



**CITY COUNCIL
AGENDA ITEM APPROVAL FORM**

AGENDA ITEM INFORMATION

MEETING DATE:	MARCH 6, 2019
AGENDA ITEM TITLE:	RESOLUTION NO. 19-11: A RESOLUTION OF THE CITY OF TAYLORSVILLE APPROVING THE DEVELOPMENT AGREEMENT FOR THE THORNHILL PARK IMPROVEMENT PROJECT.
PUBLIC HEARING REQUIRED:	YES: _____ NO: _____
ORDINANCE REQUIRED:	YES: _____ NO: <u> X </u>
RESOLUTION REQUIRED:	YES: <u> X </u> NO: _____
PRESENTER:	MARK MCGRATH AND TRACY COWDELL
AGENDA ITEM SUMMARY: LIMIT 150 WORDS	This development agreement details the terms and conditions governing an agreement between the City and the Developer wherein the Developer shall acquire and deed to the City certain real property located at 1600 West 4800 South, Taylorsville, Utah 84123; 1608 West 4800 South, Taylorsville, Utah 84123; and 1616 West 4800 South, Taylorsville, Utah 84123 to be used as open space, and the City shall grant to Developer a perpetual entitlement to build thirty-two (32) additional units on approximately 1.9 acres located on the eastern boundary of the Thornhill Park Apartments.
ATTACHMENTS:	EXHIBIT A: DEVELOPMENT AGREEMENT

TAYLORSVILLE, UTAH
RESOLUTION NO. 19-11

**A RESOLUTION OF THE CITY OF TAYLORSVILLE APPROVING THE
DEVELOPMENT AGREEMENT FOR THE THORNHILL PARK
IMPROVEMENT PROJECT.**

WHEREAS, the Taylorsville City Council (the “Council”) met in regular session on March 6, 2019, to discuss, among other things, approving the development agreement for the Thornhill Park Improvement Project (the “Project”); and

WHEREAS, Big Thornhill UT, LLC (“Developer”) is the fee simple owner of approximately thirteen (13) acres of real property located at 1680 West Thornhill Drive within the boundaries of the City (“Thornhill Park Apartments”); and

WHEREAS, Developer and the City have come to an agreement whereby the Developer shall acquire and deed to the City certain real property located at 1600 West 4800 South, Taylorsville, Utah 84123; 1608 West 4800 South, Taylorsville, Utah 84123; and 1616 West 4800 South, Taylorsville, Utah 84123 to be used as open space, and the City shall grant to Developer a perpetual entitlement to build thirty-two (32) additional units on approximately 1.9 acres located on the eastern boundary of the Thornhill Park Apartments (the “Project”); and

WHEREAS, Developer has made application to the City for a general plan map amendment, rezone or map amendment and zoning text amendment to assign the site-specific development district designation for residential use (“SSD – Thornhill Park Improvement”) to the Thornhill Park Apartments for the purpose of adding thirty-two (32) additional units; and

WHEREAS, the intent of the development agreement is to facilitate the development of the Thornhill Park Apartments in accordance with the site-specific land uses allowed and development standard adopted by the City as part of the SSD – Thornhill Park Improvement zoning district to provide for a creative development with unique and unusual characteristics for the benefit of all Parties; and

WHEREAS, after much consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the City’s citizens to approve the proposed development agreement.

NOW, THEREFORE, BE IT RESOLVED by the Taylorsville City Council that the proposed development agreement for the Thornhill Park Improvement Project is hereby approved and the Mayor is hereby authorized to sign the development agreement after it has been executed on behalf of Thornhill Park

This Resolution, assigned Resolution No. 19-11, shall take effect upon passage and approval.

PASSED AND APPROVED by the Taylorsville City Council this ____ day of _____, 2019.

TAYLORSVILLE CITY COUNCIL

By: _____
Daniel J. Armstrong, Council Chair

SEAL

VOTING:

Meredith Harker	Yea	___	Nay	___
Ernest Burgess	Yea	___	Nay	___
Dan Armstrong	Yea	___	Nay	___
Curt Cochran	Yea	___	Nay	___
Brad Christopherson	Yea	___	Nay	___

PRESENTED to the Mayor of the City of Taylorsville for approval this ____ day _____, 2019.

APPROVED this ____ day of _____, 2019.

By: _____
Mayor Kristie S. Overson

ATTEST:

Cheryl P. Cottle, City Recorder

DEPOSITED in the office of the City Recorder this ____ day of _____, 2019.

RECORDED this ____ day of _____, 2019.

EXHIBIT A

Development Agreement – Thornhill Park Improvement Project

WHEN RECORDED RETURN TO:

City of Taylorsville
Attn: Cheryl Cottle, City Recorder
2600 West Taylorsville Blvd.
Taylorsville, UT 84129

**DEVELOPMENT AGREEMENT
FOR THORNHILL PARK IMPROVEMENT**

THIS DEVELOPMENT AGREEMENT (the “Agreement”) is entered into this _____ day of _____, 2019, by and between **BIG THORNHILL UT, LLC** a Delaware limited liability company (“BIG Thornhill”) and/or any entity under common ownership with BIG Thornhill that may purchase and/or sell any of the real property described herein, on behalf of BIG Thornhill in accordance with the terms of this Agreement, each with its principal place of business at 25 Brookline, Aliso Viejo, California, 92656 (individually or collectively, depending on the context, “Developer”) and the **CITY OF TAYLORSVILLE**, a municipal corporation and political subdivision of Salt Lake County, State of Utah (the “City”). Developer and the City are hereinafter sometimes referred to individually as a “Party” or collectively as the “Parties.”

RECITALS

A. Developer is the fee simple owner of approximately 13 acres of real property located at 1680 W Thornhill Dr. (“THORNHILL PARK APARTMENTS”) within the boundaries of the City, which boundaries are more particularly described in Exhibit A, attached hereto and incorporated herein by this reference; and

B. The THORNHILL PARK APARTMENTS currently exist as shown in the existing site plan attached as Exhibit B; and

C. Developer and City have come to an agreement whereby the Developer shall acquire and deed to the City certain real property located at 1600 West 4800 South, Taylorsville, Utah, 84123; 1608 West 4800 South, Taylorsville, Utah, 84123; and 1616 West 4800 South, Taylorsville, Utah, 84123 to be used as open space, and the City shall grant to Developer a perpetual entitlement to build 32 additional units on approximately 1.9 acres located on the eastern boundary of the THORNHILL PARK APARTMENTS (the “Project”), which boundaries are more particularly described in Exhibit C; and

D. Developer has made application to the City for a general plan map amendment, rezone or map amendment and zoning text amendment to assign the site-specific development district designation for residential use (“SSD – THORNHILL PARK IMPROVEMENT”) to the THORNHILL PARK APARTMENTS for the purpose of adding thirty-two (32) additional units; and

E. The intent of this Agreement is to facilitate the development of the THORNHILL PARK APARTMENTS in accordance with the site-specific land uses allowed and development standards adopted by the City as part of the SSD – THORNHILL PARK IMPROVEMENT zoning district to provide for a creative development with unique and unusual characteristics for the benefit of all Parties; and

F. The City, acting pursuant to its authority under UTAH CODE ANN. §§ 10-9a-101, *et seq.*, has made certain determinations with respect to the THORNHILL PARK IMPROVEMENT, and, in the exercise of its legislative discretion, has elected to process and approve this Agreement after all necessary public hearings and procedures have been conducted.

AGREEMENT

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

1. **Incorporation of Recitals.** The Recitals and Exhibits are hereby incorporated by reference as part of this Agreement.

2. **Conditions Precedent.**

2.1. **Approval of Zoning by City Council.** As a condition precedent to the obligations of the Parties hereunder, this Agreement is contingent upon and shall only become effective at such time, and in the event that, the Taylorsville City Council, in the independent exercise of its legislative discretion, elects to approve the proposed rezoning of the THORNHILL PARK APARTMENTS to the SSD – THORNHILL PARK IMPROVEMENT zone. This Agreement is not intended to and does not affect or in any way bind or supersede the independent exercise of legislative discretion by the City Council in deciding whether to approve or deny the application for the rezoning of the THORNHILL PARK APARTMENTS. Upon approval of this Agreement by the Taylorsville City Council, Developer will receive a perpetual entitlement to build the 32 additional units as per this Agreement.

2.2. **City Land Exchange for Developer Building Rights.** As an additional condition precedent to the obligation of the Parties hereunder, this Agreement shall also be contingent upon and shall only become effective at such time, and in the event that, the Parties complete the following steps to effectuate the transaction to exchange land for building rights as contemplated in this Agreement:

2.2.1. The Developer shall purchase from the City, and the City shall sell to the Developer, certain real property located at 1616 West 4800 South (the “1616 West Property”), a description of which is attached hereto as Exhibit I and incorporated herein by this reference. The purchase price shall be in the amount of Two Hundred Seventy-Three Thousand Two Hundred Four Dollars (\$273,204) plus buyer closing costs (the

“Purchase Price”). The City shall thereafter repay in full the HUD loan associated with the 1616 West Property concurrently with closing.

2.2.2. The Developer shall purchase certain real property located at 1608 West and 4800 South (the “1608 West Property”) from the current property owners, David and Dianne Joseph (the “Josephs”), a description of which is attached hereto as Exhibit J and incorporated herein by this reference. The Developer’s purchase of the 1608 West Property shall pay off the current loan on the 1608 West Property held by Wells Fargo (the “Wells Fargo Loan”).

2.2.3. The Developer shall post a cash bond with the City in the amount of one hundred twenty thousand dollars (\$120,000) (the “Bond.”) The Developer shall use the Bond to acquire an approximately fifty-four thousand (~54,000) square foot portion of certain real property located at 1600 West and 4800 South (the “1600 West Property”), a description of which is attached hereto as Exhibit K and incorporated herein by this reference, on behalf of the City. The Developer shall use commercially reasonable efforts to purchase the 1600 West Property on behalf of the City. In the event the Developer fails to acquire the 1600 West Property within two (2) years after the execution of this Agreement, the Developer shall forfeit the Bond and the City shall be free to use the Bond funds for any purpose the City chooses.

2.2.4. The Developer shall submit a subdivision application to the City and shall complete all requirements to subdivide the 1616 West Property, the 1608 West Property, and the 1600 West Property as contemplated in this Agreement and in accordance with all applicable local ordinances and state statutes in order to effectuate the transactions contemplated herein

2.2.5. The Developer shall sell to the Josephs the front parcel of both the subdivided 1616 West Property and subdivided 1608 West Property. The Josephs shall purchase from the Developer the front parcel of the 1616 West Property for two hundred thousand dollars (\$200,000).

2.2.6. The Developer shall deed to the City the rear parcels of both the subdivided 1616 West Property and the subdivided 1608 West Property in the amount of approximately twenty-eight thousand (~28,000) square feet in exchange for consideration in the amount of one dollar (\$1).

2.3. **Grant of Perpetual Entitlement.** Upon the Taylorsville City Council’s approval of (1) the general plan map amendment, (2) the zoning map amendment, (3) the zoning text amendment, and (4) this Agreement, as contemplated in Section 2.1 above; and upon the completion of the land acquisitions, transfers and transactions as contemplated in Section 2.2 above, the City shall grant to the Developer a perpetual entitlement to build thirty-two (32) additional units pursuant to this Agreement. This entitlement shall run with the land to the successors in interest as stated in Section 13.

2.4. Time. The Parties shall have a period of two (2) years to complete the land exchanges contemplated in Section 2.2 following the date of its execution by all Parties, unless its Term is modified by written amendment to this Agreement.

The steps described in Sections 2.1 through 2.3 above shall result in the City possessing approximately twenty-eight thousand (~28,000) square feet of real property and one hundred twenty thousand dollars (\$120,000) or, alternatively, possession of the 1600 West Property. Furthermore, the Developer shall then receive a perpetual entitlement to construct thirty-two (32) additional units and parking (including covered parking) at the THORNHILL PARK APARTMENTS pursuant to this Agreement.

3. Thornhill Park Property Plan. Architectural plans of the 32 units are included as Exhibit D. Plans depicting the location of proposed land uses, structures, major streets, configurations, and vegetation of the THORNHILL PARK APARTMENTS is attached in the form of Exhibit E, which is hereby incorporated by this reference. The plans have not been final engineered; therefore, the exact location of the buildings, detention pond, number of parking stalls, and landscaping is subject to further review and approval by the Community Development Director (the "CDD") and the City Planning Commission, as applicable. The Developer and the City hereby understand that the existing detention pond may only be relocated if the topography permits it and it is not cost prohibitive, as determined by the City Engineer. The side elevations depicted in Exhibit F are concept only, but the face of the buildings will generally stay consistent with the current buildings on-site. The approval of the plans as part of this Agreement satisfies the requirement of the Taylorsville City Code (the "Code") for a development plan as part of the SSD THORNHILL PARK IMPROVEMENT zone for the THORNHILL PARK APARTMENTS.

4. Project-Specific Development Standards.

4.1 Specific-Development Standards. The purpose of the SSD – THORNHILL PARK IMPROVEMENT is to provide for site-specific development standards in order to allow for the efficient and creative development of property with unique or unusual characteristics. Specific land uses allowed, development standards and regulations for the THORNHILL PARK APARTMENTS portion of the SSD – THORNHILL PARK IMPROVEMENT have been approved by both the Planning Commission and the City Council pursuant to the provisions of Section 13.19.010 of the Code and are attached hereto as Exhibit G and incorporated herein by this reference. Developer shall develop the THORNHILL PARK APARTMENTS generally in accordance with the plans attached as Exhibits D, E, and F and in compliance with the site-specific land uses allowed and the development standards as contained in Exhibit G.

4.2 Amendments to Concept Plan and Specific SSD Development Standards. The Parties understand and agree that the plans attached as Exhibits D, E, and F are a general depiction of building locations, sizes and uses and that the final engineered plans shall be submitted for approval before any actual construction may begin on any portion of the THORNHILL PARK APARTMENTS which may deviate or vary slightly or in ways that are irrelevant to planning considerations from what is depicted in Exhibits D, E, and F to this Agreement or which represent logical development of the details depicted on Exhibits D, E, and F. In the event that Developer or the successor owner of the THORNHILL PARK APARTMENTS desires to further modify

Exhibits D, E, and F it shall submit a request to the Community Development Director of the City (“CDD”), who may approve minor modifications or amendments in the development of the Project as depicted in Exhibits D, E, and F. Without limiting the scope of what constitutes a minor modification or amendment, the following shall be presumed to constitute a minor modification or amendment: (a) an increase of less than five percent (5%) in the total overall square footage in the entire THORNHILL PARK APARTMENTS; (b) alteration of the sizes or types of units in each Phase of the THORNHILL PARK APARTMENTS that does not cause the total overall square footage to exceed the five percent (5%) threshold set forth in (a); (c) alteration of the exterior design and improvements to the buildings within setbacks; (d) any decrease in hardscape and increase in landscaping; and (e) variations in the heights of buildings in excess of 35’. For avoidance of doubt, alteration of the size, type or number of units in any Phase of the entire THORNHILL PARK APARTMENTS that falls within the presumptions set forth in the previous sentence shall constitute a minor modification or amendment. Any amendments to this Agreement that the CDD determines to be major amendments to Exhibits D, E, and F, as determined by the CDD, shall be referred to the Planning Commission for their review and approval. Any proposed amendment to the specific SSD – THORNHILL PARK IMPROVEMENT development standards and regulations in Exhibit G including, but not limited to, changes in road alignment, height of buildings, setbacks, density and uses of property shall be regarded as a major amendment that shall require either Planning Commission or City Council approval, depending on whether the proposed amendment is only to the Concept Plan or to the Specific Development Standards and Regulations attached as Exhibit G. Except as provided above, the CDD shall have the discretion to determine what constitutes a minor or major amendment and may elect to seek approval of the Planning Commission and/or City Council, as applicable, in his or her discretion. Any decision of the CDD approving or denying a request for a minor modification in Exhibits D, E, or F, or a decision as to whether a proposed modification is a major amendment that requires Planning Commission or City Council approval, as applicable, is a land use decision that may be appealed under the provisions of §13.34.010 of the Code.

5. **Approval Process for Development Applications.** The City shall process applications for development of the Project in accordance with the provisions of the Code. Developer expressly acknowledges and agrees that nothing in this Agreement shall be deemed to relieve it of the obligation to comply with all of the applicable requirements for approval of preliminary and final subdivision plats, or preliminary and final site plans, as applicable, for the proposed development of the Project consistent with the terms and conditions of this Agreement and the applicable provisions of the Code.

6. **Phasing.** Developer may develop the Project in phases as market conditions dictate as long as each phase provides for the logical extension of infrastructure and utilities as approved by the City and in compliance with the terms of this Agreement and the applicable provisions of the Code. All phasing decisions for the THORNHILL PARK APARTMENTS project shall constitute minor modifications.

7. **Payment of Fees.**

7.1. **Development Application and Review Fees.** Developer shall pay to the City all of the fees, including, but not limited to, application fees, impact fees and connection fees for

review and approval of development of any and all phases of the Project in the amounts set forth in the City's Consolidated Fee Schedule, a copy of which is attached as Exhibit H and incorporated herein by this reference. Pursuant to the provisions of §3.16.080 of the Code, the City Council hereby determines that there is a prevailing public interest in allowing deferral of the payment of fees for final subdivision and final site plan approval on a phase by phase basis for the Project.

7.2. **Other Fees.** The City may charge other fees in existence as of the date of this Agreement, including, without limitation, standard building permit review, and inspection fees for improvements to be constructed on improved parcels that are generally applicable to other developments within the City. The Project shall not be subject to new fees and charges imposed by the City after the date of this Agreement.

7.3. **Reservation of Right to Challenge Fees.** Notwithstanding any provision of this Agreement, the Developer does not waive Developer's rights under any applicable law to challenge the reasonableness or legality of the amount or imposition of any fees.

8. **Vested Rights.**

8.1. **Vested Rights.** Developer shall have the vested right to have preliminary and final subdivision plats, or preliminary and final site plans, as applicable, approved and to develop and construct the Project in accordance with and subject to compliance with the terms and conditions of this Agreement, the SSD – THORNHILL PARK IMPROVEMENT and other applicable provisions of the Code. To the extent that there is any conflict between the text portion of this Agreement and the Exhibits, the more specific language or description, as the case may be, shall control. Where any conflict or ambiguity exists between the provisions of the Code and this Agreement (including the Exhibits to this Agreement), this Agreement shall govern. Notwithstanding the foregoing, the rights vested as provided in this Agreement are not exempt from the application of the Code and to subsequently enacted ordinances to the extent that would impair the City's reserved legislative powers in Section 9.2.

8.2. **Reserved Legislative Powers.** The Parties acknowledge that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the City those police powers that cannot be so limited. Notwithstanding the retained power of the City to enact such legislation under the police powers, such legislation shall only be applied to modify any development standards that are applicable to the Project under the terms of this Agreement based upon the policies, facts and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine of the State of Utah. Any such proposed legislative changes shall be of general application to all development activity in the City; and, unless the City declares an emergency, Developer shall be entitled to prior written notice and an opportunity to be heard with respect to any proposed change and its applicability to the Project under the compelling, countervailing public interest exception to the vested rights doctrine.

9. **Infrastructure and the Provision of Municipal Services.**

9.1. Construction of Necessary Infrastructure to Service the Project. Developer shall have the obligation to construct or cause to be constructed and installed all of the public or private infrastructure, including, but not limited to, roads and utilities, which are located on and necessary to service any portion of the THORNHILL PARK APARTMENTS, as applicable, as part of the Project, which are the subject of an application for development approval, and any off-site improvements necessary to connect to existing utilities.

9.2. Third Party Service Providers. Developer shall be responsible to obtain the approval and incur the costs of constructing any off-site and on-site infrastructure and improvements from third party service providers including, but not limited to, Rocky Mountain Power, Dominion Energy, and the Taylorsville-Bennion Improvement District that are necessary to service any portion of the THORNHILL PARK APARTMENTS, as applicable, as part of the Project. The City shall reasonably cooperate, as necessary, in seeking approval and permits from third party service providers.

9.3. Maintenance of Private Roads and Improvements. Developer shall have the duty to maintain all private roads and areas designated as such on subdivision plats or preliminary or final site plans, as applicable, that are located within that portion of the Project constructed on the THORNHILL PARK APARTMENTS consistent with current Thornhill Park Apartments standards.

9.4. Landscaping and Maintenance Plan for Median. Developer shall provide for maintenance of that common landscaped areas consistent with the current maintenance standards of the Thornhill Apartments.

10. Successors and Assigns.

10.1. Binding Effect. This Agreement shall be binding upon all successors and assigns of Developer in the ownership or development of any portion of the THORNHILL PARK APARTMENTS.

10.2. Assignment. Neither this Agreement nor any of its provisions, terms or conditions may be assigned to any other party, individual or entity without assigning the rights as well as the responsibilities under this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed. Under this Agreement, the rights with respect to the THORNHILL PARK APARTMENTS may be assigned to different persons or entities subject to approval by the City as set forth in this Section 10.2. Any such request for assignment may be made by letter addressed to the City as provided herein and the prior written consent of the City may also be evidenced by letter from the City to Developer or its successors or assigns.

11. Default.

11.1. Notice. If Developer or the City fail to perform their respective obligations hereunder or to comply with the terms hereof, the party believing that a default has occurred shall provide notice to the other Party as provided herein. If the City believes that the default has been

committed by Developer, then the City shall also provide a courtesy copy of the notice to Developer.

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

11.2.1. Claim of Default. Specify the claimed event of default;

11.2.2. Identification of Provisions. Identify with particularity the provisions of any applicable law, rule, regulation or provision of this Agreement that is claimed to be in default;

11.2.3. Specify Materiality. Identify why the default is claimed to be material;
and

11.2.4. Optional Proposed Cure. If the City chooses, in its discretion, the City may propose a method and time for curing the default which shall be of no less than sixty (60) days duration.

11.3. Meet and Confer. Upon the issuance of a Notice of Default, the Parties shall meet within ten (10) business days and confer in an attempt to resolve the issues that are the subject matter of the Notice of Default.

11.4. Remedies. If, after meeting and conferring, the Parties are not able to resolve the default, then the Parties may have the following remedies:

11.4.1. Legal Remedies. The rights and remedies available at law and in equity, including, but not limited to injunctive relief, specific performance and termination, but not including damages or attorney's fees.

11.4.2. Enforcement of Security. The right to draw on any security posted or provided in connection with the Project and relating to remedying of the particular default.

11.4.3. Withholding Further Development Approvals. The right to withhold all further reviews, approvals, licenses, building permits and/or other permits for development of the Project on those properties owned by the defaulting party.

11.5. Public Meeting. Before any remedy in Section 11.4 may be imposed by the City, the Party allegedly in default shall be afforded the right to attend a public meeting before the Council and address the Council regarding the claimed default.

11.6. Emergency Defaults. Anything in this Agreement notwithstanding, if the Council finds on the record that a default materially impairs a compelling, countervailing interest of the City and that any delays in imposing such a default would also impair a compelling, countervailing interest of the City, then the City may impose the remedies of Section 11.4 without meeting the requirements of Section 11.5. The City shall give Notice to Developer and/or any applicable successor or assign of any public meeting at which an emergency default is to be considered and

the allegedly defaulting Party shall be allowed to address the Council at that meeting regarding the claimed emergency default.

11.7. Extended Cure Period. If any default cannot be reasonably cured within sixty (60) days, then such cure period may be extended as needed, by agreement of the Parties for good cause shown, so long as the defaulting Party is pursuing a cure with reasonable diligence.

11.8. Cumulative Rights. The rights and remedies set forth herein shall be cumulative.

11.9. Force Majeure. All time periods imposed or permitted pursuant to this Agreement shall automatically be extended and tolled for: (a) period of any and all moratoria imposed by the City or other governmental authorities in any respect that materially affects the development of the Project; or (b) by events reasonably beyond the control of Developer including, without limitation, inclement weather, war, strikes, unavailability of materials at commercially reasonable prices, and acts of God, but which does not include financial condition of the Developer or its successors.

12. Notices. Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the Party for whom intended or if mailed be by certified mail, return receipt requested, postage prepaid to such Party at its address shown below:

To BIG Thornhill UT, LLC:

Attn: Will Milligan
25 Brookline
Aliso Viejo, CA 92656

With a copy to:

Cannon Law Group
Attn: Cole S. Cannon
53 South 600 East
Salt Lake City, Utah 84102

To the City of Taylorsville:

Taylorsville City
Attn: John Taylor, City Administrator
2600 West Taylorsville Blvd.
Taylorsville, Utah 84129

With a copy to:

Taylorsville City Attorney's Office
Attn: Tracy S. Cowdell
2600 West Taylorsville Blvd.

Taylorsville, Utah 84129

Any Party may change its address or notice by giving written notice to the other Parties in accordance with the provisions of this Section.

GENERAL TERMS AND CONDITIONS

13. **Agreement to Run with the Land.** This Agreement shall be recorded in the Office of the Salt Lake County Recorder against the Developer and is intended to and shall be deemed to run with the land and shall be binding on all successors in the ownership and development of any portion of the THORNHILL PARK APARTMENTS.
14. **Entire Agreement.** This Agreement, together with the Exhibits hereto, integrates and constitutes all of the terms and conditions pertaining to the subject matter hereof and supersedes all prior negotiations, representations, promises, inducements, or previous agreements between the Parties hereto with respect to the subject matter hereof. Any amendments hereto must be in writing and signed by the respective Parties hereto.
15. **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.
16. **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 assignees, for any obligation arising out of the terms of this Agreement.
17. **No Third-Party Rights.** The obligations of the Parties set forth in this Agreement shall not create any rights in or obligations to any persons or parties other than to the City and Developer. The City and Developer alone shall be entitled to enforce or waive any provisions of this Agreement to the extent that such provisions are for their benefit.
18. **Severability.** Should any portion of this Agreement for any reason be declared invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions, and the same shall be deemed in full force and effect as if this Agreement had been executed with the invalid portions eliminated.
19. **Waiver.** No waiver of any of the provisions of this Agreement shall operate as a waiver of any other provision regardless of any similarity that may exist between such provisions, nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding unless executed in writing by the waiving Party.
20. **Survival.** All agreements, covenants, representations, and warranties contained herein shall survive the execution of this Agreement and shall continue in full force and effect throughout the term of this Agreement.
21. **Public Information.** The Parties understand and agree that all documents related to this agreement will be public documents, as provided in UTAH CODE ANN. § 63G-2-101, *et seq.*

22. **Governing Law.** This Agreement and the performance hereunder shall be governed by the laws of the State of Utah.

23. **Counterparts.** This Agreement may be executed in multiple counter-parts which shall constitute one and the same document.

(Signatures begin on following page)

IN WITNESS WHEREOF, this Agreement has been executed by the City of Taylorsville, acting by and through the Taylorsville City Council, Salt Lake County, State of Utah, pursuant to Resolution No. 19-_____, authorizing such execution, and by a duly authorized representative of Developer as of the above-stated date.

CITY OF TAYLORSVILLE,
a Utah municipality and political subdivision of the State of Utah.

By: _____
Kristie S. Overson, Mayor

ATTEST:

Cheryl Cottle, Taylorsville City Recorder

APPROVED AS TO FORM:

City Attorney

BIG THORNHILL UT, LLC,
a Delaware limited liability company,
on behalf of itself and any other Developer

By: _____
Name:
Title:

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

On the _____ day of _____, 2018, personally appeared before me _____ who being duly sworn, did say that he is the _____ of _____, and that the foregoing instrument was signed in behalf of said _____ and said _____ duly acknowledged to me that he executed the same for the purposes therein stated.

NOTARY PUBLIC

My Commission Expires:

Exhibit A
(Thornhill Park Apartments Legal Description)

Exhibit B
(Thornhill Existing Site Plan)

Exhibit C
(Legal Description of Project Land)

Exhibit D
(Architectural Plans)

Exhibit E
(Site Plans and Pictures)

Exhibit F
(3D Elevations)

Exhibit G
(Development Standards)

Exhibit H
(Fee Schedule)

Exhibit I
(Legal Description of 1616 West Property)

Parcel #: 21102010060000

Legal Description:

BEG S 0°06' E 1237.5 FT & N 89°54' E 608.5 FT FR N 1/4 COR SEC 10 T 2S R 1W SL MER
N 89°54' E 58 FT N 475 FT S 89°54' W 58 FT S 475 FT TO BEG 0.63 AC.

More commonly known as 1616 West 4800 South Taylorsville, UT

Exhibit J
(Legal Description of 1608 West Property)

Parcel #: 21102010070000

Legal Description:

COM 1237.5 FT S & 666.5 FT E FR N 1/4 COR SEC 10 T 2S R 1W SL MER E 61 FT N 475
FT W 61 FT S 475 FT TO BEG 0.67 AC.

More commonly known as 1608 West 4800 South Taylorsville, UT

Exhibit K
(Legal Description of 1600 West Property)

Parcel #: 21102010080000

Legal Description:

COM 1237.5 FT S & 727.5 FT E FR N 1/4 COR SEC 10, T 2S, R 1WS L M; E 69.41 FT; N 216 FT; E 101 FT; N 320 FT; W 170.41 FTS 536 FT TO BEG. 1.59 AC.

More commonly known as 1600 West 4800 South Taylorsville, UT