



Staff Report

Coalville City
Community Development Director

To: Coalville City Council and Mayor
From: Don Sargent, Community Development Director
Date of Meeting: February 27, 2023
Re: Courthouse Hill Development Agreement
Action: Work Session

Courthouse Hill Development Agreement

REQUEST

The purpose of this work session is to review and discuss the proposed draft Courthouse Hill Subdivision and MPD development agreement.

This item is scheduled for a work session only (the development agreement will be scheduled for an action by the City Council on a subsequent meeting agenda).

BACKGROUND

On December 12, 2022, the City Council approved the project final subdivision plat and construction drawings with several conditions. One condition required the application to submit a draft development agreement for staff input and City Council approval prior to recordation of the subdivision plat.

ANALYSIS

The applicant submitted a draft development agreement and staff reviewed and provided input on the draft document for consideration of the City Council. *Attachment A* includes the draft development agreement.

According to Section 8-6-040:D of the development code, all MPD approvals shall be put in the form of a development agreement. The document shall contain, at a minimum, the following:

- a. A legal description of the property;
- b. All conditions of approval, relevant zoning, and development code parameters, including all findings of fact and conclusions of law, specifying any applicable exceptions, including but not limited to those outlining more or less restrictive height, setbacks of lot size;
- c. An express reservation of the future legislative power and zoning authority of the City Council;

- d. A copy of the approved MPD site plan, architectural plans, landscaping plans, grading plan, trails and open space plans, and other plans, which are a part of the approval;
- e. A description of all developer exactions or agreed upon public dedications;
- f. The developer's agreement to pay all specified impact fees;
- g. The form of ownership anticipated for the project;
- h. A specific project phasing plan (if applicable).

The development agreement shall be approved by the City Council and signed by the Mayor and recorded with the Summit County Recorder. The development agreement may contain language to allow for minor, administrative modifications without revision of the agreement. The development agreement shall be reviewed and approved as part of any final subdivision plat, site plan, or rezone approval by the City Council.

Recommendation:

Staff recommends the City Council review, discuss, and provide direction to staff and/or the applicant regarding the proposed development agreement for preparation of a possible action at a subsequent meeting.

Attachments:

- A. Draft Development Agreement

Courthouse Hill Master Planned
Development
Development Agreement

DRAFT
FEBRUARY 2023

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DEVELOPMENT AGREEMENT

This Development Agreement (“**Agreement**”) is entered into this ___ day of _____, 2023, by and between COALVILLE CITY CORPORATION, (“**City**”) a municipal corporation of the State of Utah located in Summit County, and COURTHOUSE HILL, LLC., a Utah limited liability corporation (“**Master Developer**”). City and Master Developer may hereinafter be referred to individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

A. To provide a comprehensive project design strategy to create projects, including mixed use development, that best address site conditions, the characteristics of the surrounding properties, as well as community and market demands,, the City has adopted Master Planned Development provisions, *Coalville City Ord § 8-6-010 et seq.* (2019) (the “**MPD Ordinance**”), within the Coalville City Development Code (the “**Code**”), which authorizes the City to consider a master planned development proposal of an owner of real property within the City’s jurisdiction.

B. The MPD Ordinance, the City allows the clustering of density and uses required in the underlying zoning district(s). The City is required to make certain findings to support the requirements of the development standards and other provisions that apply to, govern and vest the development, use, and mitigation of the development impact of the real property included in the MPD Approval.

C. Master Developer owns certain real property consisting of approximately 6.01 acres located in Coalville City, as legally described in Exhibit “A” (the “**Property**”), and more particularly depicted on the Project Subdivision Plat in Exhibit “B”. Master developer desires to develop the Property as a master planned development in a manner consistent with the MPD Ordinance, to be developed and known as “Courthouse Hill” (the “**Project**”). The focus of the proposed development is to build a recreational community supporting the demand for overnight stay of visitors to the Echo State Park and other nearby outdoor recreation. The development includes one unit (single-family dwelling) on each lot that could be used for nightly rental when not being occupied by the primary owners and does not preclude owners from using the units as their primary residence.

D. Master Developer and the City desire to enter into this Agreement in order to implement the MPD Approval and to more fully set forth the covenants and commitments of each Party, while giving effect to applicable State law, City Ordinances and the Code. The Parties understand and intend that this Agreement is a “development agreement” within the meaning of, and entered into pursuant to the terms of, *Utah Code Ann. § 10-9a-102* (2020).

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises set forth herein and other good and valuable consideration, the adequacy, sufficiency, and receipt of which are hereby acknowledged, the Parties hereby voluntarily mutually agree as follows:

A. Terms

1. DEFINITIONS AND CONSISTENCY

1.1. DEFINITIONS

All capitalized terms in this Agreement shall have the meaning set forth in Section 14.0.

1.2. CONSISTENCY WITH LAW

The Project is consistent with the Code and the MPD Ordinance and other City Ordinances. This Agreement is consistent with the terms and conditions of the MPD Approval. The Project has been processed, considered, and executed under the existing Medium Residential (R-2) Zone to facilitate development of the Property, pursuant to the City’s administrative authority in accordance with the MPD Ordinance and the Code. The City Council, acting as the land use authority, has issued the MPD Approval as a land use decision in accordance with *Utah Code Ann.* § 10-9a-103(32)(c)(i) (2020), pursuant to Master Developer’s land use application.

2. PROJECT DESCRIPTION

2.1. PROJECT ZONING AND DEVELOPMENT ENVELOPES

This Agreement governs and vests the zoning, development, use, and mitigation for the Project, as legally described within Exhibit “A” and graphically shown on Exhibit “B”. The Property within the boundaries of the Project shown on Exhibit “B”, together with the associated off-site improvements, shall be physically developed pursuant to the terms and conditions of this Agreement.

2.2. PROJECT ELEMENTS

The Project includes a mix of the Intended Uses, which include the following elements, except as may be modified pursuant to Section 10.4.2:

Residential Density

Primary Dwelling or Nightly Rental Units (12 total units)

Accessory Dwelling Units (ADU’s) (eligible to apply for no more than 12 units)

Open Space and Trails (Recreation)

Primary Open Space

Active Recreation Areas

Play Fields

Public Trail Connection

Support Facilities

As described in Section 4.1 and 4.3 below specifically, and this Agreement generally.

2.3. MPD SITE PLAN AND PROPERTY BOUNDARIES

2.3.1. The Project Site Plan, attached hereto as Exhibit “C” is derived from a scaled survey, but is at too small a scale to depict surveyed boundaries on the ground. Accordingly, the Development Parcel boundaries and their associated acreages shown on Exhibit “C” are approximate. A large version of the Project Site Plan, with surveyed exterior boundaries, shall be kept on file with the City. Surveys of internal Project Phase boundaries will be submitted with Development Applications. The Development Parcel boundaries shown on the Project Site Plan may be adjusted and/or consolidated pursuant to the processes set forth in Section 4.4 of this Agreement, so long as the general character, Open Space and Density of the Project Site Plan is implemented, and all overall open space minimum requirements are met and is consistent with the Applicable Vesting Laws.

2.4. INTENDED USE

2.4.1. It is the intent of the Developer and/or Owner of the Development to operate the 12-lot subdivision as a 12 Primary Dwelling or Nightly Rental Unit and recreational Development for use by those visiting Coalville and surrounding attractions. This Agreement will not restrict the owner(s) of the 12 properties within the subdivision from using the properties as their primary residence(s).

2.4.2. An on-site resident manager or local caretaker shall be required to manage and monitor all on-site operations.

2.4.3. Any future approved ADU, if rented, must be rented in conjunction with its associated Primary Dwelling Unit. An ADU can only qualify for use as a Nightly Rental if it meets the requirements of the City Short-Term Rental Ordinance and the Code at the time of application for a Nightly Rental.

3. PRIOR AGREEMENTS AND FUTURE LAWS

3.1. EFFECT OF DEVELOPMENT AGREEMENT

To the extent a general provision of the Future Laws conflicts with a specific provision of this Agreement or an interpretation necessary to give effect to the Agreement, then this Agreement shall control.

3.2. DEVELOPMENT AGREEMENT SUBJECT TO APPLICABLE VESTING LAWS

This Development Agreement is subject to Applicable Vesting Laws.

3.3 FUTURE APPLICATIONS SUBJECT TO FUTURE LAWS

All future development applications shall be subject to Future Laws, as that term is defined in Section 14, provided that Future Laws shall not apply to the vesting of **USE, DENSITY and CONFIGURATION** or specific provisions of this Agreement that existed and were in effect on February 1, 2022. Future development rights, obligations and responsibilities including building permit application processing, fee schedules, procedures, policies, development ordinances, resolutions, engineering standards, water quality and quantity requirements, utility standards, sign standards, lighting standards, etc. shall be construed and enforced by the current standards in effect at the relevant time referred to herein as **Future Laws**. The exception to vesting described in Section 15.4, and which shall be considered as included within the definition of Future Laws, shall apply to all future applications, subject to the limitation found in this Section 3.3.

4. LAND USE AND PROJECT ELEMENTS

4.1. MPD OVERALL SITE PLAN

The City Council approved the following components of the Project entitled “Site Plan” and “Subdivision Plat” of the MPD Application: (i) the Site Plan and Subdivision Plat; (ii) description of land use categories described in the Site plan; and (iii) Non-Residential Development and a maximum of 12 Primary Dwelling Units.

The Site Plan shown on Exhibit “C” is not a surveyed map; the scale of each exhibit prevents a high level of detail. The layout of non-residential uses shown on Exhibit “C” may be modified pursuant to Development Applications without an amendment to this Agreement. Land uses in the project may include the following (consistent with this Agreement).

- A. Maintenance facilities
- B. Accessory Dwellings (ADUs) as allowed in the R-2 Zone District
- C. Recreational facilities
- D. Amphitheater
- E. Private trails and uses accessory to trails
- F. Public sidewalk and trail

4.2. TOTAL NUMBER OF DWELLING UNITS

The total number of Dwelling Units allowed in the Project is 12 Primary Single-Family Dwelling or Nightly Rental Units. The housing type will be Single Family residential. Each lot owner is also eligible to apply for an Accessory Dwelling Unit, consistent with the R-2 Zone District and Development Code as referred to in Section 2.4.3 of this Agreement.

4.3 SUPPORT FACILITIES

The Project includes various support facilities consistent with the Code.

5. CONSTRUCTION, SITE, LANDSCAPE AND SIGN STANDARDS

All project construction will follow Applicable Vesting Laws. This Section of the Agreement sets additional standards for development of the Project. All Project Phases must comply with these standards and guidelines, as well as the Design Guidelines administered by the DRC.

5.1. DRC REVIEW REQUIRED FOR DESIGN GUIDELINES AND STANDARDS

The DRC shall review and approve each Building Permit Application, for compliance with the Development Design Guidelines prior to submittal for review and approval by the City. The DRC's approval shall be noted in each such Building Permit Application, which shall be submitted for review and processing. In the event that the City determines that a Building Permit Application does not comply with the Code or City Engineering Design and Construction Standards, or Dimensional Standards within Section 5.2, or that the DRC has failed to provide approval, the City may require revisions to the application.

5.2. DIMENSIONAL STANDARDS

This subsection outlines the dimensional standards applicable within the Project Site consistent with the MPD Approval to allow or impose restrictions as contemplated by the City's applicable Code provisions and City MPD Ordinance.

5.2.1. Residential Setbacks and Maximum Height

Setbacks shall be as noted on the Courthouse Hill Subdivision Plat. Maximum height shall be 35 feet or as required consistent with Future Laws.

All residential construction shall be designed and constructed in accordance with the applicable City building code.

5.2.2. Allowed Encroachments into Setbacks

A. Uncovered decks, patios, walkways, window wells and other minor structural elements less than 18-inches in height; and fences six (6) feet in height or less; are exempt from Setback requirements provided they are located at least 15 feet from a dwelling on the adjoining lot and 3 feet from the property line.

B. Retaining walls and rockeries and other similar landscape features are allowed within Setbacks.

C. Monument signs may be located within Setbacks.

D. Encroachments shall only be allowed as long as a minimum thirty-inch-wide (30") access path at the ground level is maintained for emergency purposes. For example, decks may require stairs, or fences may require a gate.

E. Mechanical equipment shall be allowed within setbacks as long as they are sufficiently screened for visual and noise impacts.

5.2.3. Measurement of Setbacks

Setbacks are measured perpendicular from the property line to the outside wall of the foundation of a structure.

5.2.4 Non-Residential Development: Setbacks and Height

Setbacks for all Non-Residential Development shall be consistent with the Code, Design Guidelines and the standards within Table 5-2-7 and subject to review by the DRC as established in Section 12.2.

5.2.3.A. Non-Residential Development Building Height

Table 5-2-7. Non-Residential Development Building Height

Area of Project	Max. Building Height*
Uses within Open Space	30'
All Other Uses	35'

*Design features such as chimneys, flues, vents and cupolas may exceed the max. building height by no more than eight (8) feet.

5.3. PARKING STANDARDS

The standards for parking facilities are intended to promote vehicular and pedestrian safety and efficient land use. The standards in this section match or are in addition to those set by the Code.

5.3.1. Minimum Parking Requirements

Parking requirements shall comply with the Code and the additional standards provided below.

Residential and certain support uses within the Project shall provide off-street parking spaces pursuant to the chart below. Guest parking may be satisfied by shared lot parking.

Use	Required Spaces Per Use
Single-Family/Nightly Rental	2

Accessory Dwelling Unit	1
Recreational support facilities	As required by Future Laws

5.4. SIGNAGE STANDARDS

5.4.1. Sign Standards Applicability

The Project shall be subject to the definitions, standards, requirements and processes found within the sign ordinance section of the Code at the time of application, as well as the additional standards further detailed herein, or Master Developer may opt to provide a comprehensive sign plan for the overall project detailing sign types, dimensions, lighting, etc.

5.4.2. Sign Permits Review Process

Sign permits shall be reviewed pursuant to the sign ordinance section of the Code, the Courthouse Hill Comprehensive Sign Plan (if provided) and Section 12.0 of this Agreement.

5.4.3. Real Estate and Construction Sign Program

The Developer will create a construction and real estate sign program that includes standards for the size, number, location and removal of construction and real estate signs within the Project. This sign program shall at a minimum meet all requirements related to construction and real estate signs within the sign ordinance section of the Code, including the requirement to obtain a sign permit from City and review and approval by the DRC. Master Developer or the Homeowners’ Association shall provide enforcement for signage on private property. The City shall enforce the standards within any public right-of-way.

5.4.4. DRC Review

Master Developer and/or DRC may require varied sign standards and limits than those contained in the sign ordinance section of the Code thru a comprehensive sign plan.

5.4.5. Design Standards

Project identification signs shall be designed with similar materials and architectural character as the buildings within the development to provide a cohesive appearance.

5.5. LANDSCAPE STANDARDS

5.5.1. Applicability

The provisions of this Section establish the landscape standards and plan for the Project.

5.5.2 Construction Process

The landscape plan designed and approved by a landscape architect licensed in the State for the project shall be implemented by the applicant.

5.5.2.A. Landscaping shall be installed in accordance with generally accepted industry standards for planting and maintenance such as, but not limited to tree and shrub planting, staking, irrigation, weed control measures and soil preparation.

5.5.2.B. Landscaping shall be approved by the City with the final construction inspections.

5.5.1. Parking Lots

The purpose of Parking Lot landscaping is to soften the visual appearance, screen off-site views of parking lots, add shade and reinforce safe pedestrian access routes to buildings and connecting sidewalks. Master Developer shall ensure that all permanent parking lots comply with the following:

5.5.1.A. Provide trees at a ratio of one tree to six stalls. Such trees may be located in planter islands or in landscape beds that intrude into the parking lot from the perimeter or as part of a landscape buffer directly adjacent to the parking lot; and

5.5.1.B. The total of all interior landscaped areas shall be at least 10 percent of the total parking area (including parking, maneuvering and loading areas).

5.5.2. Maintenance

5.5.2.A. Consistent with the Code, to the extent necessary to remain healthy and attractive, Master Developer shall ensure that all non-native landscaping shall be watered, weeded, pruned, freed of pests, and replaced as necessary. Shrubs near parking lots or driving lanes shall be pruned to prevent blockage of vision necessary for safe driving. Shrubs shall not be allowed to grow so as to reduce the width of public sidewalks or required pedestrian walkways.

5.5.2.B. Street Side Landscaping Specific Maintenance Requirements: Master Developer or applicable Homeowners' Association shall maintain all public and private street side landscaping, unless otherwise agreed upon by the City and Master Developer or applicable Homeowners' Association.

5.5.3. Timing of Landscape Improvements

5.5.3.A. The required parking lot landscaping must be in place within six (6) months of date of issuance of a certificate of occupancy for the building or use for which the parking lot is required.

5.5.3.B. Landscaping within public rights-of-way or associated landscape tracts must be bonded for or in place prior to City acceptance of the right-of-way.

6. INTERNAL DRIVEWAY STANDARDS WITHIN THE PROJECT

6.1. PURPOSE

This Section describes standards for the design, configuration, maintenance, and performance of the private driveways within the Project.

6.2. APPLICABILITY

This Section 6.0 is applicable to all private drives and other vehicular access ways within the Project. Specific site conditions may result in variations to the minimum driveway standards described in Subsection 6.3 of this Agreement and authorized by the MPD Ordinance. Such variations shall be reviewed and approved pursuant to the Minor Amendment procedure. Standards not defined in this Section shall be governed by the Applicable Vesting Laws.

6.3 DRIVEWAY DESIGN

Driveway alignment for the Project is shown on the Subdivision Plat (Exhibit "B").

6.4. OWNERSHIP AND MAINTENANCE

A. Ownership and Maintenance.

All driveway rights-of-way will be privately owned and maintained by Master Developer or Homeowners' Association. All such private driveways will be maintained by Master Developer or Homeowners' Association. Maintenance of landscape areas, and snow storage areas associated with driveways within the Project will be provided by the Homeowners' Association or subset thereof pursuant to the provisions of Subsection 5.5.4. of this Agreement.

B. Maintenance of Private Street(s).

Master Developer agrees to maintain all private streets, roadways, alleys and private driveways serving the project as constructed in accordance with each approved Project Phase. Plats shall clearly identify ownership of private streets and the private obligation for the maintenance of the same. Master Developer, in its sole discretion, may elect to transfer the private street maintenance obligation to a Homeowners' Association or other acceptable entity. If a private street is not maintained in a manner adequate to maintain safe passage, in the reasonable determination of the City within ten (10) days of delivery of the written notice the City may perform the required

maintenance with the reasonable costs associated therewith charged to Master Developer, lot owners, and/or the HOA. In the event of an emergency, the applicable notice period shall be reduced to twenty-four (24) hours and the City may provide notice via a phone call to Master Developer's designated representative. If Master Developer fails to perform such maintenance as required herein and, as a result, the City performs such required maintenance, the City's total reasonable costs arising from its performance of the maintenance shall be paid by Master Developer or Homeowners' Association, as applicable within thirty (30) days of the date of invoicing by the City. Any costs not paid within thirty (30) days of invoicing by the City shall be delinquent, shall have added to them a penalty of ten (10) percent plus interest accruing at the rate of twelve (12) percent per annum from the date of delinquency until paid. City, utility and other service providers shall have access rights over private streets or private access easements including maintenance and/or repair of public utilities.

7. WATER, SEWER, AND STORMWATER UTILITY STANDARDS

7.1. GENERAL REQUIREMENTS

7.1.1 Project-Level Facilities

Project-Level Facilities include on-site culinary and secondary water mains, sanitary sewer, irrigation, and stormwater facilities. Project-Level Facilities will be Constructed by Master Developer consistent with the Coalville City Engineering Standards and Construction Specifications.

7.2 WATER SYSTEM STANDARDS

Culinary Water System Design and Construction

7.2.1 Culinary Water

Master Developer will pay to have all Project-Level Facilities for water infrastructure designed, approved, constructed, and connected to existing city systems. Master Developer will also pay all required connection fees, applicable water right fees, and/or impact fees in lieu of developing new water sources or dedicating water shares to the City as provided for by the City provisions in effect at the time. Culinary water shall not be permitted for use in outdoor water features, ponds, landscape irrigation, or other similar non-essential culinary water use purposes, except for the filling of hot tubs and swimming pools.

7.2.2 Secondary Water

Master Developer shall locate and cause to be contributed or made available any irrigation water sources appropriate for inclusion in the secondary water system for the Project.

Master Developer will pay for and be required to source or be made available all secondary water for the irrigation of single-family residential lots, nightly rental units and irrigated common area open spaces. The Master Developer shall install, construct, maintain, and manage the secondary water infrastructure as a private

irrigation system. The City shall not have any obligation or responsibility to deliver any secondary water to the Project, but secondary water must be provided to all lots and common landscaped areas by the Master Developer.

7.3 SANITARY SEWER DESIGN STANDARDS

7.3.1 Sewer Availability

This Agreement acknowledges and confirms that there is sewer availability to service 12 Single-family dwellings/nightly rental units and other Non-Residential Development in the Project, including, support facilities.

7.3.2 Sewer Design and Construction Standards

All Project-Level Facilities and Regional Facilities for sewer system facilities (on and off-site, except those existing) required to provide service to the Project shall be designed and Constructed by Master Developer in accordance with the Coalville City Engineering Standards and Construction Specifications and will become part of the City's system upon acceptance by the City Council.

7.3.3 Connection to City Sewer

Pursuant to Section 7.1.9 above, Building Permit approvals within the Project shall be required to pay the City's applicable Sewer Impact Fees.

7.4 STORMWATER MANAGEMENT STANDARDS

Stormwater facilities must be provided consistent with the Coalville City Engineering Standards and Construction Specifications. When constructing the Project, Master Developer (and successors-in-interest) must comply with the specific stormwater standards applicable to the stormwater zone in which the Project is located.

8. SENSITIVE LAND STANDARDS

8.1. SENSITIVE LANDS ORDINANCE APPLICABILITY

All development within the Project shall be subject to the standards, requirements, and processes of the Sensitive Land Area provisions in the Code. The sensitive land areas jurisdictional determination and sensitive land area studies have been completed and verified for the Project.

9. OPEN SPACE AND TRAIL STANDARDS

9.1. OVERALL OPEN SPACE REQUIREMENT

The Project is required to provide at least 3 acres of total Open Space as shown in the following table:

Table 9-1 Open Space Calculations

	Gross	Total Percentage of MPD
The Property	6.01	100%
*Total Open Space	3	50%

*Total open space includes undeveloped recreational areas, landscaping areas, and snow storage areas as “open space, landscaped” under the Code.

9.2. PUBLIC SIDEWALKS AND TRAILS

Master Developer shall construct a public sidewalk and trail as shown on the subdivision plat, site plan, and construction drawings for the project. The sidewalk shall comply with the City Engineering Standards and Specifications and the Code. The trail shall be a Class I Trail as specified in the Parks, Trails, and Open Space Master Plan of the City. The actual alignment of the trail may vary in the field to avoid hazards or create a better trail experience based on site specific conditions.

The sidewalk and trail shall be constructed, bonded, or insured with a certificate of credit prior to Final Plat recordation.

9.2.1 Open Space and Sensitive Land Areas

Ownership and maintenance of open space and sensitive land areas shall be held in undivided ownership by all lots within the Project, the Homeowners’ Association or Master Developer. Open space may also be protected with conservation easements or conveyed to a non-profit land trust with the underlying fee owned by the lot owner, Homeowner’s Association or Master Developer.

9.2.2 Trails

The trail will be owned and maintained by the Homeowners’ Association or Master Developer. Details on trail dimensions, function, surfaces, and standards for design are included in the construction drawings for the project.

10. DETERMINATIONS, AMENDMENTS & REVIEW PROCESS

10.1. APPLICABILITY

This Section applies to requests to clarify the requirements or meaning of this Agreement by the City, Master Developer, or the Master Developer Transferee and to proposed changes to the provisions contained within the MPD Approval or this Agreement.

10.2. DETERMINATIONS

Any dispute between Master Developer (or the Master Developer Transferee) and the City over the application of this Agreement to a land use application shall be resolved first by the

City. The City shall decide in writing within fourteen (14) days of receiving a written request for clarification of this Agreement. The City’s written decision may be appealed by Master Developer to the City Council within ten (10) days, or other appeal authority designated.

10.2.1. Determination of Use Category

In addition to determinations regarding the terms of this Agreement as provided above in Section 10.3, all questions from Master Developer regarding what use category a particular use falls within shall be determined pursuant to the Code.

10.3. AMENDMENTS

10.3.1. Amendments to the MPD Approval

An Amendment to the MPD Approval may be requested by Master Developer or Master Developer Transferee pursuant to the standards adopted in the MPD Ordinance.

10.3.2. Amendments to the Development Agreement

An Amendment to this Agreement may be requested by Master Developer pursuant to the standards outlined herein. Amendments to this Agreement that increase overall Density as set forth in the original MPD Approval shall be considered “Major” and shall be reviewed by the same procedures applicable to a new master planned development request, as set forth in Applicable Vesting Laws. Amendments that do not increase overall Density as set forth in the original MPD Approval shall be considered “Minor” and may be approved by the appropriate official within the City.

11. DEVELOPMENT REVIEW PROCESS

11.1. APPLICABILITY

This Section applies to all improvements within the Project.

11.2. DRC

A Design Review Committee (DRC) shall be established by Master Developer. The DRC shall ensure that the Project is consistent with specific design standards and guidelines as applicable and shall have sole responsibility for ensuring compliance with the Design Guidelines. Except for Utility Permits, all Development Applications, including building permit applications and any ADU applications, must be reviewed by the DRC before the application is submitted to the City. All Development Applications (except for Utility Permits) must be accompanied by written documentation of DRC approval at the time of submittal to the City. In the event of a conflict, City review requirements supersede those of the DRC. A Development Application submitted without written documentation of DRC approval is not complete and will be rejected by the City.

11.3. BONDING FOR IMPROVEMENTS

Financial surety for improvements required within Section 7.0 shall be subject to the Code, Coalville City Engineering Standards and Construction Specifications and *Utah Code Ann. § 10-9a-604.5* (2020).

12. MISCELLANEOUS ADDITIONAL STANDARDS AND REQUIREMENTS

12.1. CONSTRUCTION WASTE MANAGEMENT PLAN

Master Developer shall comply with the construction waste management plan as required in the Code or Coalville City Engineering Standards and Construction Specifications.

12.2. FIRE PROTECTION

Impacts to fire protection services throughout the Project shall be mitigated through the payment of generally applicable fire district fees and construction of improvements in accordance with all applicable codes.

13. DEFINITIONS

- **Accessory Dwelling Unit (ADU)** – See Code definition.
- **Agreement** – This Agreement including all its exhibits.
- **Applicable Vesting Laws** – The ordinances, policies, standards, and procedures of the City related to zoning, subdivisions, development, public improvements and other similar or related matters that were in effect on October 18, 2021, a digital copy of which is attached as Exhibit “E”.
- **Applicant** – A person or entity that submits a Development Application or a request for a Minor or Major Amendment.
- **Build-Out Period** – A “Build-Out” Period of five (5) years execution of this Agreement is established for all the development and construction of uses in the Project, as may be extended. The Build-Out Period may be extended up to an additional five years.
- **Building Permit** – A permit issued by the City to allow construction, erection or structural alteration of any building, structure, private or public infrastructure on any portion of the Project, and any modifications thereto.
- **City** - Coalville City, a political subdivision of the state of Utah.
- **City Consultants** – Those outside consultants employed by the City in various specialized disciplines such as land planning, engineering, traffic, hydrology, drainage, or other specialized disciplines for reviewing certain aspects of the development of the Project.
- **City Council** – The elected City Council of the City.

- **Code** – The Coalville City Development Code in effect at the time of any development or building permit application submittal as set forth in the Future Laws, incorporated herein by this reference.
- **Coalville City Engineering Standards and Construction Standards** – The Coalville City Engineering Standards and Construction Specifications, incorporated herein by this reference.
- **Constructed** – Bonded for or substantially completed.
- **Construction Permits** – Building Permits, Utility Permits (utilities and streets), clearing, grading, sign and landscaping approvals or similar approvals issued by the City, and any modifications thereto.
- **Covenants, Conditions, Restrictions and Easements (CC&R’s)** – The master declaration of covenants, conditions, restrictions, and easements adopted and enforced by the Homeowners’ Association or subset thereto.
- **Denial** – A written denial issued by the final decision-making body of the City for a particular type of Development Application but does not include review comments or “redlines” by City staff provided to allow updates or revisions to a Development Application.
- **Density** – The number of Dwelling Units allowed.
- **Design Guidelines** – The design guidelines adopted and enforced by the Homeowners’ Association or subset thereof.
- **Development Applications** – An application to the City for development of a portion of the Project including a Preliminary or Final Plat, Site Plan, Conditional Use Permit, a Building Permit or any other permit, certificate or other authorization from the City required for development of the Project.
- **Development Parcel** – The parcels or lots shown on the Subdivision Plat, Exhibit “B”.
- **DRC** – The design review committee established pursuant to Section 11.2.
- **Dwelling Unit** – A “dwelling” as set forth in the Code.
- **Final Plat** – The recordable map or other graphical representation of land prepared in accordance with *Utah Code Ann.* § 10-9a-603 (2020), and approved in accordance with the Code, effectuating the Subdivision of the Project.
- **Flag Lot** – A lot with a narrow lot frontage that serves as private road or driveway access to a serving roadway, with the buildable area located to the rear of the lot.
- **Future Laws** – The Code, ordinances, policies, standards, procedures, and processing fee schedules of the City which may be in effect as of a particular time in the future

when a Development Application is submitted for the Project, and which may or may not be applicable to the Development Application depending upon the provisions of this Agreement.

- **Homeowners' Association** – One or more associations formed pursuant to State law to perform the functions of an association of property owners.
- **Impact Fees** – Those fees, assessments, exactions or payments of money imposed by the City as a condition on development activity as specified in *Utah Code Ann.* § 11-36a-101, *et seq.* (2020).
- **Intended Uses** – The use of all or portions of the Project for Single-Family Dwelling homes/Nightly Rentals, private facilities, Non-Residential Development, Recreational Facilities, Open Space, Temporary Uses, accessory and supporting uses, park, trail, recreation courts and other uses as generally depicted in the MPD Application and allowed in the R-2 zone.
- **Land Use Act** – *Utah Code Ann.* § 10-9a-101, *et seq.* (2020).
- **Major Amendment** – Any amendment to this Agreement or the MPD Approval that increases overall Project Density as set forth in the original MPD Approval.
- **Master Developer** – Courthouse Hill, LLC, so long as Courthouse Hill, LLC, owns the majority of any then-undeveloped Development Parcel in the Project, or any Master Developer Transferee. Upon a transfer from Courthouse Hill, LLC to a Master Developer Transferee, all references in this Agreement to Courthouse Hill, LLC shall be deemed to be references to such Master Developer Transferee, or its successors as the Master Developer transferee.
- **Master Developer Transferee** – A person or entity other than Courthouse Hill, LLC, acquiring an interest or estate (except for security purposes only) in the majority of the Property, including the then-undeveloped portion thereof, and including transfer of all interests through foreclosure (judicial or non-judicial) or by deed in lieu of foreclosure. “Master Developer Transferee” also means any successive person or entity similarly acquiring such an interest or estate from a previous Master Developer Transferee.
- **Maximum Dwelling Units** – The development on the Property of twelve (12) Single-Family Dwelling/Nightly Rental Units.
- **Minor Amendment** – Any and every amendment to this Agreement or the MPD Approval that does not increase overall Density or decrease the overall Open Space as set forth in the original MPD Approval, that may be approved by the City.
- **Model Home** – Display home or unit and related real estate sales and display offices/activities.

- **MPD Application**– The “land use application” Courthouse Hill Master Planned Development Application submitted to the City and determined complete on October 18, 2021.
- **MPD Approval** – The master planned development entitled “Courthouse Hill” approved by the City Council adopting findings and conclusions in the form attached hereto as Exhibit “F”.
- **MPD Ordinance** – Title 8, Chapter 6 of the Coalville City Development Code, as currently existing in the Applicable Vesting Laws.
- **Nightly Rental** – The use of a Single-Family Dwelling as a rental unit on a short-term basis (less than 30 days) as defined in the Code.
- **Non-City Agency** – A governmental or quasi-governmental entity, other than those of the City, which has jurisdiction over the approval of any aspect of the Project.
- **Non-Residential Development** – A development project consisting of Recreational Support Facilities, buildings or other improvements including, maintenance buildings, spa, tennis and pickleball courts, swimming pool/hot tubs, trail, and other similar uses.
- **Open Space** – Open Space means all areas shown as, Open Space, trails, on the Project Site Plan (Exhibit “C”) and any land subsequently designated as Park, Open Space, or aesthetic stormwater or water storage pond through a Development Application.
- **Outsourcing** – The process of the City contracting with City Consultants or paying overtime to City employees to provide technical support in the review and approval of the various aspects of a Development Application as is more fully set out in this Agreement.
- **Park** – A piece of land, privately owned and maintained, intended for passive or active recreation, gathering space or Open Space. Parks may include a wide range of uses and designs, including but not limited to plazas, playfields, playgrounds, trail, gardens, natural areas, picnic areas, restrooms, utilities, and Open Space.
- **Project** – The development to be constructed on the Property pursuant to this Agreement with the associated Intended Uses, Density, and all the other aspects approved as part of this Agreement.
- **Project-Level Facility** – A element of infrastructure that is necessary to serve only those land uses located within the Project Site, regardless of the location of the street or utility facility, which fall within the meaning of “project improvements” as defined in *Utah Code Ann.* § 11-36a-102(14) (2020).
- **Project Site** – The entire area contained within the Project boundaries as described and visually depicted on the Subdivision Plat in Exhibit “B”.

- **Project Site Plan** – The Project Site Plan attached to this Agreement as Exhibit “C”.
- **Project Utility Plan** – The Overall Utility Plan attached to this Agreement as Exhibit “D”.
- **Property** – The real property legally described in Exhibit “A” and to which the MPD Approval applies.
- **Planning Commission** – The City’s Planning Commission established by the Code.
- **Recreational Facilities** – Recreational Facilities include, but are not limited to: Park, clubhouse, open space, trail, sports and play fields, and other indoor and outdoor recreation facilities.
- **Recreational Support Facilities** – Facilities and uses supporting or associated with the Recreational Facilities.
- **Sensitive Lands Ordinance** – Title 10 Chapter 10 of the Code and incorporated herein by this reference.
- **Setback** – A space, measured from the property line in, unoccupied by structures except where encroachments are specifically allowed by this Agreement and the Code.
- **Single-Family** – Any residential building that contains no more than one (1) residence.
- **State** –the State of Utah.
- **Sub-developer** – An entity not “related” (as defined by Internal Revenue Service regulations) to Master Developer which purchases a Development Parcel for development.
- **Temporary Use** – Uses of a non-permanent nature including but not limited to: outdoor art and craft shows and exhibits, sales office, construction offices, contractor staging areas and other similar activities as allowed by the Code.
- **Transfer Deed** – Any deed as provided for in Section 14.6.
- **Utility Permit** – The plans, profiles, cross sections, elevations, details, and supplementary specifications signed by a licensed professional engineer and approved by the City that shows the location, character, dimensions, and details of the work to be performed.

14. GENERAL PROVISIONS

14.1 BINDING EFFECT

This Agreement constitutes and shall be recorded as a covenant running with the land, benefiting, and burdening the Property. This Agreement shall be binding upon and inure to

the benefit of Master Developer and the City and to the successors and assigns of Master Developer and the City.

14.2 RECORDING

No later than 10 days after this Agreement has been executed by the City and Master Developer, it shall be recorded in its entirety at Master Developer's expense in the Official Records of Summit County, Utah.

14.3 VESTING

To the maximum extent permissible under the laws of the State and the United States and at equity, the City and Master Developer intend that this Agreement grants Master Developer all rights to develop the Property in fulfillment of this Agreement, the Applicable Vesting Laws and the MPD Approval except as specifically provided herein. The Parties intend that the rights granted to Master Developer under this Agreement are contractual, unless specifically described as rights that exist under statute, common law and at equity. The Parties specifically intend that this Agreement and the MPD Approval grant to Master Developer "vested rights" as that term is construed in the State's common law and pursuant to *Utah Code Ann.* § 10-9a-509 (2020).

14.4 EXCEPTIONS TO VESTING

The restrictions on the applicability of the Future Laws to the Project as specified in Section 14.3 are subject to only the following exceptions:

14.4.1 Development Agreement. Future Laws that Master Developer agrees in writing to the application thereof to the Project. 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

14.4.2 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, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or federal governments and are required to meet legitimate concerns related to public health, safety or welfare.

14.4.3 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.

14.4.4 Fees. Changes to the amounts of fees for the processing of Development 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.

14.4.5 Countervailing, Compelling Public Interest. Laws, rules or regulations that the City Council finds, on the record, are necessary to avoid jeopardizing a compelling, countervailing public interest pursuant to *Utah Code Ann.* § 10-9a-509(1)(a)(ii) (2020) and which meet the exceptions to the vested rights doctrine as set forth in Western Land Equities, Inc. v. City of Logan, 617 P.2d 388 (Utah, 1988), and its progeny.

14.5.5 Impact Fees. Impact Fees or modifications thereto which are lawfully adopted, imposed, and collected.

14.5 DUTIES OF MASTER DEVELOPER

A single Master Developer (or Master Developer Transferee) shall be maintained throughout the life of this Agreement. Master Developer shall function as a single point of contact for the City.

14.6 ASSIGNMENT

City may not assign its rights and obligations under this Agreement. Master Developer may not assign this Agreement without the prior written consent of City, which consent shall not be unreasonably withheld, conditioned or delayed. If City fails to provide a response to a request for consent hereunder within fourteen (14) days of receipt of a written request, then City shall be deemed to have consented to the assignment as described in the written request.

14.7 GOVERNING LAW

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Utah subject to venue in the Third Judicial District Court in Summit County.

14.8 SEVERABILITY AND WAIVER

If any portion of this Agreement is determined by a court of law to be unenforceable or invalid, then the remaining portions of this Agreement shall remain in effect.

14.9 AUTHORITY

Each Party represents and warrants to the others that the individuals signing below have full power, authority and legal right to execute and deliver this Agreement and thereby to legally bind the Party on whose behalf such person signed.

14.10 EXHIBITS

The exhibits to this Agreement are hereby incorporated herein as though fully set forth as terms of this agreement. The exhibits are:

Exhibit "A" Project Legal Description

Exhibit "B" Project Subdivision Plat

Exhibit "C" Project Site Plan

Exhibit “D” Project Utility Plan

Exhibit “E” Digital Copy of Applicable Vesting Laws

Exhibit “F” MPD Approval (Land Use Decision, including findings)

Many of the exhibits to this Agreement are in color or include other features that provide clear illustration; however, this format is not yet acceptable by the Summit County Recorder’s Office for permanent recording. Accordingly, the Parties agree that a full-color copy of this Agreement will be kept on file with the City and will be available for public review at City Hall during business hours.

14.11 TIME IS OF THE ESSENCE

Time is of the essence of this Agreement. If either Party is delayed or hindered in or prevented from the performance of any act required hereunder by reason or inability to procure materials, acts of God, failure of power, pandemic, riots, insurrection, war or other reason of a like nature not the fault of the Party delayed in performing work or doing acts required under this Agreement, the performance of such acts will be extended for a period equivalent to the period of such delay.

14.12 INTERPRETATION

This Agreement shall be construed according to its fair and plain meaning and as if prepared by all Parties hereto and shall be interpreted in accordance with State law.

14.13 INTEGRATION

This Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded.

14.14 NO THIRD-PARTY BENEFICIARY

This Agreement is made and entered into for the sole protection and benefit of the Parties hereto and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

14.15 OTHER NECESSARY ACTS

The Parties shall execute and deliver to each other all other further instruments and documents that are reasonably necessary to carry out and implement the Agreement.

14.16 DEFAULT

Failure by a Party to perform any such Party’s obligation under this Agreement for a period of 30 days (the “**Cure Period**”) after written notice thereof from the other Party shall constitute a default by such failing Party under this Agreement; provided however, that if the failure cannot reasonably be cured within 30 days, the Cure Period shall be extended for the time period to reasonably required to cure such failure, so long as the failing Party commences its efforts to cure within the initial 30 days period and thereafter diligently proceeds to

complete the cure. Said notice shall specify the nature of the alleged default and the manner in which said default may be satisfactorily cured, if possible.

14.17 REMEDIES

Following an uncured default, the Parties may, in addition to any other rights or remedies, take action to cure, correct, or remedy any default; enforce any covenant or agreement herein; enjoin any threatened or attempted violation thereof; enforce by specific performance the obligations and rights of the Parties hereto; or obtain any remedies consistent with the foregoing and the purposes of this Agreement. In addition to any other relief, the prevailing Party in any action, whether at law, in equity or by arbitration, to enforce any provision of this Agreement shall be entitled to its costs of action including a reasonable attorneys' fee.

14.18 NOTICE

Any demand, request or notice which either Party hereto desires or may be required to make or deliver to the other shall be in writing and shall be deemed given when personally delivered, or successfully transmitted by email transmission, or when actually received after being deposited in the United States Mail in registered or certified form, return receipt requested, addressed as follows:

To the City:

Mark Marsh, Mayor
Coalville City
PO Box 188
Coalville, UT 84018
Email: mayor@coalvillecity.org

With a copy to:

Sheldon Smith
City Attorney
PO Box 188
Coalville, UT 84017
Email: ssmith@allwest.net

To Master Developer:

Courthouse Hill , LLC: Stephen G. Boyden, Managing Partner
1100 South 1500 East
Salt Lake City, UT 84105
Email: stephenboyden@mac.com

or to such other addresses as either Party hereto may from time to time designate in writing and deliver in a like manner.

14.19 WAIVER

No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City or Master Developer of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

14.20 COUNTERPARTS

This Development Agreement may be executed in counterparts, each of which shall be deemed an original.

14.21 ESTOPPEL CERTIFICATE.

Upon twenty (20) days prior written request by Master Developer, City will execute an estoppel certificate to any third-party certifying that Master Developer at that time is not in default of the terms of this Agreement.

14.22 TERM

The Build-Out Period shall be five (5) years following the execution of this Agreement for all the development and construction in Project. The Term of this Agreement shall be from the date written in the first paragraph of this Agreement till the expiration of the Build-Out Period and may be extended for up to an additional five (5) years with good cause, the approval of which by Coalville City shall not be unreasonably withheld. The Build-Out Period may be further extended for good cause upon mutual agreement in writing by the Parties.

14.23 TERMINATION ON SALE TO THE PUBLIC

In order to alleviate any concern as to the effect of this Agreement on the status of title to any of the Property, this Agreement shall terminate without the execution or recordation of any further document or instrument as to any lot which has been finally subdivided and individually leased (for a period longer than one year) or sold to the purchaser or user thereof (a “**Developed Lot**”) and thereupon such Developed Lot shall be released from and no longer be to or burdened by the provisions of this Agreement

COALVILLE CITY MUNICIPAL CORPORATION

By: _____
Mark R. Marsh, Mayor

Attest:

By: _____
RaeShel Hortin, City Treasurer

Approved as to Form:

By: _____
Sheldon Smith, City Attorney

COURTHOUSE HILL, LLC

By: _____
Stephen G. Boyden, Managing Partner

STATE OF UTAH)

) ss.

COUNTY OF SUMMIT)

On this day personally appeared before me Mark R. Marsh, to me known to be Mayor of the Coalville City Municipal Corporation, a Utah Subdivision that executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument.

GIVEN under my hand and official seal this ____ day of _____, 2023.

(Print name of notary)

NOTARY PUBLIC in and for the State of Utah, residing at

My commission expires _____

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

On this _____ day of _____, 2023, before me, the undersigned, a Notary Public in and for the State of Utah, duly commissioned and sworn personally appeared Stephen G. Boyden, known to me to be the Managing Partner of Courthouse Hill , LLC, the limited liability corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability corporation, for the purposes therein mentioned, and on oath stated the he was authorized to execute said instrument.

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

(Print name of notary)

NOTARY PUBLIC in and for the State of Utah, residing at _____

My commission expires _____