

## DEVELOPMENT AGREEMENT

**THIS DEVELOPMENT AGREEMENT** (herein the “Agreement”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between T&M Nixon Family Limited Partnership, a Utah limited partnership (herein “Developer”), for the land to be included in or affected by the project located at approximately 3750 South 6770 West in West Valley City, Utah, and West Valley City, a municipal corporation and political subdivision of the State of Utah (herein the “City”).

### RECITALS

**WHEREAS**, Developer owns approximately 5.04 acres of real property located at 3750 South 6770 West in West Valley City, Utah, as described in Exhibit “A” (the “Property”), on which Developer proposes to establish minimum standards for a new housing development (the “Project”); and

**WHEREAS**, Developer has voluntarily represented to the West Valley City Council that it will enter into this binding Development Agreement (the “Agreement”); and

**WHEREAS**, Developer is willing to restrict the property in a manner that is in harmony with the objectives of the City’s master plan and long-range development objectives, and which addresses the more specific development issues set forth in this Agreement, and is willing to abide by the terms of this Agreement; and

**WHEREAS**, the City, acting pursuant to its authority under the Utah Municipal Land Use, Development, and Management Act, U.C.A. §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 proposed Project, and, in the exercise of its legislative discretion, has elected to approve this Agreement;

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

1. **Affected Property**. The legal description of the Property contained within the Project boundaries is attached as Exhibit “A.” No additional property may be added to or removed from this description for the purposes of this Agreement except by written amendment to this Agreement executed and approved by Developer and the City.

2. **Reserved Legislative Powers.** Nothing in this Agreement shall limit the future exercise of police power by the City in enacting 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 shall not restrict Developer's vested rights to develop the Project as provided herein. This Agreement is not intended to and does not bind the West Valley City Council in the independent exercise of its legislative discretion with respect to such zoning regulations.

3. **Compliance with City Design and Construction Standards.** Developer acknowledges and agrees that 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 Project, including the payment of fees, and compliance with the City's design and construction standards.

4. **Specific Design Conditions.** The Project shall be developed and constructed as set forth in the specific design conditions set forth in Exhibits B, C, D, E, F, and G. The Project shall also comply with all requirements set forth in the minutes of the Planning Commission and City Council hearings on this matter.

5. **Agreement to Run With the Land.** This Agreement shall be recorded in the Office of the Salt Lake County Recorder, shall be deemed to run with the Property, and shall encumber the same; and shall be binding on and inure to the benefit of all successors and assigns of Developer in the ownership or development of any portion of the Property. This Agreement supersedes any and all development agreements that have been executed concerning the Property.

6. **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 responsibilities arising hereunder. This restriction on assignment is not intended to prohibit or impede the sale by Developer.

7. **No Joint Venture, Partnership or Third Party Rights.** This Agreement does not create any joint venture, partnership, undertaking or business arrangement between the parties hereto nor any rights or benefits to third parties, except as expressly provided herein.

8. **Integration, Modification, and Entire Agreement.** This Agreement contains 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 hereto. Exhibits A, B, C, D, E, F, and G are hereby incorporated into this Agreement.

9. **Notices.** Any notices, requests, or demands required or desired to be given hereunder shall be in writing and should be delivered personally to the party for whom intended, or, if mailed by certified mail, return receipt requested, postage prepaid to the parties as follows:

TO DEVELOPER:	T&M Nixon Family Limited Partnership Attn: Tom Nixon 1245 E. Pine Ridge Circle Alpine, UT 84004
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TO CITY:	West Valley City Wayne Pyle, City Manager 3600 Constitution Blvd. West Valley City, Utah 84119
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Any party may change its address by giving written notice to the other party in accordance with the provisions of this section.

10. **Choice of Law and Venue.** Any dispute regarding this Agreement shall be heard and settled under the laws of the State of Utah. Any Utah litigation regarding this Agreement shall be filed in the Third District Court in Salt Lake City, Utah. Any federal litigation regarding this Agreement shall be filed in the United States District Court for the District of Utah in Salt Lake City, Utah.

11. **Court Costs.** In the event of any litigation between the parties arising out of or related to this Agreement, the prevailing party shall be entitled to an award of reasonable court costs, including reasonable attorney's fees.

12. **Severability.** In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall remain valid and binding upon the parties. One or more waivers of any term, condition, or other provision of this Agreement by either party shall not be construed as a waiver of a subsequent breach of the same or any other provision.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.



## EXHIBIT B

### Development Standards

1. The minimum house size for up to 12 ramblers shall be 1,550 square feet. The minimum house size for all other ramblers shall be 1,600 square feet. The minimum house size for all other home plans shall be 2,100 square feet. If soil conditions allow, all homes shall have basements.
2. At least 60% of all homes shall have a 3 car garage. 3 car garages shall be offered as an option on all homes.
3. All homes shall include brick or stone on the front elevation.
4. All homes shall have a minimum 6-inch fascia.
5. The front windows and front doors on all homes shall include pop-outs with subtle color variations.
6. Architectural shingles shall be used on the roofs of all homes.
7. The minimum front yard setback shall be 25 feet.
8. At least 50% of all homes shall have a front porch with no less than 50 sq. ft. of usable, unobstructed space.
9. Covered porches may project into the front setback a distance of 5 feet provided substantial columns (greater than 4" x 4" posts) are used.
10. The rear setback for homes with decks on the back of the home may be reduced to 15'.
11. The side yard setback opposite the garage may be reduced to 6' for homes with a 3 car garage. Side yards adjacent to a street shall be 20'.
12. The homebuilder shall install street trees as part of the landscaping package. Street trees shall be provided as follows: 2 trees for a standard lot, 1 tree for a cul-de-sac lot and 4 trees for a corner lot. Street tree variety shall be determined by the City during the subdivision approval process.
13. The homebuilder shall install front yard landscaping and irrigation for all homes. Front yard landscaping and irrigation shall include the necessary irrigation materials, sod, at least 5, 2 gallon plants and 1 tree planted in the front yard. The homebuilder shall also provide a \$1,000 landscape voucher to each homeowner for side and rear yard landscaping.
14. Only the homes shown in Exhibit C shall be constructed in the development. Additional home plans may be used if they are first reviewed and approved by City staff. All rambler plans shall achieve at least 350 points and all multi-level plans shall achieve at least 420 points from Table 1 of Section 7-14-105(3)(1) of the West Valley City Zoning Ordinance. With the exception of one lot in the far northeast corner, the minimum width for all buildings (except detached accessory buildings) shall be 44'. Decorative garage hardware shall be added to the architectural features checklist under Section 7 – Additional Design Selections and shall count as 5 points. Stucco may be substituted for fiber cement siding if at least one of the following standards is met:
  - a. The sides and rear of the home employ at least two of the following design treatments:
    - i. A change of color in the same material
    - ii. A change of materials

- iii. A change of texture (examples include horizontal and vertical siding or horizontal and shake siding)
  - b. At least one side or the rear of the home employs at least two of the design treatments from item a above and includes:
    - i. Two or more gables
    - ii. Windows
    - iii. Pop-out features that provide relief
- 15. The minimum lot width for the development shall be 80 feet.
- 16. The minimum lot area for the development shall be 8,000 square feet.
- 17. If necessary, the City will grant easements to the Developer on or across the park space for utilities as required by West Valley City's Engineering Division.
- 18. The maximum density for the development shall be based on the concept plan in Exhibit D.
- 19. Address plates shall be provided for each home. The same style of address plate shall be used throughout the development. The style of address plate shall be consistent with Exhibit F.
- 20. Residential street lights shall be installed throughout the development in accordance with Public Works standards; however, the style of street light installed shall be consistent with Exhibit G.