assigned to any successor owner or operator of the Protected Property in accordance with the Easement, subject to Section 10 of this Lease.
16. **MISCELLANEOUS**
- a. **INTEGRATION.** This Lease and the annexed Exhibits, if any, state the entire agreement between Lessor and Lessee concerning the Water Shares; and no agreement, either oral or written, other than herein provided, and no change of this Lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by them.
 - b. **COUNTERPARTS.** The parties may sign this Lease in multiple identical counterparts, all of which taken together shall constitute one and the same agreement. The parties will consider a copy of the signed Lease for all purposes as an original of the Lease to the maximum extent permitted by law, and no party to this Lease will have any obligation to retain a version of this Lease that contains original signatures in order to enforce this Lease, or for any other purpose.
 - c. **SEVERABILITY.** If any term or condition of this Lease (or portion thereof) is deemed to be invalid, illegal

or unenforceable, such invalidity, illegality or unenforceability will not alter the remaining portion of such term or condition, or any other term or condition hereof, as each term or condition of this Lease will be deemed severable from all other provisions hereof so long as removing the severed portion does not materially alter the overall intent of this Lease.

- d. HEADINGS. The headings in this Lease are for reference only and will not limit or define the meaning of any provision of this Lease.
- e. CONSTRUCTION. This Lease is the result of negotiations between the parties, neither of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms in this Lease will be construed in accordance with their usual and customary meanings. The parties hereby waive the application of any rule of construction that provides that ambiguous or conflicting terms should be construed against the party who (or whose attorney) prepared this Lease or any earlier draft of the same.
- f. GOVERNING LAW AND JURISDICTION. This Lease is governed by, and construed and enforced in accordance with, the laws of the State of Utah. If any court action is necessary to enforce any provisions of this Lease, jurisdiction shall be the First District Court in Box Elder County, Utah.

[Signatures to follow]

IN WITNESS WHEREOF, the parties have executed this Lease on the date written by their signatures, to take effect on the Effective Date.

LESSOR:

WILLARD CITY,
a political subdivision of the State of Utah

By: _____
Name: _____
Its: _____

LESSEE:

[REDACTED],
a(n) [REDACTED]

By: _____
Name: _____
Its: _____