

DEVELOPMENT FEE AND SERVICES AGREEMENT

This Development Fee and Services (“**Agreement**”) is made and entered into on the date of execution below (“**Contract Date**”), by and between the **TAYLOR WEST WEBER PARK DISTRICT**, formerly known as the Western Weber Park District, a political subdivision within the state of Utah (“**District**”), and **LYNC CONSTRUCTION**, a Utah corporation (“**Developer**”). District and Developer are referred to herein as the “**Parties**” and sometimes individually as a “**Party**.”

RECITALS

- A. The District owns Parcel No. 157980029, which is located on 1800 South within the District’s boundaries and within unincorporated Weber County (“**Park Property**”).
- B. The District wishes to construct and operate a park on the Park Property for the enjoyment of the surrounding communities.
- C. The Developer owns a parcel located within the District at 3800 W. 1800 S, Ogden, UT 84401 (“**Development Property**”); upon which Developer wishes to develop a residential subdivision with 116 lots.
- D. The Developer has entered into a development agreement with Weber County in order to obtain a rezone of the Development Property.
- E. In the development agreement with Weber County, Developer has agreed to obtain the District’s approval of the rezone of the Development Property.
- F. The Developer is willing to pay to the District a per-lot fee, or provide a public benefit in lieu of the fee, in exchange for the District’s approval of the rezone.
- G. The District generally does not provide approvals for rezone applications submitted to Weber County, but to the extent that a development agreement between the County and Developer requires District approval of the rezone, the District is willing to negotiate the terms of its approval with Developer.

In consideration for the terms herein, District shall approve the Developer’s proposed rezone of the Development Property, and Developer shall pay District a per-lot fee, or provide to the District development services of equal value in lieu of the fee, pursuant to the following terms:

ARTICLE I CONSIDERATION

- A. District shall support and approve Developer’s proposed rezone for the Development Property to the extent that such support and approval is required to satisfy Developer’s development agreement with Weber County. District shall timely prepare and provide the necessary documentation to communicate its support and approval of the rezone so that the relevant terms of the development agreement are satisfied.
- B. Developer shall pay to the District \$2,000 (two thousand dollars) for each lot that Weber County approves for development in the Developer’s development agreement (the “**Development Fee**”). Developer is currently approved for 116 lots, and therefore the Development Fee equals \$232,000. If Weber County otherwise approves more or fewer than 116 lots, then the Development Fee shall be adjusted to equal \$2,000 multiplied by the final number of lots approved for residential development. Developer shall pay the Development Fee to the District no later than 120 days after the date upon which Developer’s development agreement with Weber County is fully executed.
- C. Developer may, instead of paying the Development Fee, provide design, engineering, or construction services to the District for the development of the Park Property (“**In-lieu Services**”). The District has sole discretion to accept or deny In-lieu Services from the Developer. If the District accepts In-lieu Services from the Developer, then the Development Fee shall be reduced by the amount equal to the value of the services provided. The Development Fee shall not be affected if the District declines any In-lieu Services. The value of In-lieu Services shall be calculated in accordance with the Developer’s typical market rate for such services. Developer shall provide the District with a copy of its market rates before engaging in In-lieu Services.
- D. The District hereby accepts the In-lieu Services described and valued in Exhibit A of this Agreement. The Fee is hereby reduced by the total calculated value of the In-lieu Services as shown in Exhibit A.
- E. Additional In-lieu Services other than those defined in Exhibit A shall be defined and

agreed upon through written quotes or similar written documentation. Quotes, etc., must first be approved by the District in an open meeting before Developer may engage in the associated In-lieu Services.

- F.** The District is not required to pay for any In-lieu Services. If Developer performs or provides any services to the District that exceed any remaining Development Fee amount, Developer shall solely bear the cost of such services. Notwithstanding this, the Parties may execute a separate agreement for services beyond those contemplated by this Agreement.

ARTICLE II

TERM AND TERMINATION

- A. Term.** The term of this agreement is one year. The term shall begin upon the day of execution.
- B. Termination.** This agreement may be terminated before the term expires upon mutual written and signed consent of both parties. Developer shall pay District any outstanding Development Fee within 60 days of early termination.

ARTICLE III

MISCELLANEOUS


- A. Insurance.** If Developer provides In-Lieu Services to the District pursuant to this Agreement, then Developer shall, at its own cost, secure and maintain during the term of this Agreement, including all renewal and extension terms, the following minimum insurance coverage:
- Commercial General Liability (CGL) insurance with contractual liability coverage to cover Developer's obligations under the Indemnification section of the Agreement, in the minimum amount of \$1,000,000 per occurrence with a \$2,000,000 general policy aggregate. The policy(ies) shall protect Developer, any subcontractor, and the District under the contractual liability coverage from claims for damages for personal injury, including accidental death, and from claims for property damage that may arise from Developer's operations under the Agreement, whether performed by Developer itself, any subcontractor, or anyone directly or indirectly employed or engaged by either of them. The policy(ies) shall be primary and noncontributory to any other policy(ies) or coverage available to the District whether such coverage be primary, contributing, or excess. If the CGL coverage is provided on a claims-made basis, Developer shall maintain such policy(ies) of insurance for no less than four years after termination of this Agreement.
 - If not included in the CGL insurance required under this Agreement, Products and Completed Operations Liability Insurance in the minimum amount of \$1,000,000 per occurrence with a \$2,000,000 general aggregate.
 - Professional Liability Insurance in the minimum amount of \$1,000,000 per occurrence and \$2,000,000 general aggregate.
- B. Indemnification.** Developer shall indemnify and hold harmless District and its agents and employees from and against any and all claims, damages, losses, and costs, whether direct, indirect, or consequential, arising out of or resulting from Developer's negligent acts or omissions related to this agreement. Developer's negligent acts or omissions shall also include negligent acts or omissions by any subDeveloper, any person or organization directly or indirectly employed by Developer or any subDeveloper to perform or furnish any of the In-Lieu Services, or anyone for whose acts any of them may be liable. Developer's obligation to indemnify District is not limited or waived in any way by Developer's insurance coverage limits. Developer will be required to indemnify District to the fullest extent allowed by law, regardless of whether District has sufficient insurance to cover this obligation.
- C. Work-Product Ownership.** All materials developed, prepared, completed, or acquired by Developer during the performance of the In-Lieu Services specified by this agreement, including all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports, in both electronic and non-electronic format, shall become the property of District and shall be delivered to District during or at the end of the agreement term. All such materials shall not be released by Developer at any time without the prior written approval of the District. It is understood and agreed that such materials are to be prepared exclusively for work required under this agreement, and that their use on other projects may not be appropriate. Therefore, District agrees that its use of said materials on other projects shall be at its own risk unless prior thereto Developer has given its written approval for such use.
- D. Document Retention.** Developer agrees to retain all books, records, accounts, statements,

reports, files, other records, and back-up documentation relevant to In-Lieu Services for three years after the services are completed, or longer if required by an audit, a legal dispute, or other circumstances. Developer shall provide all such records to District upon request, and shall also provide them to all government officials who are authorized to receive or inspect the records. Developer acknowledges that District is a government entity subject to specific laws governing the retention and disclosure of records that come into its possession. Developer's records related to this agreement shall be deemed to be under District's ownership for purposes of public records laws. Developer shall cooperate with District in District's efforts to comply with those laws.

- E. Amendment.** This Agreement may be amended upon mutual written and signed consent of both Parties.
- F. Governing Law.** The provisions of this Agreement shall be governed by and construed in accordance with the laws of the State of Utah.
- G. Severability.** If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the extent permitted by applicable law, unless the invalidation of the term materially alters this Agreement. If the invalidation of the term materially alters the Agreement, then the Parties shall negotiate in good faith to modify the Agreement to match, as closely as possible, the original intent of the Parties.
- H. Whole Agreement.** This Agreement sets forth the entire understanding of the Parties with respect to the subject matter hereof, and all prior negotiations, understandings, representations, inducements, and agreements, whether oral or written and whether made by a party hereto or by anyone acting on behalf of a Party, shall be deemed to be merged in this Agreement and shall be of no further force or effect.
- I. Effect of Non-Enforcement.** The failure of either Party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as subsequently waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.
- J. Other Services.** This agreement does not prevent District from contracting with other service providers to obtain similar or identical services. District may do so for any reason.

SIGNATURES

FOR: TAYLOR WEST WEBER PARK DISTRICT




Roger Heslop, Chair

ATTEST



Katie Toone, Clerk

FOR: LYNC CONSTRUCTION



Name/Title: Pat Burns manager

Exhibit A

In-Lieu Services Completed by Developer on behalf of the District



Reeve & Associates, Inc.
5160 S. 1500 W.
RIVERDALE, UT 84405
801-621-3100
www.reeve.co

INVOICE

Invoice Date: 3/29/23
Due Date: 3/29/23
Total Amount: \$3,877.50
Number: 51340
Terms:
Project: 6298-25 Taylor West Weber Park

1407 N Mountain Road
1657 S 4700 W
Ogden, UT 84404
United States

[Pay Invoice](#)

Invoice Details

Description	Quantity	Rate	Amount
CONCEPTUAL PARK DESIGN	1.00	\$3,877.50	\$3,877.50
TOTAL AMOUNT DUE			\$3,877.50

Payment as per agreed contract is due upon receipt of billing Invoice. After 30 days interest accrues at 1 1/2% per month (18% per annum). After 60 days finance charges and collection costs, included attorney's fees will be assessed.



Reeve & Associates, Inc.
5160 S. 1500 W.
RIVERDALE, UT 84405
801-621-3100
www.reeve.co

INVOICE

Invoice Date: 4/19/23
Due Date: 4/19/23
Total Amount: \$330.00
Number: 51437
Terms:
Project: 6298-25 Taylor West Weber Park

1407 N Mountain Road
1657 S 4700 W
Ogden, UT 84404
United States

[Pay Invoice](#)

Invoice Details

Description	Quantity	Rate	Amount
LANDSCAPE ARCHITECT ATTEND TAYLOR PARK COMMITTEE MEETING - 3/1	2.00	\$165.00	\$330.00
TOTAL AMOUNT DUE			\$330.00

Payment as per agreed contract is due upon receipt of billing Invoice. After 30 days interest accrues at 1 1/2% per month (18% per annum). After 60 days finance charges and collection costs, included attorney's fees will be assessed.



Reeve & Associates, Inc.
5160 S. 1500 W.
RIVERDALE, UT 84405
801-621-3100
www.reeve.co

INVOICE

Invoice Date: 5/22/23
Due Date: 5/22/23
Total Amount: \$2,027.50
Number: 51655
Terms:
Project: 6298-25 Taylor West Weber Park

1407 N Mountain Road
1657 S 4700 W
Ogden, UT 84404
United States

[Pay Invoice](#)

Invoice Details

Description		Quantity	Rate	Amount
LANDSCAPE ARCHITECT	UPDATE TO PARK DESIGN PER CLIENT / DISTRICT DIRECTION	12.00	\$165.00	\$1,980.00
PROJECT ASSISTANT	PROJECT COORDINATION WITH CLIENT	0.50	\$95.00	\$47.50
TOTAL AMOUNT DUE				\$2,027.50

Payment as per agreed contract is due upon receipt of billing Invoice. After 30 days interest accrues at 1 1/2% per month (18% per annum). After 60 days finance charges and collection costs, included attorney's fees will be assessed.