RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Ivins City
Attention: Kari Jimenez
85 North Main Street
Ivins, Utah 84738

(Above space for recorder's use only)

DEVELOPMENT AGREEMENT

between

IVINS CITY

and

RPE22 RED MOUNTAIN LLC

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("**Agreement**") is made and entered into on this _____ day of _____, 2025, by and between **IVINS CITY**, a municipal corporation and subdivision of the State of Utah ("**City**"), and **RPE22 RED MOUNTAIN LLC**, a Delaware limited liability company (formerly known as RPE22 Red Mountain Holdings LLC) and its assigns ("**Developer**" and collectively, with the City referred to as the "**Parties**" or each, individually, as a "**Party**").

RECITALS

WHEREAS, Developer acquired certain property and has secured rights to develop approximately _____ gross acres of real property (hereinafter, the "**Development Property**"), located within the city limits of Ivins City, Utah, which Development Property is legally described in **Exhibit "A"** attached hereto ("**Legal Description**"), and generally depicted on the development area map attached hereto as **Exhibit "B"** attached hereto ("**Development Area**");

WHEREAS, the Development Property is within the City's RC or Resort Commercial Zone ("**RC Zone**") and prior to acquiring the Development Property, Developer met with City officials to, among other things, discuss and explore what could be developed and built within the RC Zone based on the then current standards, which Developer confirmed through its own independent analysis of the RC Zone, and which analysis was ultimately relied upon when Developer decided to invest in the purchase of the Development Property;

WHEREAS, Developer intends for and has contemplated development of the Development Property for mixed-use, multi-phased ~~expansion, renovation and/or redevelopment of the resort~~ commonly referred to as the "Red Mountain Resort" ("**Project**"), for purposes consistent with those specific uses and purposes designated in the City's current zoning ordinances for the RC Zone and set forth further in **Exhibit "C"** hereto, it being understood and agreed that as the specific phases of the Project are developed the implementation of a specific conditional use may be subject to conditions reasonably imposed by the current conditional use administrative process, which may include Planning Commission and/or City Council participation as required by current law ~~presently applicable to such use~~ as of the effective date this Agreement (with each use in the City's current RC Zone and set forth further in **Exhibit "C"** hereto being ~~concisdered~~ considered the "**Approved Uses**"), and includes residential, commercial, retail, hotel, resort, medical, and other uses attended to resort type development;

WHEREAS, Developer intends to develop and integrate the Development Property in phases, including a potential renovation of the existing Red Mountain Resort on the Development Property to better tie in with the amenities and offerings of the Black Desert Resort across Snow Canyon Parkway from the Development Property;

WHEREAS, the City and Developer desire for the development, construction, and installation of certain utility, infrastructure, and public amenity improvements in connection with the development and integration of the Development Property into and as part of the Project, including, but not limited to, certain public streets, trails, lava flows, and designated open space areas within one or more phases of the Development Property;

WHEREAS, If Developer, at its discretion, elects to pursue the construction~~contrucition~~ of a tunnel under Snow Canyon Parkway for safe pedestrian movement between the North and South sides of Snow Canyon Parkway and seamlessly connectivity of the Development Property with Black Desert ("Tunnel"), then Developer and City will use reasonable efforts to coordinate on the design and construction of such Tunnel;

WHEREAS, if Developer elects to proceed with the Tunnel, the City shall not be required to pay for the any of costs associated with the Tunnel, but will, to the extent not detrimental to the interests of the City, ~~-~~cooperate with Developer's efforts to fund the construction of the Tunnel including from any other public sources that may be available;

WHEREAS, Developer and the City have agreed to work together to investigate, without obligation, ~~-~~and potentially establish a Public Infrastructure District ("**PID**"), or similar vehicle, so that an assessment on the Development Property may be levied to help pay for the numerous utility, infrastructure, and public amenity improvements that are anticipated to be developed, constructed, and installed within the Development Property, and which will be more specifically identified in the governing documents for the PID;

WHEREAS, consistent with the City's current RC Zone, the Project is being designed and developed or redeveloped to continue as a destination resort and will provide certain recreational opportunities, that may including, walking and hiking trails, designated open space areas, and park like settings that ~~will~~ may be open and available to the general public ~~(Exhibit "C")~~;

WHEREAS, the Project is intended to be a destination for both tourists and the local community and consequently is anticipated to include a diverse mix of potential uses and product types, including, but not limited to, commercial, residential, hotel, spa, medical spa, pool, fitness, retail, restaurants, office space, and educational uses;

WHEREAS, consistent with a destination-resort theme, Developer plans to develop the Development Property and the Project and sell or operate, at various price points, a mix of residential, commercial, retail, hotel, resort, and recreational parcels, lots, sites, and/or units in a manner sympathetic and cohesive to Black Desert Resort (General Plan pp. 12-14 and Exhibit "C");

WHEREAS, because the Development Property will be the continuation and expansion of an existing tourist destination it will require a conditional use permit to allow for an expansion of uses of the same type throughout the Development Property as are currently found at Red Mountain resort as well as those found at Black Desert Resort, which consist of those Approved Uses under the current RC Zone set forth in Exhibit "C";

WHEREAS, while not a requirement of this Agreement, it is expected that Developer will continue the efforts reflected in its sister resort Black Desert to exceed the City's landscaping water use requirements as well as adopt designs that incorporates and promotes sustainable energy usage, such as through the implementation of low voltage power sources throughout the Project.

WHEREAS, while Developer is fully vested in Resort Commercial entitlements across the site, both Parties agree it is desirable to thoughtfully design the development as it progresses forward in a in a way that that is sensitive to visual sightlines and massing in reasonable proximity to the Development Property's east at southern property lines where there are homes outside of the

Development Property but immediately adjacent adjacent to such property line. The intent is not to eliminate or materially impinge on existing entitlements or restrict the number of units, but to guide site planning and building design so that the perimeter of the resort presents a neighbor-friendly edge consistent with Ivins' goals of compatibility and good neighbor relationships.

WHEREAS, Developer has voluntarily represented to the City Council that it will enter into this binding development agreement;

WHEREAS, Developer may, subject to acceptance by the City in its sole discretion, dedicate a portion of the Development Property for public streets, trails, and open space within subdivision phases and "no build areas" outside subdivision phases, and may also "dedicate other portions of the Development Property" for parks and make certain improvements on its real property in a manner that is in harmony with the objectives of the City's current RC Zone requirements, which addresses the more specific planning issues set forth in this Agreement and is willing to abide by the terms of this Agreement;

WHEREAS, the City, acting pursuant to its authority under Utah Code Ann. 10-9a-101, *et seq*. and its ordinances, resolutions, and regulations and in furtherance of its land use policies, has made certain determinations with respect to the Development Property and the Project, and, in the exercise of its legislative discretion, has elected to approve and enter into this Agreement;

WHEREAS, the Developer understands that the Developer will have the responsibility to fund certain infrastructure necessitated by the development of the Development Property, ~~subject to any~~with the City to be responsible for funding and potentially constructing any City-requested upsizing or additional capacities or additional improvements outside of, unrelated to, or not necessitated by the Development Property~~, subject to the City funding such improvements~~; and

WHEREAS, in consideration of the scope of the Project, the Parties have agreed that, to the maximum extent permitted under applicable laws, Developer shall be entitled to rely on and be bound by the laws, regulations, and ordinances of the City as of the date of the execution of this Agreement, and that any future changes thereto shall not apply to Developer.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Parties agree as follows:

1. RECITALS.

The Recitals above are hereby incorporated into this Agreement.

2. DEFINITIONS.

A. Key Definitions not specifically provided in the Recitals shall have the meaning set forth in Exhibit "D" hereto ("**Definitions**").

3. MAXIMUM COMBINED UNITS AND PHASED DEVELOPMENT.

A. Maximum Combined Units.

~~A.~~ The Parties agree that the overall maximum combined residential units, including lots shall be ~~five hundred~~four hundred and fifty (~~500~~450) units and/or lots **("Maximum Combined Units")**. The Maximum Combined Units is and shall be considered an entitlement number. As the Project is developed in phases Developer understands that in considering infrastructure needs, the City had figured approximately 233 ERUs would be used in the development of the Development Property. Accordingly, the Parties agree that should the development of the Development Property require more than 233 ERUs, then Developer and City shall meet and agree on what additional infrastructure may be required for such additional ERUs, at no cost to the City, which may include the commissioning of studies by applicable professionals and experts to determine what, if any, additional infrastructure capacity may be needed as it relates to the number of ERUs that exceed the 233 ~~contemplated herein~~. For the sake of clarity nothing in this provision shall be read to limit the number of ERU's to 233, and Developer shall be entitled to such additional ERUs it may need to reach the Maximum Combined Units, subject only to the provisions of this paragraph regarding the investigation of what, if any, additional infrastructure may be needed should the Project require more than 233 ERUs as set forth in this paragraph, and such infrastructure being developed pursuant to the terms of this Agreement.

B. Phases of Development Property.

The Development Property and the Project will be developed, integrated, renovated, redeveloped, and improved, as applicable, in a series of phases. Each phase shall have its own Planning Area, which shall each enjoy the rights conferred by and be subject to the terms of this Agreement. To the maximum extent permitted under applicable laws, each phase of the Development Property and the Project shall be developed, integrated, renovated, redeveloped and improved, as applicable, in accordance with City's lawful ordinances, regulations, and processes with respect to zoning, construction, land use approvals, and permitting applicable at the time of this Agreement, including, but the limited to, the Approved Uses and Developer shall have the discretion to decide in what order such phases of development proceeds. Developer may also alter the number of units and/or lots within a particular phase, or shift the number of units and/or lots from one individual Planning Area depicted in the Development Area to another so long as the total number of units and/or lots within the Development Property and the Project do not exceed ~~five hundred~~four hundred and fifty (~~500~~450) residential units and/or lots.

4. VESTED RIGHTS.

To the maximum extent permitted under applicable laws, with the recording for public record of this Agreement, the City agrees and acknowledges that Developer's right to develop, integrate, renovate, redevelop, and improve the Development Property and the Project as described herein is hereby vested as to zoning, use, density, configuration, and all other specific provisions of this Agreement that existed and are in effect as of the effective date of this Agreement and the Parties

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intend that this Agreement grants Developer all rights to develop the Development Property and the Project in fulfillment of this Agreement, subject to the provisions hereof allowing for modification of specific requirements as development of individual sub-divisions, phases, or communities of the Development Property progress toward completion. The Parties intend that the rights granted to Developer under this Agreement are contractual, unless specifically described as rights that exist under statute, common law, and/or at equity. To the extent required under applicable laws, nothing in this Agreement is intended to limit the future exercise of the police power by the City in enacting any lawful zoning, subdivision, development, transportation, environmental, open space, and related land use plans, policies, ordinances, and regulations after the date of this Agreement provided that the adoption and exercise of such power is directed specifically at a critical health, welfare, and safety concern and shall not restrict, limit, or adversely impact Developer's vested rights to develop the Development Property and the Project as provided herein. In order to preserve the rights vested to Developer and the Development Property and the Project under this Agreement, Developer must reasonably pursue the development, integration, and/or improvement of the Development Property, including, the creation of one or more of the individual Planning Areas as contemplated herein and the completion of improvements to infrastructure which development shall from time-to-time require. This Agreement is not intended to and does not bind the City Council in the independent exercise of its legislative discretion with respect to such zoning regulations, except to the extent specifically covenanted as set forth herein, the provisions of this Agreement by recording intended to run with the land to the benefit and burden of Developer and its successors and assigns and benefit the Development Property and the Project. Nothing herein shall prohibit Developer from relying on the zoning, use, density, configuration, and all other specific provisions of this Agreement in effect at the time of this Agreement, and pursuant to Utah Code Section 10-9a-509 (2025) and to the maximum extent permitted under applicable laws, Developer shall be entitled to administrative review and consideration of all land use, development, permitting, and construction related applications on the basis of the subdivision, development, transportation, environmental, open space, and related land use laws, plans, policies, ordinances, regulations, and requirements in effect at the time of this Agreement, without regard to any subsequent changes to such laws, plans, policies, ordinances, and regulations.

Notwithstanding the foregoing, Developer acknowledges a potential shortage of culinary and/or secondary water in the City and understands that building permits will be issued only upon water availability as determined by the Washington County Water Conservancy District. Notwithstanding the foregoing, Developer shall remain entitled to the water rights already vested in the Project as part of the present Red Mountain Resort, and such contingency with respect to water set forth in the immediately preceding sentence shall only apply to any additional water that is required for the Project.

5. COMPLIANCE WITH CITY DESIGN AND CONSTRUCTION STANDARDS.

Developer acknowledges and agrees that unless expressly stated otherwise, nothing in this Agreement shall be deemed to relieve it from the obligation to comply with all applicable laws and requirements of the City necessary for development of the Development Property and the Project, including the payment of any applicable fees and compliance with the City's design and construction standards which are approved at the time of construction, except as may be specifically modified and/or set forth otherwise in this Agreement.

6. TIME FOR CONSTRUCTION AND COMPLETION OF THE PROJECT.

Except as otherwise provided in this Agreement, Developer shall have the discretion as to the time of commencement, construction, and phasing of any and all development, construction, and/or integration of the Development Property and the Project.

7. GENERAL OBLIGATIONS.

The Parties shall do the following:

A. Road Dedications; Record of Survey and Street and Utility Plan.

i. Road Dedications and Records of Survey.

The City and Developer will cooperate in the development of certain potential road dedications, if any, in connection with records of survey or plats intended for the subdivision of the Development Property into separate and distinct Planning Areas and any other parcels that may potentially be dedicated at no cost to the City, such as public parks, Open Space, and/or other public facilities. The City and Developer shall also cooperate in the development of street and utility plans to service the Development Property. Developer shall coordinate with the City through Developer's engineer.

The submission, consideration, and approval of one or more road dedications may occur in parallel with or as part of the submission, consideration, and approval of the records of survey or plats, provided that an approved road dedication establishing the planned roads to service the Planning Areas in a given record of survey or plat shall in all cases be recorded as part of or prior to the recordation of such record of survey or plat. In other words, the City and Developer agree that Developer may dedicate one or more roadway dedications by way of a given record of survey or plat and that the submission, consideration, and approval of such roadway dedication and such record of survey or plat may happen concurrently. After recording, each record of survey map or plat may be amended with the filing and recording of an appropriate amendment thereto.

ii. Street and Utility Plan.

The street and utility plans prepared for each proposed road within the Development Property shall together serve as a "**Street and Utility Plan**" for the Development Property and shall contain construction standards at a level sufficient to ensure consistent quality throughout the one or more development phases and Planning Areas of the Development Property.

iii. Level of Detail in Street and Utility Plans.

The Street and Utility Plans will satisfy the then applicable design approval standards and requirements as set forth and applied by the City at the time the plans are submitted to the City for review and approval.

iv. Developer Responsibility for Dedications and Improvements Not Yet Accepted.

Developer acknowledges that the dedication of any public roadway, if any, or utility right-of-way or the like (for example, parcels for public parks, Open Space, and/or other public facilities) shall not relieve Developer or any Secondary Developer, if applicable, for responsibility for the same,

including, the completion of all improvements required to be constructed upon such roadway or utility right-of-way to service the Development Property. The City reserves the right to review and accept all such improvements. Pursuant to the City's applicable ordinances, Developer or the Association (where applicable) shall provide a construction warranty for any dedicated public improvements for one (1) year after the City has approved and accepted the construction and dedication of the public improvements. After acceptance of, and expiration of the one (1) year warranty period related to, a public roadway, utility right-of-way, or other public improvement by the City, the City shall assume responsibility for repair, maintenance, upkeep, and replacement of the same pursuant to accepted City standards.

B. Sale of Individual Planning Areas.

The City and Developer agree that, following approval and official filing and recording of a record of survey map or plat and associated deeds creating a particular Planning Area or Areas within the Development Property, Developer may proceed with the sale of one or more individual Planning Area(s) so created thereby, to a third-party of its choice who has been assigned all or certain of Developer's rights under this Agreement for that particular Planning Area(s) and/or related parcel(s).

C. Development Area; Existing and Required City Approvals.

The City agrees that Developer will be permitted to carry out the development, construction, and integration of the Development Property and the Project in accordance with the densities, product types, mixed uses, and other matters set forth in the Development Area and Section 8.B.i. below (Residential Density of the Development Property), subject to the terms and conditions of this Agreement. Pursuant to the terms of this Agreement and subject to Developer's public infrastructure obligations set forth in this Agreement, and subject also to any potential re-zoning and/or subdivision plat approvals which may be required before the development of any particular Planning Area, development of the Development Property and the Project may proceed in the Development Area. The City and Developer agree and acknowledge that this Agreement sets forth a degree of flexibility and adaptability, but Developer may not increase the densities and/or alter or expand the mix of uses beyond the maximums or details set herein and the Approved Uses without first receiving City approval, which approval shall not be unreasonably withheld, conditioned, or delayed. Developer and its successors or assigns hereby recognize that each residential, commercial, retail, hotel, resort, and other portion of the Development Property and the Project may require additional regulatory or administrative approvals from the City, if and to the extent applicable, prior to the issuance of any building permits in a given subdivision or portion of the Development Property. Although it is not currently expected, nor would it be proposed and/or pursued without a bona fide public need and legitimate public interest, the City agrees that in the event the City proposes to change, independent of any request from Developer, the Development Area and its associated densities, product types, and uses in such manner that Developer believes it is not in its best interest to continue with the proposed development of the Development Property and/or the Project, then Developer, at its sole discretion, may elect to terminate this Agreement and be released from any and all further duties, obligations, and liabilities set forth in this Agreement.

D. Notice of Zoning Actions.

The City agrees and acknowledges that Developer has made and will make substantial investments in reliance on the approved densities, product types, mixed uses, and other matters set forth herein and the Approved Uses and that Developer is relying on the legality and continuing validity of this Agreement, including, to the maximum extent permitted under applicable laws, the expectation of being able to apply for and obtain subdivision, permitting, and other land use approvals based on the City's applicable and current zoning ordinances and land use code. The City agrees to use its best efforts to provide written notice, which notice will include sufficient details and a summary of the proposed changes, to Developer as soon as reasonably practical prior to considering any changes to the City's current zoning ordinances, land use code, and any applicable rules and regulations which are not considered in conjunction with a specific application or proposed amendment initiated by Developer, and that would materially negatively impact the Project. Notwithstanding the foregoing, and in consideration of the significant financial risk the Developer will bear to complete the Project and the significant benefits that the City will realize upon its completion; the City agrees and acknowledges that, to the maximum extent permitted under applicable laws, Developer shall be exempt from the application of any changes to the current zoning ordinances and land use code that materially or adversely effects the ability of Developer to develop the Project for a period of five (5) years after the adoption of such changes ("**Grand Fathered Period**"), and any applications and submissions of Developer during such Grand Fathered Period shall be granted or denied on the basis of the then applicable zoning ordinances and land use code as existed prior to such change. Furthermore, any approval granted during Grand Fathered Period shall continue and be considered a permanent exception to any applicable changes to the zoning ordinances, land use code, and applicable rules and regulations thereafter.

E. Requirements for Subdivision Names in the Project.

In order to simplify the identification of subdivisions, development areas, and/or Planning Areas located within the Development Property and/or the Project and to assist with the potential integration of all or portions of the Development Property and/or the Project into the Black Desert Resort, each subdivision, development area, and/or Planning Area for which a preliminary plat and final plat is filed for approval by the City shall be named as follows: the name of the subdivision, development area, and/or Planning Area shall be followed by the name of the Project (for example, "_____ at Red Mountain" or, if desired by Developer, "_____ at Black Desert"), and if the name of the subdivision, development area, and/or Planning Area is not unique from the name of another subdivision, development area, and/or Planning Area within the Project, the name shall also be followed with numbering or lettering (or a combination of numbering and lettering) designating the subdivision, development area, and/or Planning Area as a unique phase of Development Property and/or the Project. The preliminary and final plats submitted to the City for approval shall clearly indicate the subdivision, development area, and/or Planning Area name in such format.

F. Utility Improvements, Extensions, Upsizing, and Allocation Associated Costs.

Certain improvements and utility extensions, upsizing, or additional capacities considered or anticipated in the Street and Utility Plan, if any, may be installed on a joint and cooperative basis by the City and Developer or Secondary Developer to avoid conflicts in construction and to achieve economies of scale. The Developer's engineer and City representative(s) shall meet

together during the design and preliminary phases for any record of survey or plat and associated Street and Utility Plan work and ensure that the improvements, utility extensions, and/or any contemplated upsizing or additional capacities therein are coordinated and, that to the extent possible, such improvements, extensions, upsizing, and/or additional capacities are developed jointly and in cooperation, and that the allocation of costs for such improvements, utility extensions, upsizing, and/or additional capacities is on a fair and reasonable basis, consistent with existing law, the other provisions of this Agreement, and any other applicable agreements for sharing costs of power, water, and other improvements between and among the City, Developer, and any third-parties (if any, including the owner(s) and/or operator(s) of utility facilities). In the event that upsizing of utility improvements is required or requested by the City, the City shall participate in and the cost of any City-requested upsize or additional capacities or additional improvements outside of, unrelated to, or not necessitated by the Development Property and/or Project.

Subject to those improvements to be developed, constructed, and installed under a PID or similar entity if applicable, and any equitable allocation the Parties agree to pursuant to the immediately preceding paragraph, generally Developer will bear the cost of all development and improvements necessitated by the development of the Project that fall within or without the boundary of the Development Property, including infrastructure such as power, sewer, curb gutter, sewer lift stations etc., and the City will bear the cost of any City-requested upsizing or additional capacities or additional improvements outside of, unrelated to, or not necessitated by the Development Property and/or the Project, including those that by nature would be brought to the Development Property boundary, consistent with City policies, including public improvements specifically related to City owned trails, parks, Open Space, and/or public buildings or improvements to be constructed, unless otherwise specifically agreed to be borne by Developer.

G. Creation of Community Development Project Area and Related Notices.

Without circumventing and subject to the City's normal approval process, the City and Developer have agreed to cooperate and work together in the investigation and potential establishment of a PID or similar entity or vehicle so that an assessment on the Development Property may be levied to help pay for certain utilities, infrastructure, public amenities, and other improvements that are anticipated to be developed, constructed, and installed within the Development Property, which will be more specifically identified in the governing documents for the PID.

H. Public Utility Easements and Right-of-Way Dedications.

The record of survey maps or plats filed and recorded for the subdivision of the Development Property with the Washington County Recorder's Office and the applicable Street and Utility Plan specific to any roads within the Development Property shall designate any non-exclusive public utility easements and/or dedicated public rights-of-way as are reasonably necessary for service of each individual subdivision, development area, and/or Planning Area and which may be coextensive with applicable municipal utility easements. Public utility easements and/or dedicated public rights-of-way shall be located within the roadways to minimize the impact on the Development Property. Public utility easements and/or dedicated public rights-of-way shall be granted or dedicated at no cost to the City to benefit each subdivision, development area, and/or Planning Area in an overall comprehensive roadway and utility plan for the Development Property and, as applicable, the Project. Developer shall have the right to retain and reserve unto itself the

right to occupy, use, and improve the non-exclusive public utility easement areas, and the right to grant unto others the right to occupy, use, and improve the public utility easement areas, for all purposes not inconsistent with the rights and duties granted and described in Utah Code Ann. § 54-3-27, including, the installation of certain sidewalks, crosswalks, and other roadway improvements (consisting of concrete, asphalt, and the like) and landscaping improvements. The City and Developer shall grant cross easements as may be shown on the record of survey maps or plats. The Developer shall have the right to reserve and retain such private, exclusive, and other easements as are reasonably necessary or desirable for drainage of the Development Property and the Project's runoff and irrigation. Such easements shall be located in a manner as to minimize impact on the Development Property and the Project. Developer shall bear the cost of installing drainage and detention facilities and improvements within the boundaries of the Development Property.

I. City Facilities and Landscape Improvements.

The City may permit and cooperate in Developer's efforts to ameliorate the landscaping and design impact of the City's water, drainage, and other public utility systems. In addition, the City may permit and cooperate in Developer's efforts to enhance and improve landscaping features on any City owned property within the Development Property.

J. Impact Fee Credits.

Where Developer designs, installs, and/or constructs certain public streets, trails (including, biking trails and/or walking trails), designated Open Space areas, park-like areas, Open Space, utilities, and/or any other facilities, amenities, or improvements outside the boundaries of the Development Property that will be open and available to the general public, such design, installation, and construction shall be completed as may be required to develop the Development Property and the Project and as contemplated by the City's various capital facilities plans which would normally be financed through Impact Fees. For all such offsite improvements that are described in the City's various capital facilities plans, to the maximum extent permitted under applicable laws, Developer shall receive reimbursement of or a direct credit for and against Impact Fees and other applicable fees as may be normally charged or assessed by the City for said public facilities, amenities, and/or improvements when said facilities, amenities, and/or improvements are designed, installed, and constructed by Developer and the same improvements relate to the same or similar improvements~~improcvements~~ within the City's impact fee facilities plan. The City and Developer agree that specific details with respect to the mechanisms and timing of reimbursement of or credit for and against Impact Fees and other applicable fees, as well as timing for completion of public park improvements, may be set forth in a separate agreement between the Parties. Notwithstanding the foregoing, the City shall have the complete and absolute discretion to decide whether or not to accept an offered dedication of any such facilities, amenities, or improvements.

K. Density Clustering and Open Space Credit.

So long as the density for the Development Property does not exceed the approved units and lots for the entire Project (i.e. ~~500~~450 units and/or lots), Developer may cluster or concentrate the density in certain areas of the Development Property to create neighborhoods of high density use in an effort to foster Open Space. The Parties agree that the Developer may apply for and receive any density credit provided by City ordinances, resolutions, plans, and/or programs based upon

Open Space in the Development Property and/or the Project or within a given Planning Area, including, but not limited to, the Developer's eventual designation of Open Space areas within the Development Area, dedicated or donated community parks, neighborhood parks, park-like areas, trails (including, biking trails and/or walking trails), and Open Space parcels; areas preserved to protect sensitive habitat, plants, or animals; common non-public parks and trails; lakes and streams; cliff line setbacks; transmission lines where such are located on property which is already designated as Open Space; and any additional setbacks or frontage on roadways or along natural features which are voluntary and exceed any applicable City requirements or as otherwise recognized by City ordinances, resolutions, plans, and/or programs, whether dedicated or donated to the City or retained in common non-public or private ownership.

L. Open Spaces.

The Parties agree and acknowledge that at the outset that Development Area on the Development Property and the Project will be designed to include areas of designated Open Space, which shall be a minimum of 30% of the area of the Development Property. In keeping with the intent of the Development Property and the Project, Open Space will be aggregated in the Development Area, in large part, outside of the Planning Areas in order to provide cohesive, usable Open Space and to preserve the natural lava flows, canyons, trails, and arroyos to the extent reasonably possible to benefit the entire Development Property and the overall Project and the public at large. The Open Space anticipated to be preserved in the Development Property shall be preserved in one of two forms in the Development Area as follows:

i. Unimproved Open Space.

All of the Open Space in a particular Planning Area or the Development Property that is the subject of an established Conservation Easement or that may later become the subject of a Conservation Easement shall be considered "**Unimproved Open Space**". But for the Conservation Easement, the Unimproved Open Space may be developable subject to local zoning requirements. However, none of the Unimproved Open Space that is subject to a Conservation Easement now or in the future may be used to satisfy the Open Space requirements for the Development Property and/or the Project or for any density bonus that may be available under the applicable zoning ordinances.

ii. Improvable Open Space.

All of the Open Space in a particular Planning Area or the Development Property which is not subject to a Conservation Easement or that may later be donated and/or improved as parks or passive common areas owned and controlled by Developer or one or more Association(s) or the City, where applicable, shall be referred to as "**Improvable Open Space**" and together with the Unimproved Open Space referred to herein as "**Open Space**". Developer may, at its discretion, convert a portion of Improvable Open Space into Unimproved Open Space.

All Improvable Open Space shall be designated on within the Development Area as phases are further developed. The actual location and boundaries of the Improvable Open Space may change and be updated as development and phases progress in the Development Property and the Project. The Improvable Open Space shall not be designated as a separate, subdivided parcel to be created in metes and bounds when the Development Property is first divided by way of a record of survey or plat, but instead each area of Improvable Open Space shall be indicated in the record of survey

or plat as overlapping one or more of the Planning Areas so created. The intent of this Section 7.L.ii. is so that Developer will have the maximum amount of flexibility and discretion to determine the final location and boundaries of the Improvable Open Space and Planning Areas, while still allowing the City to have ample review over the final location and boundaries of the Improvable Open Space to ensure general compatibility with this Agreement and compliance with the City's minimum Open Space requirements.

iii. Use of Improvable Open Space to satisfy Subdivision Requirements.

In order that any and all Open Space requirements can be met in any part of the Development Property and/or the Project for which zoning or other land use approvals or permits are sought, and so that neighborhood park requirements will also be met, the City agrees and acknowledges that when developing an individual Planning Area or the Development Property or a portion thereof, the Developer may draw from or receive credit for a portion of the Improvable Open Space identified or set aside in future phases in accordance with this Agreement for any part of the Development Property and/or the Project in order to meet a part or all of any Open Space requirements attendant thereto. In this manner, the Improvable Open Space identified or set aside may be treated as a "bank" and may be drawn upon or used by the Developer or Secondary Developer to meet any Open Space requirements in an individual Planning Area or any other part of the Development Property and/or the Project as approved in writing by Developer or Secondary Developer. Developer agrees that no particular acreage of Improvable Open Space may be utilized to satisfy the Open Space requirements of more than one subdivision plat, and that Developer shall certify the same with the filing of each subdivision plat which requires Open Space for approval. Furthermore, Developer anticipates that when combined with the Open Space in a given developable area or Planning Area set forth in future phases, the Improvable Open Space is or will be in excess of that required to meet the City's requirements for the Project as a whole, and Developer reserves the right to adjust and update the location and boundaries of the Improvable Open Space as set forth in Section 7.L.ii. above, provided the overall density for the Project as set forth in this Agreement is not exceeded and the percentage of Open Space is not reduced below thirty percent (30%) of the Development Property. Developer recognizes that the terms of this Section 7.L.iii. do not relieve it from any obligation to comply with state and local subdivision and platting requirements as outlined in this Agreement. Developer when filing a record of survey or subdivision plat for approval shall be required to report on the status of the "Open Space Bank" as set forth in Section 8.A.v. below.

M. Street Lights and Signage.

Developer may elect to use decorative street lights, street signage, and other wayfinding improvements within the Development Property and the Project, including flags and banners, as long as such are approved by the City and are in compliance with all applicable City ordinances regarding lighting and sign specifications. Such street lights and signage are permitted within any public utility easements and/or dedicated public rights-of-way, provided all traffic control devices and signs are in conformance with the requirements of the Manual on Uniform Traffic Control Devices and City standards. Ultimately, the Developer desires to develop street and lighting plans that will reduce light pollution and the Developer may elect monument style lighting over large down lights. Notwithstanding any of the foregoing all lighting must be compliant with applicable City ordinances regarding lighting.

N. Primary Access and Circulation.

The location and design of new vehicular access points requiring City approval shall be based upon the Traffic Impact Study those ordinances existing as of the date of this agreement and reasonable conditions concerning the safety of vehicles, pedestrians, bicycles, and e-bikes. To the extent the Traffic Impact Study indicates the need for additional offsite infrastructure to meet such conditions, then they shall be provided pursuant to paragraphs 7(J) above and 8(A)(ii) below.

O. Use Impact Management.

Any permitted or conditional use under the Resort Commercial (RC) zone that the City determines may create significant impacts related to noise, lighting, traffic, or intensity shall, through the Conditional Use Permit (CUP) process, be subject to reasonable conditions on hours of operation, size, capacity, noise, lighting, buffering, and site placement within the property. Such conditions shall be reasonably related to mitigating the identified impacts and shall not be applied as a pretext to prohibit or effectively eliminate any use that is otherwise allowed in the City's Table of Uses for the RC zone.

P. Snow Canyon Parkway Building Height Standard.

Developer has agreed that the first row of building heights along Snow Canyon Parkway and Snow Canyon Drive will generally comply with the standards of City Code Section 16.19.102(5) "Views, Openness and Massing." For purposes of this Agreement, those standards are expressly extended to the first row of development along Snow Canyon Drive, even though that street is not listed in subsection (5)(a)(i). Notwithstanding the foregoing, existing structures along Snow Canyon Drive may be renovated or fully torn down and replaced as part of the redevelopment of the Project so long as the resulting structures are replaced with structures of approximately the same height, width, massing, and location as exis ted prior to such redevelopment activity. Additionally, it is expected Developer may come back to apply for height variances as design progresses to, among other things, promote thoughtful design that takes advantage of grade changes across the foot prinuses the natural topography within the Project take advantage of the topography of the property, the spirit of

Q. Service Area Location.

Service areas such as dumpsters, loading zones, storage areas, and mechanical equipment located near Snow Canyon Parkway or Snow Canyon Drive shall be subject to heightened design review, and the Developer shall be required to ensure such areas are appropriately screened and buffered to minimize visual, noise, and odor impacts that would be out of character for adjacent neighbors and the streetscape.

R. Perimeter Screening and Landscaping.

Developer shall incorporate appropriate screening along Snow Canyon Parkway and Snow Canyon Drive to protect adjacent neighborhoods and maintain important view corridors. Developer has the discretion to design such screening, which may include walls, landscaping, or other design

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features, but the type, height (not to exceed 6 feet), and design shall be subject to City approval through the CUP process, balancing neighborhood buffering with preservation of key visual corridors limited to those set forth in City Code Section 16.19.102(5) and paragraph 7(P) above.

S. Rooftop Occupiable Spaces.

The City is concerned that occupied rooftop spaces can effectively extend building height beyond the 35-foot limit and significantly increase noise and light transmission compared to ground-level outdoor use. Nonetheless, Developer may propose designs for rooftop occupiable spaces as part of the site planning and CUP process so long as such designs include measures to mitigate visual, height, noise, and lighting impacts on surrounding neighborhoods, such as increased setbacks from property lines abutting residential neighbors outside the Project, lower finished-floor height, screening, light shielding, and limits on hours of commercial operation or amplified sound, and all rooftop structures shall remain within the City's 35-foot maximum building height. It being understood and agreed that the City may impose reasonable conditions on such rooftop occupiable spaces based upon the design so submitted, when taken in consideration of the Resort Commercial Zone where the Project is located.

T. Lighting Standards.

All outdoor lighting shall comply with Ivins City Outdoor Lighting Code (Chapter 23). A detailed lighting plan demonstrating compliance shall be submitted with CUP applications and building permits for City approval.

U. Traffic Impact Study.

Developer shall complete a traffic impact study ("Traffic Impact Study") and any recommended mitigation measures shall be a condition to approvals pertaining to development of the Project and implemented pursuant to Paragraph 8(A)(ii) below—.

V. Scope of Disturbance.

Grading and site disturbance shall be limited to the active phase under construction. Areas outside an active phase shall remain in natural vegetation, or if disturbed for utilities or other purposes, shall be temporarily stabilized or revegetated until construction begins in that phase.

W. Infrastructure Completion.

For each phase of development, all essential infrastructure, including base roads with safe access, drainage facilities, utilities, and required traffic or safety improvements, shall be installed, functional, and accepted by the City before any certificates of occupancy are issued in that phase.

The City may allow deferral of non-critical finish work (such as the final paving layer, landscaping, perimeter walls and finishes, or other minor aesthetic elements) only if:

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i. the unfinished areas are stabilized, kept free of debris and safety hazards, and do not create an ongoing visual blight, and

ii. the Developer provides reasonable assurance acceptable to the City to ensure timely completion, which may include a completion bond.

Any deferred finish work shall be diligently pursued through completion, and should work on the phase cease for a period of greater than 12 months (or another period approved by the City), then City may, if applicable, draw on completion bond to complete the work.

Interim site conditions (including grading, exposed utilities, stormwater management, and dust control) shall be maintained in a manner consistent with present City Ordinances to prevent erosion, standing water, dust, and unsightly or unsafe conditions until permanent improvements are installed.

X. Interim Maintenance.

If construction in any phase is suspended for more than six months, the Developer shall implement and maintain interim measures (such as dust control, stormwater management, temporary landscaping and stabilization, and basic site clean-up) to prevent adverse impacts to adjacent properties, roadways, public infrastructure and neighborhood character.

~~N.~~Y. Cooperation in Obtaining Available Funding.

Developer intends to explore all available sources of financing for the development of the Development Property and the Project and completion of the improvements, upgrades, or development contemplated thereon, including, but not limited to, private and public sources, wherever available. The City agrees to cooperate with and, at the very least, not affirmatively hinder Developer in its investigation of and potentially obtaining and using any state, local, regional, or federal funds, including, but not limited to, grants, funds for nature trails, public improvement districts, or other monies or public financing mechanisms or vehicles that may be available or become available for the acquisition, construction, or maintenance of public roadways, public utility easements, dedicated rights-of-way, and any trails (including, biking trails and/or walking trails), open space areas, parks or park-like areas, utilities, and/or any other facilities, amenities, or improvements within the Development Property and/or the Project. Furthermore, the Parties they will investigate the creation of utilizing one or more special assessment areas ("**SAAs**"), PID's, or other similar public financing mechanisms or vehicles to finance public improvements within the Development Property and/or the Project, to the extent authorized by and pursuant the process set forth in applicable state and local laws.

~~O.~~Z. Regulatory Matters.

The City and Developer shall reasonably cooperate in all regulatory matters, which affect both Parties. Other requirements of law and processes typical to the development process are not waived by this Agreement, but all such processes shall proceed consistent with this Agreement.

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8. PARTIES' OBLIGATIONS.

The Parties shall do the following:

A. Developer.

The Developer shall meet the following requirements in the times and manner set forth below.

i. Commitment of Developer.

The obligations of Developer as contained in this Agreement are intended by the Parties to be comprehensive of all obligations required of Developer by the City for development of the Development Property and the Project. However, Developer acknowledges that certain additional Off-Site Improvements may be required based on final engineering of public infrastructure serving the Development Property; in that event, Developer agrees to participate in the construction of such additional Off-Site Improvements in percentages agreed to by the Parties, but generally representing the Development Property's direct and proportionate share of the impacts requiring said improvements.

ii. Construction of Off-Site Improvements.

a) Off-Site Road and Traffic Improvements.

(1) Developer Contributions.

Developer shall be responsible to pay its prorated share of the estimated costs for all Off-Site Improvements specific to traffic and road improvements as set forth in the Traffic Impact Study contemplated herein, as supplemented, updated, or amended. Developer's prorated share shall be the direct and proportionate share of the impacts caused by the Development Property. Developer agrees that its contributions to the improvements contemplated in the Traffic Impact Study shall be made in advance of any new impacts projected to be caused by development of the Project, and as the same are anticipated to require such improvements. City may require Developer to pay its proportionate share to the City according to the events or deadlines set forth in the Traffic Impact Study, as amended and consistent with the terms of this Agreement. If the City builds any Off-Site Improvements before impacts from the Development Property occur, Developer shall pay its proportionate share calculated on a pro rata basis based upon the impact reasonably attributable to the Development Property.

b) Sewer Improvements.

Developer agrees to install such sewer lines and related systems as are directly attributable to and necessary to serve the Development Property.

c) Power.

Developer agrees to install such power lines and infrastructure related systems as are attributable to the demand for service to meet the expanded use contemplated by the Development Property.

d) Water.

Developer agrees to install such water lines and related systems as are directly attributable to and necessary to serve the Development Property.

iii. Construction of On-Site Improvements.

The On-Site Improvements servicing each Planning Area, as set forth in the Street and Utility Plan, shall be completed, or security for the completion of the same shall be posted by Developer or Secondary Developer, as a condition of approval for any final record of survey or plat within the Development Property requiring the On-Site Improvements or portions thereof.

iv. Deadlines and Requirements Dependent on Approved Studies for Particular Infrastructure.

The deadlines, requirements, and cost share percentages set forth for each of the required infrastructure improvements (whether On-Site Improvements or Off-Site Improvements) described in the foregoing sections are dependent on studies for the infrastructure described, that are mutually agreed upon and approved by the Parities. Should any approved study need to be amended, supplemented, or replaced because of Developer-desired changes to the development within the Development Area, then upon the approval of said amendment, supplemRoofent, or replacement by the City, the provisions of the foregoing sections describing the Developer's responsibilities shall be deemed modified to incorporate and be consistent with the approved study as amended, supplemented, or replaced.

v. Monitoring and Reporting Density and Open Space as Development Progresses.

With the filing and recording of each record of survey or plat in the Development Property for approval with the City, Developer shall submit with the same a report on density which: (a) identifies the number of applicable units and lots and the density of units and lots per acre proposed for the subdivision, development area, and/or Planning Areas for which the record of survey or plat is filed, (b) identifies the total number of units and lots already platted and approved for development in the Development Property and, as applicable, the Project, and (c) identifies the maximum number of units and lots that may be platted in the remainder of the Development Property and, as applicable, the Project, if the current record of survey or plat is approved as submitted.

Developer shall also submit with the same a report on Open Space which: (d) identifies by map or description the planned Open Space (and total acreage of the same throughout the Project) in the "Open Space Bank" proposed to be utilized to meet any appliable Open Space requirements for the subdivision, development area, and/or Planning Areas for which the plat is filed; (e) identifies by map or description the planned Open Space (and total acreage of the same) in the "Open Space Bank" already utilized to meet any applicable Open Space requirements for plats previously approved; and (f) identifies any remaining planned Open Space (and total acreage of the same) in the "Open Space Bank" which may be used to satisfy any applicable Open Space requirements in future subdivision plats in the Development Property. The intent of providing the aforementioned reports is to allow the efficient review by the City of the overall density and Open Space usage for the Development Property and, as applicable, the Project as development of the same progresses, and further to assist the Parties to ensure that later-platted parcels have sufficient density available

to ensure marketability and viability of each Planning Area, and the development of the Development Property and the Project throughout consistent with this Agreement.

B. City.

The City shall do the following:

i. Residential Density of the Development Property.

The City agrees and acknowledges that the Development Area, as the same may be amended and adjusted in phases pursuant to this Agreement, is in substantial conformance to the City's current RC Zone. The Parties agree that the Maximum Combined Units is an entitlement number., Developer shall have the right to shift and allocate or reallocate residential units and lots from one within the Development Area , and there after from shift such desnistiies from time to time to modify the relative densities in the affected Planning Areas, without being required to get City approval as to the shifting of such densities, provided that the overall maximum density for the entire Development Property and the Project are not exceeded, and such shift otherwise complies with applicable zoning and land use requirements. The development of the Development Property and the Project to less than the full maximum residential unit and/or lot density permitted shall not release Developer from any obligations to the City as set forth in this Agreement, unless as a result of a zoning ordinance amendment which is not requested by Developer, or unless the reduction in total units and lots result in a corresponding reduction in public facilities and/or improvements supported by the appropriate engineering/planning studies as approved by the City.

ii. Commercial Space.

The foregoing provisions and any limitations on residential unit and lot density shall not apply to limit the amount of commercial, retail, hotel, resort, medical, or other space or uses which may be developed in any Planning Area designated in the Development Area, but shall be in addition to any commercial, retail, hotel, resort, medical and other space developed in said Planning Area in the Development Area.

iii. Utility Easements for Off-Site Sewer Extension.

If a sewer easement becomes necessary to complete the extension of gravity flow sewer lines for any Off-Site Improvements, the City shall acquire such easements. However, the City shall also use its best efforts to obtain said right-of-way by other means if necessary.

iv. Resort Lodging.

The City acknowledges that in recent years there has been a surge in the market providing resort commercial uses permitted in the current RC Zone in planned communities which include swimming pools and other amenities. The City will not disapprove a rezoning or other land use approval request from Developer simply because it includes one or more Approved Uses and amenities associated therewith and will recognize and not interfere with the Developer's right to develop and employ any and/or all of the temporary, permitted and conditional uses under the current RC Zone as set forth in Exhibit "C" hereto, subject only to such reasonable conditions for a specific use as may be determined by the City through its conditional use process ~~on an administrative basis~~as applicable to the class of permit. Developer agrees that in addition to the

requirements set forth herein it will abide by the same restrictions regarding certain resort commercial uses as are imposed upon Black Desert Resort including management by a solitary on-site property manager for the nightly rental of residential units and dwellings. Notwithstanding the foregoing, the Parties acknowledge and agree that nothing in this Agreement shall prevent or require Developer or its related entities (including, any Secondary Developer) from operating the resort services presently found on the Development Property before, during, or after it has been redeveloped or renovated and it is only the expansion of existing or addition of new uses that shall be subject the conditional use process (provided the proposed use qualifies as a conditional us as set forth in **Exhibit "C"**).

9. AGREEMENT TO RUN WITH THE LAND.

This Agreement shall be recorded in the Office of the Washington County Recorder, shall be deemed to run with the Development Property, shall encumber the Development Property, and shall be binding on and inure to the benefit of all successors and assigns of Developer in the ownership or development of any portions of the Development Property and binding upon the City and any of its successors and assigns.

10. ASSIGNMENT.

Neither this Agreement nor any of the provisions, terms, or conditions hereof can be assigned to any other Party, individual. or entity without assigning also the duties and responsibilities arising hereunder. This restriction on assignment is not intended to prohibit or impede the sale by Developer of all or any portions of the Development Property.

11. NO JOINT VENTURE, PARTNERSHIP OR THIRD-PARTY RIGHTS.

This Agreement does not create any joint venture, partnership, undertaking, or business arrangement between the Parties, nor any rights or benefits to third-parties; except as expressly provided herein.

12. INTEGRATION.

This Agreement, together with all Exhibits and attachments hereto which are hereby incorporated by reference, contains and constitutes the entire agreement between the Parties with respect to the subject matter hereof and integrates all prior conversations, discussions, or understandings of whatever kind or nature and may only be modified by a subsequent writing duly executed and approved by the Parties. This Agreement shall not be amended except in a written form signed and executed by an authorized signatory of the Parties.

13. NOTICES.

Any notices, requests, or demands required or desired to be given under this Agreement shall be in writing and should be delivered personally to the Party for whom it is intended, or, if mailed by certified mail, return receipt requested, postage prepaid to the Parties as communications under this Agreement shall be deemed to have been given and received and shall be effective three (3) days after deposit in the U.S. Mail to the recipient's address as set forth herein:

City:	Developer:

Ivins City Attention: City Manager/City Attorney 85 North Main Street Ivins, Utah 84738	RPE22 Red Mountain LLC 2600 N. Ashton Blvd, #200 Lehi, Utah 84043 Attention: Damon Georgelas With a Copy to: Parsons Behle & Latimer Attention: Brian P. Rosander 201 South Main Street, Suite 1800 Salt Lake City, Utah 84111

Any Party may change its address at any time by giving written notice to the other Party in accordance with the provisions of this Section 13.

14. GOVERNING LAW AND USAGE.

This Agreement shall be governed by and construed in accordance with the laws of the State of Utah and any dispute regarding this Agreement shall be heard and settled under the laws of the State of Utah. Whenever the context requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, any gender shall include both genders, and the term "person" shall include an individual, partnership (general or limited), corporation, trust, company, or other entity or association, or any combination thereof. This Agreement shall bind and inure to the benefit of the Parties and their respective successors and assigns. The provisions of this Agreement shall be constructed as both covenants and conditions in the same manner as though the words importing such covenants and conditions were used in each separate provision hereof.

15. COURT COSTS.

In the event of any litigation between the Parties arising out or related to this Agreement, the prevailing Party shall be entitled to an award of reasonable court costs and expenses, including reasonable attorney fees.

16. EXPENSES.

The Developer and the City shall each pay their own costs and expenses incurred in preparation and execution of and performance under this Agreement, except as otherwise expressly provided herein.

17. WAIVER.

Acceptance by either Party of any performance less than required under this Agreement shall not be deemed to be a waiver of the rights of such Party to enforce all of the terms and conditions hereof. No waiver of any such right under this Agreement shall be binding, unless reduced to writing and signed by the Party to be charged therewith.

18. EFFECTIVE DATE.

This Agreement shall be effective as of the date filed for public record and recorded in the Office of the Recorder for Washington County, Utah.

19. FURTHER ASSURANCES.

Each Party agrees to execute and deliver all documents, provide all information, and take all further acts reasonably necessary in order to carry out more effectively the intent and purpose of this Agreement and the actions contemplated hereby.

20. SEVERABILITY.

If any part or provision of this Agreement shall be adjudged unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such determination shall not affect any other part or provision of this Agreement except that part or provision so adjudged to be unconstitutional, invalid, or unenforceable. If any condition, covenant, or other provision of this Agreement shall be deemed invalid, due to its scope or breadth, such provision shall be deemed valid to the maximum extent of the scope or breadth permitted by law.

21. DEFAULT.

Neither Developer nor the City shall be in default under this Agreement, unless such Party fails to perform an obligation required under this Agreement within thirty (30) days after written notice is given to the defaulting Party by the other Party, setting forth in sufficient detail the respects in which the defaulting Party has failed to perform an obligation required under this Agreement. If the nature of the defaulting Party's obligation is such that more than thirty (30) days are reasonably required for performance or cure, the defaulting Party shall not be in default under this Agreement if such Party commences performance within such thirty (30) day period (or, if such commencement is impossible due to Events of Force Majeure (as defined in the following sentence), commences performance when the Events of Force Majeure cease) and after such commencement diligently prosecutes the same to completion. "**Events of Force Majeure**" means any causes or events identified in Section 22 below. In the event of a default or breach of this Agreement, the non-defaulting Party may bring any legal action to enforce (including for a remedy of specific performance) this Agreement or for damages on account of any default or breach of a liability, obligation, or covenant contained in this Agreement.

22. FORCE MAJEURE.

Neither Party shall be liable for any delays or failure in the keeping or performance of its liabilities, obligations, or covenants under this Agreement during the time and to the extent that any such delays or failure is due to causes or events beyond the control and without the fault or negligence of the Party affected, which shall include, without limitation, causes or events such as any acts of God, acts of civil or military authority, fire, explosion, epidemics, pandemics, contagions, diseases, or viruses (including, by way of example, Covid-19 events), floods, earthquakes, unusually adverse weather conditions, riots, wars, terrorism, sabotage, actions or restrictions of governmental authorities, governmental regulation of the sale, production, or use of materials or supplies or the transportation thereof, government shutdowns or postponements of meetings, or other similar or dissimilar causes or events not within such Party’s reasonable control (each, considered acceptable

"**Events of Force Majeure**"), but not including generalized economic conditions, recession, or depression. Upon the occurrence of any such Events of Force Majeure, the Party affected shall promptly give written notice to the other Party and shall promptly resume the keeping and performance of the affected liabilities, obligations, or covenants under this Agreement after any such Events of Force Majeure have come to an end. The notice of any Events of Force Majeure will set forth in reasonable detail the nature and circumstances of the Events of Force Majeure, the expected effect and delays of the Events of Force Majeure on the Party's performance under this Agreement, and the expected date (based on the best information available) the Party will be able to resume performance. As of the date of the Events of Force Majeure, the Party asserting force majeure is excused from performing any liability, obligation, or covenant that the Party is unable to perform under this Agreement due to the Events of Force Majeure for as long as the Events of Force Majeure continue, and such Party is relieved of liability for its failure to perform the excused liabilities, obligations, or covenants during the force majeure period. The Party asserting an inability to perform shall use commercially reasonable efforts to correct such inability and to resume promptly its performance as required under this Agreement. During the existence of any such Events of Force Majeure, each Party shall bear its own costs resulting therefrom.

23. COUNTERPARTS.

This Agreement may be executed in any number of duplicate originals or counterparts, each of which when so executed shall constitute in the aggregate but one and the same document.

24. REASONABLENESS.

Except as otherwise stated to the contrary in this Agreement, when the consent, approval, or agreement of Developer and/or the City is required or contemplated under this Agreement, such consent, approval, or agreement shall not be unreasonably withheld, conditioned, or delayed; provided, this Section 24 shall not bind the City with respect to its legislative actions.

25. TITLES AND HEADINGS.

Titles and headings of sections or paragraphs of this Agreement are for convenience of reference only and shall not affect the construction of any provision of this Agreement.

26. CONVEYANCES AND DEDICATIONS.

Any transfer of property to the City and acceptance of such property by the City, as contemplated in this Agreement, shall be made by way of an owners dedication on a subdivision plat or by way of a special warranty deed and subject to all current taxes and assessments and all existing rights-of-way, easements, covenants, restrictions, reservations, and other matters of record. General real property taxes for property transferred or dedicated to the City shall be prorated as of the date of recording of the subdivision plat. Any premiums or costs for title insurance policies or endorsements for any title insurance coverage desired by the City shall be paid solely by the City.

[Intentionally Blank – Signatures and Acknowledgements to Follow]

SIGNATURE PAGE (CITY)

IN WITNESS WHEREOF, the City has executed this Agreement on the date first written above.

CITY:

_____
Chris Hart, Mayor
Attest:

_____
Kari Jimenez, City Recorder

ACKNOWLEDGEMENT

STATE OF UTAH)
: ss.
COUNTY OF WASHINGTON)

On the _____ day of _____, 2025, personally appeared before me Chris Hart, who being by me duly sworn did say that he is the Mayor of Ivins City, and that he executed the foregoing Development Agreement on behalf of Ivins City, being authorized and empowered to do so, and that Ivins City executed the same freely and voluntarily for the uses and purposes stated therein.

NOTARY PUBLIC
Residing at: _____

My Commission Expires:

_____

SIGNATURE PAGE (DEVELOPER)

IN WITNESS WHEREOF, the Developer has executed this Agreement on the date first written above.

DEVELOPER:

RPE22 RED MOUNTAIN LLC,
a Delaware limited liability company

RPE22 Red Mountain Manager LLC,
a Delaware limited liability company
Its: Manager

By: _____
Print Name: _____
Title: _____

ACKNOWLEDGEMENT

STATE OF UTAH)
: ss.
COUNTY OF _____)

On the _____ day of _____, 2025, personally appeared before me _____, who being by me duly sworn did say that he is the _____ and Authorized Signatory of RPE22 Red Mountain Manager LLC, a Delaware limited liability company, the Manager of RPE22 Red Mountain LLC, a Delaware limited liability company, and acknowledged to me that he executed the foregoing Development Agreement on behalf of said limited liability company, being authorized and empowered to do so, and that said limited liability company executed the same freely and voluntarily for the uses and purposes stated therein.

NOTARY PUBLIC
Residing at: _____

My Commission Expires:

_____

EXHIBIT "A"
TO
DEVELOPMENT AGREEMENT

LEGAL DESCRIPTION OF DEVELOPMENT PROPERTY

The real property referenced in the foregoing Agreement as the "Development Property" is located in the County of Washington, State of Utah and is more particularly described as follows:

PARCEL 1 (HOTEL PARCEL):

BEGINNING AT A POINT ON THE EASTERLY LINE OF SNOW CANYON DRIVE, SAID POINT BEING NORTH 88°44'14" WEST 199.23 FEET ALONG THE SECTION LINE NORTH 414.26 FEET FROM THE NORTH 1/4 CORNER OF SECTION 4, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN, SAID POINT ALSO BEING THE BEGINNING OF A CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES NORTH 53°45'37" WEST, A RADIAL DISTANCE OF 3,500.00 FEET; THENCE NORTHEASTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 06°31'11", A DISTANCE OF 398.27 FEET; THENCE NORTH 29°43'12" EAST 76.09 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 3,125.00 FEET; THENCE NORTHEASTERLY 272.71 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°00'00"; THENCE NORTH 25°43'12" EAST 253.66 FEET; THENCE NORTH 75°15'46" EAST 301.60 FEET; THENCE SOUTH 14°44'14" EAST 19.09 FEET; THENCE SOUTH 32°28'14" EAST 144.20 FEET; THENCE SOUTH 01°12'46" WEST 300.00 FEET; THENCE SOUTH 54°10'14" EAST 372.54 FEET; THENCE NORTH 88°47'01" WEST 116.04 FEET; THENCE SOUTH 43°53'57" WEST 134.43 FEET; THENCE SOUTH 77°28'56" WEST 141.13 FEET; THENCE NORTH 83°32'09" WEST 135.73 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE LEFT, HAVING A RADIUS OF 402.25 FEET OF WHICH THE RADIUS POINT LIES SOUTH 83°32'08" EAST; THENCE SOUTHERLY 195.86 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°53'55" AND A CHORD BEARING OF SOUTH 07°29'06" EAST 193.93 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 1,414.00 FEET; THENCE SOUTHERLY 67.25 FEET THROUGH A CENTRAL ANGLE OF 02°43'29"; THENCE SOUTH 18°42'35" EAST 12.70 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE RIGHT, HAVING A RADIUS OF 341.45 FEET OF WHICH THE RADIUS POINT LIES SOUTH 71°17'12" WEST; THENCE SOUTHERLY 90.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 15°10'21" AND A CHORD BEARING OF SOUTH 11°07'37" EAST 90.16 FEET TO THE BEGINNING OF A COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 30.40 FEET; THENCE SOUTHWESTERLY 32.62 FEET ALONG THE ARC WITH A CENTRAL ANGLE OF 61°28'48"; THENCE ALONG A LINE NON-TANGENT TO SAID CURVE, SOUTH 04°55'59" WEST 55.16 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE RIGHT, HAVING A RADIUS OF 122.61 FEET OF WHICH THE RADIUS POINT LIES NORTH 85°03'58" WEST; THENCE SOUTHERLY 12.76 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 05°57'51" AND A

CHORD BEARING OF SOUTH 07°54'58" WEST 12.76 FEET; THENCE ALONG A LINE NON-TANGENT TO SAID CURVE, NORTH 88°47'14" WEST 403.88 FEET; THENCE NORTH 49°19'14" WEST 414.16 FEET TO THE POINT OF BEGINNING.

CONTAINS 15.87 ACRES, MORE OR LESS.

Tax Parcel I.D. No.: _____

PARCEL 2 (PARKING LOT PARCEL):

BEGINNING AT A POINT ON THE NORTH RIGHT OF WAY OF SNOW CANYON PARKWAY AS SHOWN ON THE OFFICIAL PLAT THEREOF, SAID POINT BEING LOCATED SOUTH 88°42'41" EAST 122.91 FEET ALONG THE SECTION LINE; THENCE NORTH 00°00'28" WEST 38.80 FEET TO THE POINT OF BEGINNING AND RUNNING THENCE NORTH 04°02'44" WEST 112.94 FEET; THENCE SOUTH 88°47'14" EAST 403.88 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE RIGHT, HAVING A RADIUS OF 122.61 FEET OF WHICH THE RADIUS POINT LIES NORTH 79°06'06" WEST; THENCE SOUTHERLY 1.09 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°30'29" AND A CHORD BEARING OF SOUTH 11°09'08" WEST 1.09 FEET TO THE BEGINNING OF A COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 428.17 FEET; THENCE SOUTHERLY 95.62 FEET ALONG THE ARC WITH A CENTRAL ANGLE OF 12°47'44"; THENCE SOUTH 25°12'06" WEST 20.38 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE RIGHT, HAVING A RADIUS OF 44.72 FEET OF WHICH THE RADIUS POINT LIES NORTH 65°48'19" WEST; THENCE SOUTHWESTERLY 44.42 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 56°54'36" AND A CHORD BEARING OF SOUTH 52°38'59" WEST 42.62 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE LEFT, HAVING A RADIUS OF 540.00 FEET OF WHICH THE RADIUS POINT LIES SOUTH 18°47'19" WEST; THENCE WESTERLY 165.06 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17°30'47" AND A CHORD BEARING OF NORTH 79°58'05" WEST 164.42 FEET; THENCE NORTH 88°43'29" WEST 162.34 FEET TO THE POINT OF BEGINNING.

CONTAINS 1.03 ACRES, MORE OR LESS.

Tax Parcel I.D. No.: _____

PARCEL 3 (CONDOMINIUM UNITS):

UNITS V1, W1, W2, W3 AND Y2, CONTAINED WITHIN THE CONDOMINIUMS AT RED MOUNTAIN, PHASE II AMENDED, AS THE SAME IS IDENTIFIED IN THE PLAT FILED IN THE OFFICE OF THE WASHINGTON COUNTY RECORDER, UTAH, ON NOVEMBER 16, 2004 AS ENTRY NO. 911209 IN BOOK 1688 OF PLATS AT PAGE 183 AND IN THE DECLARATION RECORDED AS ENTRY NO. 911210 IN BOOK 1688 AT PAGE 184 (AS

SAID DECLARATION MAY HAVE BEEN SUBSEQUENTLY RESTATED, AMENDED AND/OR SUPPLEMENTED).

TOGETHER WITH THE APPURTENANT UNDIVIDED OWNERSHIP INTEREST IN AND TO THE COMMON AREAS AND FACILITIES DEFINED UNDER SAID DECLARATION (AS SAID DECLARATION MAY HAVE BEEN SUBSEQUENTLY RESTATED, AMENDED AND/OR SUPPLEMENTED).

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL OF LAND IDENTIFIED AS THE "CONTRACTION PARCEL" IN THAT CERTAIN WITHDRAWAL AMENDMENT TO AMENDED AND RESTATED DECLARATION OF CONDOMINIUM FOR THE CONDOMINIUMS AT RED MOUNTAIN A CONDOMINIUM DEVELOPMENT (TO DEANNEX AND WITHDRAW A PORTION OF PHASE II OF THE PROJECT AND RELATED IMPROVEMENTS ASSOCIATED WITH THAT PORTION OF PHASE II), RECORDED DECEMBER 31, 2008 AS ENTRY NO. 20080049226, OFFICIAL RECORDS.

Tax Parcel I.D. Nos.: _____

PARCEL 4 (CONTRACTION PARCEL):

THE FOLLOWING DESCRIBED PARCEL OF LAND IDENTIFIED AS THE "CONTRACTION PARCEL" IN THAT CERTAIN WITHDRAWAL AMENDMENT TO AMENDED AND RESTATED DECLARATION OF CONDOMINIUM FOR THE CONDOMINIUMS AT RED MOUNTAIN A CONDOMINIUM DEVELOPMENT (TO DEANNEX AND WITHDRAW A PORTION OF PHASE II OF THE PROJECT AND RELATED IMPROVEMENTS ASSOCIATED WITH THAT PORTION OF PHASE II), RECORDED DECEMBER 31, 2008, AS ENTRY NO. 20080049226, OFFICIAL RECORDS, TO-WIT:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF THE CONDOMINIUMS AT RED MOUNTAIN, PHASE 2, AMENDED, SAID POINT BEING SOUTH 88°42'41" EAST 1,015.76 FEET ALONG THE SECTION LINE AND NORTH 152.35 FEET FROM THE NORTH QUARTER CORNER OF SECTION 4, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE, THENCE NORTH 01°12'59" EAST 128.93 FEET; THENCE NORTH 87°10'10" WEST 19.01 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE LEFT, HAVING A RADIUS OF 45.00 FEET OF WHICH THE RADIUS POINT LIES NORTH 84°53'43" WEST; THENCE NORTHWESTERLY 71.22 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°40'48" AND A CHORD BEARING OF NORTH 40°14'07" WEST 64.02 FEET; THENCE ALONG A LINE NON-TANGENT TO SAID CURVE, NORTH 20°29'48" WEST 250.58 FEET; THENCE SOUTH 69°30'12" WEST 73.42 FEET; THENCE NORTH 84°12'35" WEST 83.72 FEET; THENCE SOUTH 79°38'00" WEST 75.81 FEET; THENCE SOUTH 28°36'42" WEST 52.94 FEET; THENCE NORTH 61°23'18" WEST 54.95 FEET; THENCE SOUTH 57°01'52" WEST 73.56 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE RIGHT, HAVING A RADIUS OF 372.25 FEET OF WHICH THE RADIUS POINT LIES

NORTH 73°51'06" EAST; THENCE NORTHERLY 146.91 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22°36'45" AND A CHORD BEARING OF NORTH 04°50'31" WEST 145.96 FEET; THENCE ALONG A LINE NON-TANGENT TO SAID CURVE, SOUTH 83°32'09" EAST 105.73 FEET; THENCE NORTH 77°28'56" EAST 141.13 FEET; THENCE NORTH 43°53'57" EAST 134.43 FEET; THENCE SOUTH 88°47'01" EAST 294.62 FEET; THENCE SOUTH 39°59'59" EAST 499.38 FEET; THENCE SOUTH 01°13'10" WEST 194.35 FEET; THENCE NORTH 88°47'01" WEST 431.45 FEET TO THE POINT OF BEGINNING.

CONTAINS 6.43 ACRES, MORE OR LESS.

(SAID CONTRACTION PARCEL INCLUDES, BUT IS NOT LIMITED TO, PORTIONS IDENTIFIED AND DELINEATED AS UNITS O1, O2, O3, O4, P1, P2, P3, P4, Q1, Q2, Q3, Q4, R1, R2, R3, R4, S1, S2, S3, S4, T1, T2, T3, T4, U1, U2, U3, AND U4 ON THE PLAT OF THE CONDOMINIUMS AT RED MOUNTAIN, PHASE II AMENDED, FILED FOR RECORD NOVEMBER 16, 2004 AS ENTRY NO. 911209 IN BOOK 1688 AT PAGE 183, OFFICIAL RECORDS.)

Tax Parcel I.D. No.: _____

PARCEL 5 (TRIANGLE PARCEL):

BEGINNING AT A POINT WHICH LIES SOUTH 88°42'41" EAST 1,443.97 FEET ALONG THE SECTION LINE AND THENCE NORTH 01°13'10" EAST 347.21 FEET ALONG THE SIXTEENTH SECTION LINE FROM THE SOUTH 1/4 CORNER OF SECTION 4, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE NORTH 40°00'00" WEST 499.39 FEET; THENCE NORTH 88°47'01" WEST 178.58 FEET; THENCE NORTH 54°10'14" WEST 372.54 FEET; THENCE NORTH 01°12'46" EAST 300.00 FEET; THENCE NORTH 32°28'14" WEST 144.20 FEET; THENCE NORTH 14°44'14" WEST 291.20 FEET; THENCE NORTH 01°12'46" EAST 82.16 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF SNOW CANYON DRIVE, SAID POINT BEING ALSO ON A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 1,263.45 FEET OF WHICH THE RADIUS POINT LIES SOUTH 53°22'36" EAST; THENCE NORTHEASTERLY 203.86 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 09°14'41" AND A CHORD BEARING OF NORTH 41°14'45" EAST 203.64 FEET; THENCE NORTH 45°52'05" EAST 1,200.12 FEET ALONG SAID RIGHT OF WAY; THENCE SOUTH 01°13'32" WEST 94.19 FEET; THENCE SOUTH 01°13'10" WEST 2,284.89 FEET ALONG THE SIXTEENTH SECTION LINE TO THE POINT OF BEGINNING.

CONTAINS 31.97 ACRES, MORE OR LESS.

Tax Parcel I.D. No.: _____

EXHIBIT "B"
TO
DEVELOPMENT AGREEMENT

DEVELOPMENT AREA

[To Be Attached]

EXHIBIT "C"
TO
DEVELOPMENT AGREEMENT

IVINS TABLE 33-2, TABLE OF USES (the "Approved Uses")

16.33.102: **TABLE 33-2, TABLE OF USES, NONRESIDENTIAL ZONING DISTRICTS:**

I Class I uses are determined to be temporary uses, subject to the requirements of chapter 14 of this title.
II Class II uses are determined to be permitted uses, subject to the requirements of chapter 15 of this title.
III Class III uses are determined to be permitted uses, subject to the requirements of chapter 15 of this title.
IV Class IV uses are determined to be conditional uses, subject to the requirements of chapter 16 of this title.
V Class V uses are determined to be conditional uses, subject to the requirements of chapter 16 of this title.

A use identified by "X" is determined to be a prohibited use in the zoning district.
A use not identified in the table below is determined to be a prohibited use within Ivins City.

Use	CN	C-1	RC	CLM	RMU	CPR
Accessory building. A building customarily incidental and clearly subordinate to the existing primary building and located on the same lot as the primary building, and meeting all requirements of the Building Code and land use ordinances, as adopted by the City. (See sections 16.12.103, 16.12.104, and 16.12.105 of this title.)	II	II	II	II	II	II
Accessory dwelling unit for owner or employee. An attached, or detached, dwelling unit for an employee or owner and incidental and clearly subordinate to the existing primary building or use and located on the same lot as the primary building or use, and meeting all requirements of the Building Code and land use ordinances, as adopted by the City. (See section 16.12.106 of this title.)	III	III	III	III	III	III
Accessory use. A use clearly incidental and subordinate to the existing primary use and customarily found in connection with the primary use and located on the same lot as the primary use. (See section 16.12.103 of this title.)	II	II	II	II	II	II
Agricultural building. A structure used solely in conjunction with an allowed agriculture use, and not for human occupancy, and complying with the requirements of section 15A-1-204(7)(a)(b)(i)(ii)(A)(B), Utah Code Annotated.	III	III	III	III	III	III
Alcoholic beverage establishments. As defined in the Ivins City alcoholic beverage control ordinance and including definitions for class A, B, C, D, and E alcoholic beverage control licenses.	As allowed and provided for by the Ivins City alcoholic beverage control ordinance, as amended.					
Art studio. A building or workshop area for artists, sculptors, photographers, or similar arts professionals, and their assistants and staff, which shall include an area open to the public for the display and sale of original works of art made on the premises. Processes utilized may not create smoke, fumes, noise, and nuisance or health hazards outside the building.	III	III	III	III	III	X
Art workshop. A building or workshop area for artists, sculptors, photographers, or similar arts professionals, and their assistants and staff, which may include an area open to the public for the display and sale of original and/or mass produced works of art made on the premises. Processes utilized may not create smoke, fumes, noise, and nuisance or health safety hazards outside the building. This does not require a retail operation.	IV	IV	IV	IV	IV	IV
Bed and breakfast inn. A residential structure, located on a legal lot (as defined in chapter 34 of this title), offering transient lodging accommodations in separate guestrooms and where meals may be provided. A bed and breakfast inn shall provide no more than 3 guestrooms and shall meet all applicable requirements of the building code and land use ordinances, as adopted by the city. A guestroom is 1 room having no kitchen facilities. (See section 16.12.116 of this title.) Bed and breakfast inn is determined to be a commercial business for the purposes of the Written Text for Padre Canyon Estates phases 1, 2, and 3 and a prohibited use in Padre Canyon Estates phases 1, 2, and 3. (See appendix A of this title.)	IV	III	III	X	III	X
Car wash. A structure withor hand operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles. A facility of this type may be able to accommodate more than 1 vehicle at the same time. This does not include, however, automated car washes where the vehicle is pulled through a tunnel car wash and dried with large, loud driers at the end.	X	IV	X	IV	X	X
Class I use. A special event or use established for a maximum period of 45 days, such event, or use being discontinued after the expiration of 45 days, and conducted in compliance with all the requirements of this title. Such use shall be allowed only after the approval of a class I use application, as established by the provisions of this title. (See chapter 14 of this title.)	I	I	I	I	I	I
Commercial daycare/preschool center. A facility, operated by a person qualified and licensed by the state of Utah, which provides children with daycare and/or preschool instruction as a commercial business and complying with all applicable state standards and licensing.	X	IV	IV	X	IV	IV Secondary

Commercial recreation (indoor). Any use, either public or private, providing amusement, pleasure, or sport, which is operated entirely within an enclosed building, including, but not limited to, tennis, bowling, skating, baseball batting cages, horse riding or similar activities but not including video game arcades. This use may include associated eating and drinking areas, retail sales areas and staff offices.	X	IV	IV	IV	IV	IV Secondary

Use	CN	C-1	RC	CLM	RMU	CPR
Commercial recreation (outdoor). An area or facility that offers entertainment or recreation outside. This use is limited to a golf driving range, baseball batting cages, riding arena, tennis facility, miniature golf, and swimming pool, and may include, as accessory uses, associated eating and drinking areas, retail sales areas and staff offices. This use specifically excludes shooting range, go-cart, motor vehicle and/or motorbike tracks, or similar activities that may create noise, dust, or other nuisances to adjoining and surrounding uses.	X	X	V	V	V	V
Community and resort commercial retail sales and services. Establishments engaged in the retail sale of goods and services. Community and resort commercial retail sales and service businesses must conduct all sales of goods and services, with all associated storage of goods and materials, within a totally enclosed building (with the exception of occasional outdoor "sidewalk" promotions), with no separate individual building to exceed 30,000 square feet in total gross building area and the total gross floor area of all buildings, on any separate, individual lot, does not exceed more than 80,000 square feet of gross building area. Community and resort commercial retail sales and services specifically excludes all sales, accessory uses, and service uses that typically display goods or services, or store goods or products in open, unenclosed areas, including, but not limited to, automotive, truck, recreational vehicle, trailer, and manufactured home sales lots, repair yards, open storage areas, and all similar outside display and storage areas of goods, materials, equipment, and vehicles. Retail sales may include light manufacturing on site which is limited to the processing, blending, and packaging, of nonhazardous ingredients in the production of food products, cosmetic products, and other similar type products associated with retail sales. Manufacturing processes shall not create noise, smoke, fumes, odors, glare, or health or safety issues outside the building where processing takes place. Operations to process products shall be conducted entirely within the building.	X	V	V	X	V	X
Convenience store. A retail establishment selling consumer products including prepackaged food and household items, having a gross building area of not more than 3,000 square feet. [For gas pumps, see automotive self-service station.]	X	V	X	X	V	V Secondary
Cultural event center. A facility which provides live theater, musical performances, short duration film festivals, and other cultural events. The facility may also provide limited use for receptions, conferences, seminars, and other similar events or gatherings. Specifically excludes all movie theaters such as Megaplex or IMAX type theaters.	X	X	V	X	V	X
Daycare center/assisted care center. A facility which provides less than 24 hour assisted care or supervision for 5 or more persons, 14 years of age and older and who are not related by blood, marriage or adoption to the owner or operator, with or without compensation for such care, and with or without a stated educational purpose.	IV	IV	IV	X	IV	X
Dwelling, condominium. An individually owned dwelling unit, the ownership of which includes an undivided interest in the land and other common areas and facilities, as provided and recorded in a property deed or other instrument, as required by Utah law, and which are typically maintained by an association of the owners. Must be located within an approved Mixed Use Overlay District.	X	X	IV Mixed Use Overlay only	X	IV See chapter 17 of this title	X
Dwelling, multiple-family. A building containing 3 or more dwelling units. Must be located within an approved Mixed Use Overlay District.	X	X	IV Mixed Use Overlay only	X	IV See chapter 17 of this title	X
Dwelling, neighborhood commercial. A maximum of 2 dwelling units allowed only on the second story above commercial. The residential floor area shall have a minimum setback on all sides from the ground floor footprint of 4 feet.	IV	X	X	X	X	X
Dwelling, single-family. A building containing 1 dwelling unit.	X	X	IV Mixed Use Overlay only	X	IV See chapter 17 of this title	X
Dwelling, two-family. A building containing 2 dwelling units.	X	X	IV Mixed Use Overlay only	X	IV See chapter 17 of this title	X
Educational facility (public or private). Public schools, colleges or universities qualified by the State of Utah Board of Regents or State of Utah Board of Education to provide academic instruction. Privately owned buildings and uses for educational or research activities that have a curriculum for technical or vocational training, kindergarten, elementary, secondary or higher education.	X	IV	IV	X	IV	IV
Hospital. A facility licensed by the State of Utah Department of Health providing clinical, temporary or emergency service of a medical, obstetrical or surgical nature to human patients.	X	V	X	X	X	X
Hotel. A building or buildings offering temporary lodging accommodations, or overnight accommodations for guests, with access through a common entrance, lobby or hallway and room reservation system to 4 or more guestrooms, and which may include additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.	X	V	V	X	V	X

Medical and dental clinic. An organization of doctors, dentists, or other healthcare professional providing physical or mental health service and medical or surgical care of the sick or injured but which does not include inpatient or overnight accommodations.	IV	IV	IV	X	IV	IV
Minor facility of a public utility. Any water, sewer, power, gas, telephone, cable television, or other utility, distribution line, or facility, which is located underground and buried beneath the surface of the ground.	II	II	II	II	II	II
Model home. A dwelling unit having all of the following characteristics: (1) The dwelling unit is constructed upon a lot in a subdivision for which a final plat has been recorded. (2) The dwelling unit is intended to be temporarily utilized as an example of the dwelling units that are proposed to be built in the same subdivision.	X	X	II	X	II	X

Use	CN	C-1	RC	CLM	RMU	CPR
Motel. A building or group of buildings containing 4 or more guestrooms, some or all of which may have a separate entrance leading directly from the outside of the building with a garage or parking space located on the lot and designed, used or intended wholly or in part for the accommodation of persons usually traveling by private automobile or motor coach and which may include additional services, such as restaurants, meeting rooms, entertainment and recreational facilities.	X	V	V	X	V	X
Neighborhood commercial retail sales and services. Establishments engaged in the retail sale of goods and services. Neighborhood commercial retail sales and service businesses must conduct all sales of goods and services, with all associated storage of goods and materials, within a totally enclosed building (with the exception of occasional outdoor "sidewalk" promotions), with no separate individual building to exceed 3,000 square feet in total gross building and the total gross floor area of all buildings, on any separate, individual lot, does not exceed more than 6,000 square feet of gross building area. Neighborhood commercial retail sales and services specifically excludes all sales, accessory uses, and service uses that typically display goods or services, or store goods or products in open, unenclosed areas, including, but not limited to, automotive, truck, recreational vehicle, trailer, and manufactured home sales lots, repair yards, open storage areas, and all similar outside display and storage areas of goods, materials, equipment, and vehicles.	IV	IV	IV	X	IV	IV Secondary
Nursing home, convalescent care center. A facility that provides 24 hour residential care to persons who are not related by blood, marriage, or adoption to the owner, operator, or manager of the facility. A nursing home or convalescent care center provides some level of skilled nursing or medical service to the residents.	V	V	V	X	V	X
Outdoor theater. A facility for outdoor performances where the audience views the production while seated outside and which may include associated restaurant, commercial retail sales areas, staff offices, production, and maintenance facilities.	X	X	V	X	V	X
Personal services. An establishment for the provision of personal services, including, but not limited to, barber or beauty shop, dry cleaners, optometrist shop, tanning salon, fitness center, or photographic studio.	IV	IV	IV	X	IV	IV Secondary
Private club. Any nonprofit corporation operating as a social club, recreational, fraternal or athletic association, or kindred association organized primarily for the benefit of its stockholders or members.	X	IV	IV	X	IV	IV Secondary
Professional offices. A building for the professions, including, but not limited to, government, physicians, dentists, lawyers, realtors, architects, engineers, artists, musicians, designers, teachers, accountants and others who, through training, are qualified to perform services of a professional nature, and where no storage or sale of merchandise exists.	IV	IV	IV	IV	IV	IV
Public uses and utilities. A use operated exclusively by a public body or quasi-public body, such use having the purpose of serving the public health, safety, or general welfare, and including streets, parks, recreational facilities, administrative and service facilities, and public utilities, and found to conform to the general plan, as adopted. Public uses and utilities do not include "major facility of a public utility", as defined herein.	IV	IV	IV	IV	IV	IV
Reception hall, reception center. A facility for the holding of events including, but not limited to, weddings, wedding receptions, community meetings, and group gatherings.	X	IV	IV	X	IV	X
Residence for persons with a disability. A residence in which more than 1 person with a disability resides; and is licensed or certified by the department of human services under title 62A, chapter 2, licensure of programs and facilities; or is licensed or certified by the department of health under title 26, chapter 21, health care facility licensing and inspection act. See definition of "disability". (See section 16.12.108 of this title.)	V	V	V	X	V	X
Resort. A specialized guest complex intended for relaxation and enjoyment, designed for occupancy of limited duration, including recreational activities such as tennis, golf, swimming, horse riding, body conditioning, hiking and similar activities intended primarily for use by guests. A resort may also include residential units of various types or commercial uses designed to serve and provide for the convenience of guests, including restaurants, gift shops, and similar uses.	X	V	V	X	V	X
Resort Hotel. A building or buildings offering temporary lodging accommodations, or overnight accommodations for guests, with a common room reservation system, 4 or more guestrooms, and which may include additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.	X	X	V	X	V	X

Use	CN	C-1	RC	CLM	RMU	CPR
Restaurant, fast food. A building or facility that sells food and beverages primarily over a counter, rather than by waitress or waiter; packages its food in wrappers, boxes or cartons regardless if the food is consumed on or off the restaurant premises; and typically provides a drive-through/drive-up facility.	X	IV	IV	X	IV	IV
Restaurant, sit down. A building or facility for the preparation, retail sale, and on site consumption of food and beverages.	IV	IV	IV	X	IV	IV
Sale, distribution, and consumption of alcoholic beverages and alcoholic products. As defined and provided by title 5, chapter 4 of this Code, Ivins City alcoholic beverage control ordinance.	As provided by title 5, chapter 4 of this Code, Ivins City alcoholic beverage control ordinance.					
Sign, awning. A sign displayed on or attached flat against the surface of an awning. (See chapter 21 of this title.)	As required and provided by chapter 21 and section 16.21.102 of this title.					
Sign, canopy. A sign attached to, or constructed in, a canopy, typically located over a fuel island. (See chapter 21 of this title.)	As allowed and provided by chapter 21 and section 16.21.102 of this title.					
Sign, freestanding monument. A sign attached to the ground or a foundation in the ground, and where there are no poles, braces, or other visible means of support other than the attachment or foundation to the ground. (See chapter 21 of this title.)	As allowed and provided by chapter 21 and section 16.21.102 of this title.					
Sign, projecting. A sign attached to a building and extending no more than 5 feet perpendicular from the building wall to which the sign is attached. (See chapter 21 of this title.)	As allowed and provided by chapter 21 and section 16.21.102 of this title.					
Sign, temporary/Class I use sign. A sign intended to be displayed for a limited period, not to exceed 45 days. (See chapter 21 of this title.)	As allowed and provided by chapter 21 and section 16.21.102 of this title.					
Sign, wall. A sign displayed upon or against the wall of a building, where the exposed face of the sign is parallel to the wall and extends not more than 12 inches horizontally from the face of the wall. (See chapter 21 of this title.)	As allowed and provided by chapter 21 and section 16.21.102 of this title.					
Sign, window. A sign attached to a window to be visible from outside of the building. (See chapter 21 of this title.)	As allowed and provided by chapter 21 and section 16.21.102 of this title.					
Storage of recreational vehicles (limited). The outside storage and parking of not more than 2 recreational vehicles, including motor homes, boats, caravans, trailers, or similar, for a period exceeding 48 hours, and owned by the property owner. (See section 16.12.111 of this title.)	II	II	II	II	II	II
Swimming pool. An artificial body of water having a depth in excess of 18 inches, designed, constructed and used for swimming, dipping or immersion purposes by men, women or children, and located on a same lot or parcel as a dwelling, or dwellings. (See section 16.12.119 of this title.)	X	X	IV	X	IV	X
Tennis court/sports court. An improved area used for the playing of tennis or other sports activities, including, but not limited to, basketball and volleyball, and located on a same lot or parcel as a dwelling, or dwellings.	X	X	IV	X	IV	IV Secondary
Wireless telecommunications site/facility. A facility used for the transmission or reception of electromagnetic or electro-optic information, including wireless telecommunications facilities such as "cellular" or "PCS" (personal communications systems) communication and paging systems. This use is not required to be located on a separate lot or to comply with the minimum lot size requirement for the district in which it is located but is required to meet the design and locational requirements, as established for such uses, as provided by this title. Telecommunications site/facility does not include radio antennas complying with the ruling of the Federal Communications Commission in "amateur radio preemption, 101 FCC 2nd 952 (1985)" or a regulation related to amateur radio service adopted under 47 CFR part 97. (See section 16.12.122 of this title.)	X	X	X	IV	X	X

EXHIBIT "D"
TO
DEVELOPMENT AGREEMENT

DEFINITIONS

Association.

"**Association**" means and refers to one or more associations of the private owners of units, lots, and parcels within the Development Property and/or the Project which will have, after the period of Developer administrative control, certain responsibilities, which may include, but not be limited to: preserving and maintaining certain common areas, facilities, and amenities which are retained and developed for the common use and benefit of all the owners; the development and enforcement of architectural and landscaping design guidelines for individual units, lots, and parcels within the Development Property and/or the Project; developing and enforcing rules and regulations for the continuing operation of the various phases, subdivisions, and/or neighborhoods within the Development Property and/or the Project; and collecting regular and special assessments, fines, and penalties from the owners in the Development Property and/or the Project. The Association(s) shall be created by the Developer as a non-profit corporation organized under the laws of the State of Utah. It is anticipated that there will be one main Association for the Project, and one or more "sub-associations" may also be created with respect to the Development Property and/or the various phases of the Development Property. The Association(s) and sub-associations are expected to be responsible for repairing, restoring, or replacing certain designated landscaping and other common, non-public improvements and facilities upon parcels within the Development Property owned or controlled by the Association(s) or sub-associations. In addition to annual, usual, and special assessments for maintenance of common, non-public improvements and facilities within the Development Property, the Association(s) and sub-associations shall have the right to levy such assessments as may be necessary from time-to-time to repair, restore, or replace any designated landscaping, or other common, non-public improvements and facilities owned or controlled by the Association(s) or sub-associations, when necessitated by the installation, maintenance, repair, or replacement of public water, sewer, power, and drainage infrastructure.

Development Area.

"**Development Area**" means and refers to that certain Development Area attached hereto as **Exhibit "B"**, which has been reviewed and approved by the City contemporaneously and in conjunction with the execution of this Agreement. Furthermore, prior to final approval of subsequent phases, subdivisions, and/or neighborhoods within the Development Area detailed supplements for each such future phase satisfying the requirements for approval of each such phase, subdivision, and/or neighborhood shall be submitted to the City for review and approval, in such order and at such time as Developer may choose it its discretion. The Parties acknowledge and agree that the actual number of units and/or lots within any one particular phase, subdivision, or neighborhood of the Development Property may vary from time to time, and that Developer may shift the number of units and/or lots from one phase of the Development Property to another so long as the total aggregate number of units does not exceed the ~~500~~450 combined units and lots approved by the City. Notwithstanding the foregoing, developer shall have the option to develop

the Property in a less intensive use, and forgo~~foregoe~~ the utilization all the entitled units at its discretion.

Declaration.

"**Declaration**" means and refers to one or more declarations of covenants, conditions, and restrictions and grant of easements for the phases, subdivisions, and other designated areas within the Development Property and/or the Project which shall be recorded in the Washington County Recorder's Office against the phases, subdivisions, and other designated areas within the Development Property and/or the Project and shall run with the land. The Declaration(s) shall set forth the rights and obligations of the Developer, the Association(s), and the individual owners in the Development Property and/or the Project, as applicable, with respect to one another, shall establish a lien for the collection of assessments, and serve other purposes common to declarations in similar projects.

Developer.

"**Developer**" shall have the meaning set forth in the recitals and this definition extends to its successors and assigns of all or any portion of the Development Property, provided such successors and assigns acquire all of the rights to the development of the Development Property which are currently held by Developer or for a particular unit, lot, parcel, or development area of the Development Property to be developed by such successor or assign (each successor or assign shall be a "**Secondary Developer**").

Development Property.

"**Development Property**" shall have the meaning set forth above and that is more specifically defined in the Legal Description and generally depicted by the Development Area;

Off-Site Improvements.

"**Off-Site Improvements**" means and refers to all sewer, storm, and culinary water, natural gas, underground utility systems, streets, curbs and gutters, sidewalks, traffic signals, or other improvements which may be required to be developed by Developer, if any, outside of the perimeter boundaries of the Development Property, as a condition of approval and permitting of the Development Property or distinct phases or sub-parts thereof, as set forth in this Agreement.

On-Site Improvements.

"**On-Site Improvements**" means and refers to all sewer, storm, and culinary water, natural gas, underground utility systems, streets, streetscapes, curbs and gutters, sidewalks, parks, trails, or other improvements which are required to be developed within the perimeter boundaries of the Development Property, but outside the boundaries of any distinctively defined Planning Areas, as a condition of approval and permitting of the Development Property or distinct phases or sub-parts thereof, as set forth in this Agreement.

Open Space.

"**Open Space**" means, collectively, the Improvable Open Space and Unimprovable Open Space, as set forth in Section 7.N below as well as those areas of Open Space described and identified

within any applicable subdivision plats.

Project.

"**Project**" means and refers to Red Mountain Resort as it presently exists and is anticipated to be renovated and developed pursuant to the terms of this Agreement and the Development Area incorporated herein and other agreements between Developer and its related affiliates, subsidiaries, and other parties. The Project is expected to be developed and have uses consistent with various and mixed types of residential, commercial, retail, hotel, resort, and other uses and product types. The Developer, in its sole discretion, may change the name of the Project, provided that all subdivision plats within the Project comply with the naming requirements of Section 7.E. herein below.

Planning Area.

"**Planning Area**" means and refers to any one of the various distinct and individual phases, subdivisions, and/or neighborhoods within the Development Property and/or the Project. Each Planning Area may consist of subphases and may be developed in the order Developer chooses.

Secondary On-Site Improvements.

"**Secondary On-Site Improvements**" means and refers to all sewer, storm, and culinary water, natural gas, underground utility systems, streets, curbs and gutters, sidewalks, traffic signals, parks, trails, or other improvements which are required to be developed within the perimeter boundaries of each of the distinctive Planning Areas within the Development Property and/or the Project, as a condition of approval and permitting of development of individual Planning Areas or sub- parts thereof, as set forth in this Agreement.

Secondary Phase.

"**Secondary Phase**" means and refers to a portion of any given Planning Area developed in multiple phases.

~~Traffic Impact Study.~~

~~"**Traffic Impact Study**" means and refers to the Traffic Impact Study completed on behalf of Developer at its discretion and accepted by City, as the same may be updated, supplemented, amended, or replaced as provided herein.~~

Unimproved Open Space/No Build Areas.

"**Unimproved Open Space**" and/or "**No Build Areas**" means and refers to any applicable parcels of land designated in the plans for future phases as such, which Developer has agreed to designate for the purpose of preservation for public access and use of the same, because of the unique and natural features of such parcels, including but not limited to natural or existing hiking and bicycling trails, canyons, and critical hillsides and riparian areas. Developer may donate Unimproved Open Space and/or No Build Areas in conjunction with the initial records of survey or plats approved by the City. The Unimproved Open Space is more specifically defined and described in Section 7.N. of this Agreement.