

When Recorded Return to:  
Weber County  
2830 Washington Blvd  
Ogden, UT 84401



\*W3309479\*

**DEVELOPMENT AGREEMENT FOR  
EDEN CROSSING  
(FORM-BASED ZONE)**

THIS DEVELOPMENT AGREEMENT FOR EDEN CROSSING (“**Agreement**”) is made and entered as of the last date referenced in the Parties’ signatures (“**Effective Date**”) by and between Weber County, a political subdivision of the State of Utah (“**County**”), and Eden Crossing, LLC (“**Master Developer**”). The County and Master Developer are sometimes collectively referred to in this Agreement as the “**Parties**.”

**RECITALS**

A. Master Developer is the owner of approximately 20 acres of real property (“**Property**”) located at approximately 5204 East, HWY 166, within the unincorporated boundaries of the County. The Property is more fully described in Exhibit A and mapped in Exhibit B.

B. Master Developer proposes to develop upon the Property a mixed use, master planned development project known as Eden Crossing (“**Project**”).

C. On December 5, 2023, the Weber County Commission rezoned the Property to the Form-Based (FB) Zone, which establishes, among other things, a receiving zone for density transfers. The rezoning was expressly subject to the Parties entering into a Development Agreement addressing several items. Upon execution by all Parties, this Agreement fulfils that condition.

D. Master Developer desires to design and construct the Project in a manner that is in harmony with, and is intended to promote, the long range policies, goals, and objectives of the 2016 Ogden Valley General Plan and the development regulations contained within the Weber County Land Use Code, in order to receive the benefits of vesting for certain uses and zoning designations under the terms of this Agreement, as more fully set forth below.

E. Master Developer and the County desire that the Property is developed in a unified and consistent fashion pursuant to memorializing a relationship between them vis-a-vis certain transactions, entitlements, dedications, and other requirements that are necessary for the Project.

F. The parties desire to enter into this Agreement to specify the rights and responsibilities of the Master Developer to develop the Project and the rights and responsibilities

of the County to allow and regulate such development pursuant to the requirements of the Agreement.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and Master Developer hereby agree to the following:

1. **Definitions.** As used in this Agreement, the Capitalized words shall have the meanings assigned in Appendix A hereto unless otherwise assigned herein.
2. **Effect of this Agreement.** This Agreement shall take effect as soon as all of the following have occurred: (1) the County has adopted an ordinance approving the rezone to which this Agreement is dependent, (2) the Parties have signed this Agreement, and (3) this Agreement has been recorded against the Property at the Weber County Recorder's Office. If these three actions have not occurred within two years following the Effective Date, this Agreement shall be voidable by either Party.
3. **Development of the Project and Application of Development Requirements.** Development of the Project shall be in accordance with the County Laws in effect as of the Effective Date, and this Agreement and its Exhibits. In the event of a conflict between the County's Laws and this Agreement, the more specific provisions of the Agreement and its Exhibits shall control. In the event of a conflict between the Exhibits of this Agreement and the main body of this Agreement, the main body shall control.
4. **Zoning and Vested Rights.**
  - 4.1. **Vested Rights.** Master Developer shall have the vested right to develop and construct the Project on the Property in accordance with the Form-Based (FB) Zone and the Intended Uses, Development Standards and other matters specifically addressed in this Agreement, subject to compliance with the terms and conditions of this Agreement and other applicable County Laws in effect as of the Effective Date. The Parties intend that the rights granted to Master Developer under this Agreement are contractual and also those rights that exist under statute, common law and at equity.
  - 4.2. **Exceptions to Vested Rights.** The Parties understand and agree that the Project will be required to comply with future changes to County Laws that do not limit or interfere with the vested rights granted pursuant to the terms of this Agreement. The following are examples for illustrative purposes of a non-exhaustive list of the type of future laws that may be enacted by the County that would be applicable to the Project:
    - 4.2.1. Future laws that Master Developer agrees in writing to the application thereof to the Project;
    - 4.2.2. Future laws which are generally applicable to all properties in the County and which are required to comply with State and Federal laws and regulations affecting the Project;

- 4.2.3. Future laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare;
- 4.2.4. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the County to all properties, applications, persons and entities similarly situated;
- 4.2.5. Changes to the amounts of fees for the processing of Development Applications that are generally applicable to all development within the County (or a portion of the County as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law; and
- 4.2.6. Impact Fees or modifications thereto which are lawfully adopted, imposed and collected.

4.3. **Transfer of Development Rights.** The Parties agree that the base residential density of the Property is 6 Residential Development Rights. Residential Development Rights shall be governed as follows:

- 4.3.1. Master Developer currently owns 180 Residential Development Rights obtained from the Legacy Mountain Estates and the Osprey Ranch subdivision projects that Master Developer may assign to and construct upon the Property as part of the Project in compliance with this Agreement and applicable laws.
  - 4.3.1.1. In order to realize each of these Residential Development Rights, Master Developer shall cause documents to be recorded against all property within the bounds of those subdivisions that provides notice that no additional lots may be platted within each subdivision. County agrees to use the base density calculation of the entire legal description of the subdivisions as long as Developer has them successfully encumbered in a manner acceptable to the County. The recordation shall be in a form acceptable to the County and written in a manner that gives the County the authority to enforce the restriction.
- 4.3.2. County agrees to allow Master Developer to transfer 350 Residential Development Rights to the Project. Additional transfer of Residential Development Rights to the Project is subject to County approval.
- 4.3.3. Master Developer has the right to acquire additional Residential Development Rights and assign and construct them to and on the Property, provided their

acquisition and construction is in compliance with this Agreement and applicable laws.

4.3.4. Prior to submitting an application for development, Master Developer shall ensure the appropriate number of Residential Development Rights are assigned to the lot or parcel to be developed. All transfers shall be memorialized by covenant as specified in County Laws. Regardless of the number of Residential Development Rights transferred, at no time shall a Residential Development Right be developed on a lot or parcel unless in compliance with this Agreement and those County Laws that govern Transferable Development Rights.

4.3.5. Nothing in this Section shall prohibit Master Developer from developing non-residential uses, as otherwise allowed in the applicable zones.

4.4. **Reserved Legislative Powers.** Master Developer acknowledges that the County is restricted in its authority to limit its police powers by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the County all of its police power that cannot be so limited. Notwithstanding the retained power of the County to enact such legislation under its police powers, any such legislation shall only be applied to modify the vested rights of Master Developer as referenced herein under the terms of this Agreement based upon policies, facts and circumstances meeting the compelling, countervailing public interest exception to the vested rights doctrine in the State of Utah as codified in Utah Code §17-27a-508. Any such proposed change affecting the vested rights of the Project shall be of general application to all development activity in the County; and unless in good faith the County declares an emergency, Master Developer shall be entitled to prior written notice and an opportunity to be heard with respect to the proposed change and its applicability to the Project under the compelling, countervailing public interest exception to the vested rights doctrine.

4.5. **Intended Uses.** The Intended Uses permitted in the Project include all uses allowed in the Form-Based (FB) Zone.

**4.6. Term of Agreement.**

4.6.1. Except as more specifically provided in this Agreement, and unless terminated earlier by written amendment between the parties, the term of this Agreement shall be until December 31, 2038, otherwise known herein as the “**Initial Term**”, or until the use is abandoned as governed by County Laws, whichever occurs first. In the case of abandonment, this Agreement shall terminate on the date abandonment has been determined.

4.6.1.1. Following the Initial Term, the term of this Agreement shall be automatically extended in five year increments, otherwise known herein as an Extension Term, as long as County has not first notified Master Developer, in writing, of its intent to not renew this Agreement, and as long as no uncured default exists. The County shall notify Master Developer of its intent to not

renew this Agreement at least one year in advance of the Initial Term's expiration date or any Extension Term's expiration date. If the County has not provided written notification of its intent to not renew the Agreement at least one year in advance of an expiration date, then the Agreement shall automatically be deemed renewed at the end of the foregoing term.

4.6.1.2. In the event this Agreement expires or is terminated, the rights and responsibilities herein related to establishing new development on the Property or establishing new uses on the Property, as authorized by this Agreement, shall terminate. Existing development and uses lawfully established under this Agreement prior to termination shall be deemed nonconforming rights, as governed by County Laws and the Act.

4.6.2. Term of Agreement Related to Ongoing Performance Responsibilities. The term of this Agreement as it relates to Master Developer's ongoing operations, performance, or maintenance responsibilities shall not terminate or expire unless authorized in writing by County.

## **5. Annexation or Incorporation.**

5.1. **Annexation.** If a city or district attempts to annex the Property, Master Developer, on behalf of itself and any successive property owner within the Project, hereby waives the right to protest the annexation, and agrees that any filed protest is void, and agrees to support the annexation unless County agrees, in writing, with and to the protest. If more than one municipality or district is available into which the Project can be annexed, Master Developer has the right to choose which municipality or district the Project will join.

5.2. **Incorporation.** If citizens elect to incorporate the Property into a municipality, Master Developer may elect, to the full extent allowed by law, to be excluded from the incorporation.

## **6. Public Finance.**

6.1. **Utilization of Public Finance.** The Parties agree to work together in good faith to create mutual-gain public finance opportunities that will help fund public improvements associated with the Project. County agrees to participate in good faith in efforts to allow Master Developer to use a portion of potential new tax revenue generated by the project to assist with the funding of public improvements through tax increment financing. That portion, if agreed upon, shall be determined by an agreement separate from this Agreement, involving other entities having jurisdiction. If deemed mutually beneficial by both Parties, County further agrees to support or, if applicable, facilitate the creation of the requisite taxing entities necessary to utilize tax increment financing and their associated bonds.

6.2. **Public Infrastructure District.** The Parties agree and acknowledge that the Master Developer shall be entitled to seek the creation of one or more Public Infrastructure

Districts permitted pursuant to Utah statutes, particularly Title 17D, Chapter 4, the Public Infrastructure District Act (the “PID Act”), and County policy, in order to implement and facilitate the financing and construction of public infrastructure for the Property.

6.2.1. Subject to the provisions of the PID Act, the County and Master Developer agree to continuing cooperation in connection with the formation and operation of a Public Infrastructure District in order to accommodate development circumstances, to fund, construct and/or provide public facilities and services set forth in this Development Agreement or otherwise required in connection with the development of the Project.

6.2.2. The County agrees that any obligation set forth in this Development Agreement for the financing and construction of public improvements which are required to serve the Property may be undertaken, performed, and completed by a Public Infrastructure District. Doing so is subject to the requirements of the PID Act and separate approval of the County consistent therewith.

6.2.3. A Public Infrastructure District created for the Property, or any portion thereof, shall not and does not create financial liability for the County.

6.2.4. Approval of this agreement does not constitute the approval of a PID.

6.3. **Special Assessment Area.** If the County determines that the benefits of Public Finance are not adequately absorbing the detrimental effects of the Project as it relates to public infrastructure, and if Master Developer is not able or willing to compensate for those detrimental effects, and if County is unable to compel Master Developer to compensate for those detrimental effects, the Master Developer hereby agrees to not protest or in any other way interrupt the formation of a special assessment area to generate the revenue required to correct the detrimental effects.

## 7. **Participation and Reimbursement.**

7.1. **Fair Treatment.** County agrees to work with Master Developer to identify and implement reasonable methods to ensure that the developers of other projects that will benefit from the Public Infrastructure provided by Master Developer pay their proportionate share of the Public Infrastructure, pay an equitable tax comparable to the taxes applied to the Project, be included in any Special Assessment Area if created, and provide other equitable measures so as not to unfairly limit marketability of ownership in the Project.

7.2. **Opting Into Tax Entities/Areas.** If any other development that seeks a rezone to the FB Zone can and will access or connect to the Public Infrastructure that Master Developer has installed or is obligated to install, County agrees to require that developer to opt their property into the same taxing entities or special assessment area(s) applicable to the Project at the time as a condition of rezoning the property to the FB Zone.

7.3. **Reimbursement for Oversizing.** To the extent that Master Developer is required by County to construct improvements of any kind within or outside of the Project that are

properly classified as “system improvements” pursuant to the Utah Impact Fees Act, including but not limited to oversizing of facilities, Developer and County shall enter into such reimbursement agreements as are necessary for Developer to be reimbursed for the costs associated with constructing such improvements, in accordance with the reimbursement provisions in Section 10.1.4.3 below.

## **8. Approval Processes.**

- 8.1. **Phasing.** The County acknowledges that Master Developer, assignees of Master Developer, and/or Subdevelopers who have purchased Parcels of the Property may submit multiple applications from time to time to develop and/or construct portions of the Project in phases. Allowance for phasing is subject to each Phase providing for the extension or improvements of the public road system; extension of internal circulation, including cross-access easements; extension of infrastructure and utilities through the Project as approved by the County in compliance with the terms of this Agreement; and other applicable provisions of the County Laws.
- 8.2. **Processing Under County Laws.** Approval processes for Development Applications shall be as provided in the County Laws except as otherwise provided in this Agreement. Development Applications shall be approved by the County if they comply with the County Laws and conform to this Agreement.
- 8.3. **County’s Cooperation.** The County shall cooperate reasonably in promptly and fairly processing Development Applications.
- 8.4. **Acceptance of Certifications.** Any Development Application requiring the signature, endorsement, or certification and/or stamping by a person holding a license or professional certification required by the State of Utah in a particular discipline shall be so signed, endorsed, certified or stamped signifying that the contents of the Development Application comply with the applicable regulatory standards of the County. The Development Application shall thus generally only be reviewed by the County to confirm compliance with this Agreement and the County Laws. It is not the intent of this Section to preclude the normal process of review by the County, such as the Planning Department, County Engineer, County Attorney, County Surveyor, etc., "redlining" and commenting on proposed designs or specifications in the Development Application. Generally, the County should endeavor to make all of its redlines and comments at the time of the first review of the Development Application unless any new information or changes to the Development Application become known that raise new issues that need to be addressed.
- 8.5. **Expert Review.** If the County, notwithstanding such a certification by Applicant's experts, subjects the Development Application to a review by County Consultants then payment of the reasonable and actual costs of the County Consultants' review shall be the responsibility of Applicant.
- 8.6. **Denial of a Development Application.**

- 8.6.1. If the County staff intends to deny or recommend Denial of a Development Application, the County staff shall provide a written explanation advising the Applicant of the reasons for recommending Denial, including specifying the reasons the County staff believes that the Development Application is not consistent with this Agreement, the zone, the 2016 Ogden Valley General Plan, and/or the County Laws.
- 8.6.2. The County and Applicant shall meet within thirty business days of any recommendation for Denial by the County staff to resolve the issues specified in the recommendation for Denial of a Development Application.
- 8.6.3. If the County's Denial of a Development Application is based on the Denial of the Development Application by a Non-County Agency, any such Denial may be appealed by Master Developer through the appropriate procedures for such a decision as provided in the Code.

## **9. Improvements.**

- 9.1. **Approval of Project Infrastructure.** Any Development Application for a Subdivision or a Design Review shall include a plan for constructing the Project Infrastructure and shall demonstrate that the proposed Project Infrastructure is compatible with the overall development of the Project at Buildout.
  - 9.2. **Review by County.** The County shall promptly review the proposed Project Infrastructure to determine its compatibility with the overall development of the Project at Buildout in accordance with applicable County Laws and this Agreement.
  - 9.3. **Resolution of Disputes.** If the County determines that the proposed Project Infrastructure is not compatible with the overall development of the Project at Buildout in accordance with applicable County Laws and this Agreement, then any such dispute shall be subject to the meet and confer provisions herein.
10. **Project Infrastructure.** Project Infrastructure includes but is not limited to the following items. Unless otherwise specified, Project Infrastructure shall be executed or installed within the timeline specified within each item:

### **10.1. Roundabout.**

- 10.1.1. The Parties anticipate that the Utah Department of Transportation (“**UDOT**”) will contribute a certain amount, equal to the cost of installing a traffic signal, to the County for construction of a roundabout at the intersection of Highway 158 and Highway 166 (“**Roundabout**”). Master Developer agrees to contribute to the County the balance of the cost of installing the Roundabout, up to a maximum contribution of \$2,000,000. Master Developer shall have no obligation to acquire land for the Roundabout, if necessary, but its financial contribution may be used for the acquisition.



- 10.1.2. Master Developer's contribution to the cost of installing the Roundabout shall be required at the time that the County gives Master Developer written notice that the County and UDOT are ready to install the Roundabout, or just prior to any construction activity on the Property, whichever is later.
- 10.1.3. In lieu of a financial contribution toward the installation of the Roundabout, County agrees, if permitted by UDOT, to allow Master Developer at its sole option to install the Roundabout to the minimum specifications, and in accordance with the scheduling needs of UDOT and the County prior to or simultaneous with approved development activity on the Property.
- 10.1.4. The Parties shall calculate, in accordance with the Utah exaction law, UTAH CODE § 17-27a-507, Master Developer's proportional share obligation to contribute to the Roundabout ("**Calculation**"). The Parties shall make such Calculation in the future upon the receipt of the information required, including the final density of the Project, the cost of the Roundabout, etc.
- 10.1.4.1. Should the Calculation show that Master Developer is obligated to pay an amount greater than previously paid as its proportional share, Master Developer shall immediately pay the additional amounts.
- 10.1.4.2. Should the Calculation show that Master Developer has paid an amount in excess of its proportional share obligation, county shall cooperate in good faith with Master Developer to obtain reimbursement of such amounts.
- 10.1.4.3. Should Master Developer be entitled to reimbursement, the Parties agree that such reimbursement shall occur as follows. The County's obligation for reimbursement shall not begin until after County has secured all funding necessary to install the Roundabout.
- 10.1.4.3.1. Future developments that will be served by the Roundabout or have an impact on traffic affecting the Roundabout, where those projects will require a change in zoning to a form-based zone or other zone change, may be required by the County, prior to receiving such zone change, to pay to or deposit with the County such amounts as to cover that Developer's proportionate share of the costs for the Roundabout. In such event, County shall pay such funds to Developer in partial reimbursement.
- 10.1.4.3.2. Future developments that will be served by the Roundabout or have an impact on traffic affecting the Roundabout, where those projects will not require a change in zoning to a form-based zone or other zone change, or where reimbursement at zone change is not required by the County, shall be required to pay impact fees in accordance with the Impact Fees Act for their proportional share of the Roundabout. Once collected, County shall pay to Master Developer, at least annually, no less

than 50 percent of the impact fees described in this paragraph, in partial reimbursement for the Roundabout.

10.1.4.3.3. County agrees to annually reimburse Master Developer 100 percent of the impact fees derived from within this Project.

10.1.4.3.4. Master Developer may seek other forms of reimbursement for its costs in constructing the Roundabout, including but not limited to impact fee credits, fee payments, PID funding, special assessments, other forms of Public Financing, or pioneer agreements. Master Developer shall be responsible for tracking and ensuring that reimbursement occurs as stated herein. County agrees to cooperate with Master Developer's lawful efforts to seek reimbursement.

10.1.4.3.5. The foregoing notwithstanding, Master Developer is not entitled to reimbursement beyond its own actual contribution that exceeds its proportionate share as specified herein.

10.1.4.3.6. The County's obligation to reimburse Master Developer shall expire 15 years from the date of the County's first reimbursement payment to Developer. In the event it is clear that Master Developer cannot be reimbursed for its contribution to the Roundabout in excess of its proportionate share, County agrees to waive Master Developer's impact fees for this Project and other projects conducted within the same jurisdiction by Master Developer or Master Developer's parent company, Eden Valley Opportunity, or their successors, up to the amount that would otherwise be reimbursed as provided herein. This waiver of impact fee provision shall remain in effect notwithstanding the 15 year reimbursement obligation above.

## 10.2. Public Plaza.

10.2.1. Master Developer shall reserve two acres of the Property for a public plaza, open space, and green space ("**Open Space**"). Open Space improvements shall be constructed by Master Developer at no expense to the County.

10.2.2. No less than one acre of the Open Space shall be constructed into a plaza immediately adjacent to Highway 166, located between the MUC street type and the MFR alley ("**Public Plaza**"). Improvements on the Public Plaza shall be generally as shown on Master Developer's Plaza Site Plan, attached hereto as **Exhibit C**.

10.2.2.1. The Public Plaza shall be owned, operated, and managed by the Project's Master Owner's Association or management company.

10.2.2.2. The Public Plaza shall be open for use by the general public.

10.2.2.3. The Public Plaza may contain such improvements and buildings that serve the needs of the plaza. Examples of such improvements include, but are not limited to, coffee shop, small eateries, vendor spaces, gather spaces, splash pad, fountain or other water feature, sitting and picnic areas.

10.2.3. The remaining Open Space shall be integrated throughout the Project, in accordance with such site plans as are submitted from time to time.

10.3. **Sanitary Sewer.** Master Developer shall construct or cause to be constructed a sanitary sewer system to service the Property by either (a) creating a sewer district to service the Project, or (b) connect to or be managed by an existing sewer district, or (c) connect to a future regional sewer treatment system/district.

10.3.1. Master Developer recognizes that the County does not provide and has no control over the sanitary sewer services for the area, and the Project is dependent on Master Developer providing sewer service to the Project. If needed, County agrees to allow the creation of a new sewer district to service the Project.

10.3.2. If the Project becomes part of a district's sewer system, Master Developer agrees to install all sewer infrastructure, to the minimum standards, or better, of the district. If it creates its own system, Master Developer agrees to install all sewer infrastructure, to the minimum State and local jurisdiction standards. If Master Developer elects to join a sewer district and the sewer district assumes responsibility for the sewer system developed on the Property, the Master Developer shall cover the cost to connect the onsite system to the district's system, if the district requires it. In the event this results in a reduction of Master Developer's ability to reuse reclaimed water on the Property, where allowed by the State, the County shall reduce this requirement. The reduction shall be minimized to the reasonable threshold necessary so that no reduction in reuse, or unreasonable increase in expense for the reuse, on the Property occurs.

10.4. **Culinary and Secondary Water.** Master Developer shall construct or cause to be constructed culinary water and secondary water infrastructure to and across the Property.

10.4.1. Master Developer recognizes that the County does not provide culinary or secondary water to the area, and the Project is dependent on Master Developer providing both culinary and secondary water service to the Property.

10.4.2. The water main serving the property shall be of sufficient size and capacity to adequately serve the Property at full build-out.

10.4.3. Master Developer agrees that if the Project's sanitary sewer service provider also serves culinary or secondary water or both, and can and will serve either to the Project, Master Developer shall connect to it.

10.5. **Storm Water.** Master Developer shall install a storm water drainage and detention system sufficient to support the storm water and drainage needs of the Project and its

associated private and public streets. The system shall be sized to support the anticipated storm water and drainage detention needs of the Project at full build-out such that multiple new drainage or detention facilities are avoided in the future. If the Project is built in phases, failure to adequately size drainage infrastructure for the Project at full build-out shall result in Master Developer rebuilding the inadequate facilities to provide for the difference prior to any further development.

- 10.6. **Utilities and Other Project Infrastructure.** Master Developer shall construct or cause to be constructed and installed all portions of the Project Infrastructure which are required as a condition of approval of the Development Application. Master Developer has an obligation to gain relevant utility provider approval for the Project. County has no obligation to assist Master Developer in gaining utility provider approval, but shall not unreasonably oppose or prohibit utility line extension to the Project when the utility is reasonably necessary to support the Project.

## **11. Other Requirements, Improvements, Standards, and Regulations.**

### **11.1. Short-Term Rentals of Property.**

11.1.1. Master Developer shall designate certain residential units within the Project as available for short-term rentals by the owner of said unit. The total number of Residential Units designated as short-term rental units shall in no event exceed 25% of the total units that would otherwise be allowed to be a short-term rental.

11.1.2. Master Developer shall adopt Covenants, Conditions, and Restrictions, to be governed and enforced by an Master Owner's Association, that limit the number of short-term rentals, adopt a short-term rental policy, allow enforcement of violations of the short-term rental policy by the Master Owner's Association and County, designate which specific properties or dwelling units are for short-term rental use, and allow for limited transferability of short-term rental designations from property to property. Master Developer or a subsequent Master Owner's Association shall keep County notified at all times regarding which properties are designated as eligible for short-term rentals. All owners within the Project shall be clearly notified that short-term rental properties are part of the Project, and the Project's rules and policies regarding short-term rental use.

11.1.3. To ensure a single point of contact for enforcement for the County, Master Developer and subsequent Master Owner's Association shall designate and maintain a single management company to manage all short-term rentals in the Project ("**Management Company**").

- 11.2. **Time Shares.** Time share use of any unit in the Project shall be prohibited throughout the Project.

### **11.3. Building Heights.**

- 11.3.1. Maximum allowed building heights shall be graded in relation to the distance of the building from Highway 166. Maximum building heights shall be limited to one story and 25 feet for buildings 0-100 feet from Highway 166, two stories and 35 feet for buildings 100-200 feet from Highway 166, and three stories and 50 feet for buildings beyond 200 feet from Highway 166. These distances shall be measured from edge of the public right-of-way
- 11.3.2. Outdoor rooftop uses with temporary removable equipment shall not be considered an additional story.
- 11.3.3. The provisions of Weber County code 108-7-5(b) regarding permissible equipment and uses on rooftops shall apply when determining whether an additional story exists upon a building.
- 11.3.4. If neighboring developments occur where buildings will be allowed with typical heights and not graded heights as specified herein, then this section 11.3 shall not longer be applicable to the Project and shall terminate, and such provisions comparable to those on the neighboring development projects shall apply.
- 11.4. **Hotel.** Any Hotel within the Project shall be located at least 300 feet from the Highway 166 right-of-way.
- 11.5. **Office Space.** Master Developer shall be entitled to use the required ground-floor commercial area in the Project, as provided in the FB zone, for office uses until such time that the market will support retail operations therein.
- 11.6. **Frontage for Certain Buildings.** The Parties agree that buildings constructed within the area illustrated on **Exhibit D** shall be determined as receiving frontage from the mixed-use commercial street despite being on the other side of the Plaza. The County agrees that the mid-block alley adjacent to this area, as illustrated on the Form-Based Zone's street regulating plan and designated as multi-family residential, is not required to be installed. In its place, Master Developer agrees to install a similarly sized, designed, and configured private accessway. This private accessway shall be owned and operated by the Management Company or Master Owner's Association, but shall remain open for general use by the public. It may be closed to vehicle use from time to time to allow for community oriented special events such as farmer's markets, parades, races, and similar. Master Developer agrees that no residential uses will be established in this area.
- 11.7. **Fire Mitigation.** Unless otherwise approved by the Weber Fire District, no building greater than 35 feet in height shall be constructed until the district acquires a fire apparatus (ladder truck) of the correct size and capability to service taller structures.
- 11.8. **Landscaping Maintenance.** The maintenance and replacement of landscaping shall be as follows:

11.8.1. Private property owners shall be responsible for the long-term maintenance and replacement of landscaping located on their private property.

11.8.2. The Master Owner's Association shall be responsible for the long-term maintenance and replacement of landscaping located within common areas or limited common areas.

11.8.3. The Master Owner's Association shall be responsible for the long-term maintenance and replacement of landscaping located along or within the public rights-of-way located within the Project.

11.9. **Construction Management Standards.** The following standards shall apply to all Project development.

11.9.1. Each Phase or sub-project of the Project shall designate a screened construction staging area where delivery of materials and storage of equipment can be accommodated with limited impact to adjacent residents. Individual construction staging areas shall be determined on a case-by-case basis and coordinated with the County's Engineering Division during pre-construction meetings.

11.9.2. Dusty conditions caused by the construction of the Project shall be mitigated on a daily basis by water spraying as often as needed to mitigate the conditions for neighboring residents.

11.9.3. Loud construction noise shall be kept to within the hours of 7:00 AM and 7:00 PM, Monday through Saturday.

11.9.4. Construction activity shall only occur between 7:00 AM and 8:00 PM except for large concrete pouring days that necessitate earlier morning start times.

11.9.5. Project-related construction traffic shall use designated construction delivery routes to limit the impact to adjacent residents and to limit damage to existing streets.

11.10. **Snow Removal.** The Parties agree that the Master Owner's Association or management company has the right to plow the public streets within the Project, as well as public streets that lead to the Project. Master Developer understands that additional snow removal efforts may not be provided by the County beyond the service levels that the existing area's streets are currently given. The Master Owner's Association shall be responsible for snow removal of public parking, both on-street and off, and for snow removal of all hard-surface pedestrian corridors within the Project. The Parties understand that the County may also provide this service from time-to-time at the County's option.

12. **Provision of Services.** Until or unless the Project is incorporated or annexed into a municipality or district, the County agrees to provide all County services to the Project that it provides to other residents and properties within similar areas of the unincorporated Ogden

Valley including, but not limited to, police and other emergency services. Such services shall be provided to the Project at substantially the same levels of services, on the same terms, and at the same rates as provided to other residents and properties in similar areas of the unincorporated Ogden Valley.

**13. Default.**

13.1. **Notice.** If Master Developer or a Subdeveloper or the County fails to perform their respective obligations hereunder or to comply with the terms hereof, the party believing that a Default has occurred shall provide Notice to the other party. If the County believes that the Default has been committed by a Subdeveloper then the County shall also provide a courtesy copy of the Notice to Master Developer.

13.2. **Contents of the Notice of Default.** The Notice of Default shall:

13.2.1. Specify the claimed event of Default;

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

13.2.3. Identify why the Default is claimed to be material; and

13.2.4. If the non-defaulting party chooses, in its discretion, propose a method and time for curing the Default which shall be of no less than sixty (60) days duration.

13.3. **Remedies.** If the parties are not able to resolve the Default by “Meet and Confer” then the parties may have the following remedies:

13.3.1. The rights and remedies available at law and in equity, including injunctive relief and specific performance, but not damages.

13.3.2. The right to draw on any security posted or provided in connection with the Project and relating to remedying of the particular Default.

13.3.3. The right to withhold all further reviews, approvals, licenses, Building Permits and/or other permits for development of the Project in the case of a default by Master Developer, or in the case of a default by a Subdeveloper, development of those Parcels owned by the Subdeveloper until the Default has been cured.

13.4. **Extended Cure Period.** If any Default cannot be reasonably cured within sixty days, then such cure period shall be extended so long as the defaulting party can provide evidence that it is pursuing a cure with reasonable diligence.

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

14. **Notices.** All notices required or permitted under this Agreement shall, in addition to any other means of transmission, be given in writing by certified mail and regular mail to the following address:

To the Master Developer:

To the County:

Weber County  
Attn: County Commission Chair  
2380 Washington BLVD  
Suite 360  
Ogden, Utah 84401

With a copy to:

Weber County Attorney  
2380 Washington BLVD  
Suite 230  
Ogden, Utah 84401

Weber County Planning Director  
2380 Washington BLVD  
Suite 240  
Ogden, Utah 84401

15. **Effectiveness of Notice.** Except as otherwise provided in this Agreement, each Notice shall be effective and shall be deemed delivered on the earlier of:

15.1. **Physical Delivery.** Its actual receipt, if delivered personally, by courier service, or by facsimile provided that a copy of the facsimile Notice is mailed or personally delivered as set forth herein on the same day and the sending party has confirmation of transmission receipt of the Notice.

15.2. **Electronic Delivery.** Its actual receipt if delivered electronically by email provided that a copy of the email is printed out in physical form and mailed or personally delivered as set forth herein on the same day and the sending party has an electronic receipt of the delivery of the Notice.

15.3. **Mail Delivery.** On the day the Notice is postmarked for mailing, postage prepaid, by First Class or Certified United States Mail and actually deposited in or delivered to the United States Mail. Any party may change its address for Notice under this Agreement by giving written Notice to the other party in accordance with the provisions of this Section.

16. **Amendment.** Any future amendments to this Agreement shall be considered as Modification Applications subject to the following processes.



- 16.1. **Modification Request.** Only the County and Master Developer or an assignee that succeeds to all of the rights and obligations of Master Developer under this Agreement (and not including a Subdeveloper) may submit a Modification Request.
- 16.2. **Modification Request Contents.** Modification Requests shall:
- 16.2.1. Identify the property or properties affected by the Modification Request.
  - 16.2.2. Describe the effect of the Modification Request on the affected portions of the Project.
  - 16.2.3. Identify any Non-County agencies potentially having jurisdiction over the Modification Request.
  - 16.2.4. Provide a map of any affected property and all property within one thousand feet (1000') showing the present or intended uses and density of all such properties.
  - 16.2.5. Modification Requests shall be accompanied by a fee in an amount reasonably estimated by the County to cover the costs of processing the Modification Request.

## **17. Miscellaneous Provisions.**

- 17.1. **Entire Agreement.** This Agreement, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all parties. This Agreement supersedes any past Agreement between the Parties.
- 17.2. **Headings.** The captions used in this Agreement are for convenience only and are not intended to be substantive provisions or evidences of intent.
- 17.3. **No Third Party Rights/No Joint Venture.** This Agreement does not create a joint venture relationship, partnership or agency relationship between the County and Master Developer. Further, the parties do not intend this Agreement to create any third-party beneficiary rights. The parties acknowledge that this Agreement refers to a private development and that the County has no interest in, responsibility for or duty to any third parties concerning any improvements to the Property unless the County has accepted the dedication of such improvements at which time all rights and responsibilities for the dedicated public improvement shall be the County's.
- 17.4. **Assignability.** The rights and responsibilities of Master Developer under this Agreement may be assigned in whole or in part by Master Developer with the consent of the County as provided herein.
- 17.4.1. Master Developer's selling or conveying a lot in any approved Subdivision or Parcels or any other real estate interest within the Project, to builders, users, or Subdevelopers, shall not be deemed to be an "assignment" subject to the above-

referenced approval by the County unless specifically designated as such an assignment by the Master Developer. Despite the selling or conveyance, Master Developer still maintains all rights, responsibilities, and obligations of this Agreement relative to development on the sold or conveyed property until this agreement is terminated, expired, or in any other way nonapplicable.

17.4.2. Master Developer's transfer of all or any part of the Property to any entity "related" to Master Developer (as defined by regulations of the Internal Revenue Service), Master Developer's entry into a joint venture for the development of the Project or Master Developer's pledging of part or all of the Project as security for financing shall also not be deemed to be an "assignment" subject to the above-referenced approval by the County unless specifically designated as such an assignment by the Master Developer. Master Developer shall give the County Notice of any event specified in this sub-section within ten (10) days after the event has occurred. Such Notice shall include providing the County with all necessary contact information for the newly responsible party.

17.4.3. Master Developer shall give Notice to the County of any proposed assignment and provide such information regarding the proposed assignee that the County may reasonably request in making the evaluation permitted under this Section 17.4. Such Notice shall include providing the County with all necessary contact information for the proposed assignee.

17.4.4. Unless the County objects in writing within thirty business days the County shall be deemed to have approved of and consented to the assignment.

17.4.5. If any proposed assignment is for less than all of Master Developer's rights and responsibilities, then the assignee shall be responsible for the performance of each of the obligations contained in this Agreement to which the assignee succeeds. Upon any such approved partial assignment, Master Developer shall be released from any future obligations as to those obligations which are assigned but shall remain responsible for the performance of any obligations that were not assigned.

17.4.6. The County may only withhold its consent for the reasons listed herein.

17.4.6.1. If the County is not reasonably satisfied of the assignee's ability to perform the obligations of Master Developer proposed to be assigned;

17.4.6.2. If the County has reasonable concern that the assignment will separate the Project in a manner that creates unreasonable additional demand for any type of governmental service, including additional demand for coordination amongst assignees or other administrative review services not otherwise anticipated at the time of the execution of this Agreement; or

17.4.6.3. If the County has reasonable concern that the assignment will separate the Project in a manner that negates the purpose of master planning the Project area as one complete master planned development.

17.4.7. Any assignee shall consent in writing to be bound by the assigned terms and conditions of this Agreement as a condition precedent to the effectiveness of the assignment.

**17.5. Binding Effect.**

17.5.1. If Master Developer sells or conveys Parcels of lands to Subdevelopers or related parties, the lands so sold and conveyed shall bear the same rights, privileges, and Intended Uses as applicable to such Parcel and be subject to the same limitations and rights of the County when owned by Master Developer and as set forth in this Agreement without any required approval, review, or consent by the County except as otherwise provided herein.

17.5.2. The Parties intend that if the Property becomes part of a municipality through annexation or incorporation, the municipality will be treated as a successor to the County and will be subject to all of the rights and obligations given to the County by this Agreement, to the extent allowed or required by law. After an annexation or incorporation, the County will have no further reimbursement obligations under this Agreement that are related to or derive from any funding mechanism for which the municipality becomes the jurisdiction having authority after the annexation or incorporation.

17.6. **No Waiver.** Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

17.7. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid for any reason, the parties consider and intend that this Agreement shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this Agreement shall remain in full force and affect.

17.8. **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

17.9. **Time is of the Essence.** Time is of the essence to this Agreement and every right or responsibility shall be performed within the times specified.

- 17.10. **Appointment of Representatives.** To further the commitment of the parties to cooperate in the implementation of this Agreement, the County and Master Developer each shall designate and appoint a representative to act as a liaison between the County and its various departments and the Master Developer.
- 17.11. **Mutual Drafting.** Each party has participated in negotiating and drafting this Agreement and therefore no provision of this Agreement shall be construed for or against either party based on which party drafted any particular portion of this Agreement.
- 17.12. **Applicable Law.** This Agreement is entered into in Weber County in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah's choice of law rules.
- 17.13. **Venue.** Any action to enforce this Agreement shall be brought only in the Second Judicial District Court for the State of Utah, Weber County.
- 17.14. **Recordation and Running with the Land.** This Agreement shall be recorded in the chain of title for the Project. This Agreement shall be deemed to run with the land.
- 17.15. **Authority.** The parties to this Agreement each warrant that they have all of the necessary authority to execute this Agreement. Specifically, on behalf of the County, the signature of the Chair of the Board of County Commissioners for the County is affixed to this Agreement lawfully binding the County.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective, duly authorized representatives.

**SIGNATURES**

Weber County,  
a political subdivision of the State of Utah ("County

Gage Z  
By: Gage Froeyer  
Board of County Commissioners

Date: 12/19/2023

Attest:

Ricky Hatch  
Ricky Hatch, CPA, Clerk/ Auditor



Eden Crossing, LLC  
a Utah Limited Liability Company

John Lewis  
By: John Lewis  
Its: Managing Member

Date: 12/21/23

STATE OF UTAH

COUNTY OF WEBER

On the 21<sup>st</sup> day of December 2023, personally appeared before me John Lewis, who being duly sworn, did say that he is the Managing Member of Eden Crossing LLC, a Utah limited liability company, and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

June Nelson  
NOTARY PUBLIC



## Appendix A – Definitions

**Act** means the County Land Use, Development, and Management Act, Utah Code Ann. §§17-27a-101, et seq.

**Agreement** means this Zoning Development Agreement including all of its Exhibits.

**Applicant** means a person or entity submitting a Development Application, a Modification Application, or a request for a Legislative or Administrative Decision.

**Board of County Commissioners** means the elected County Commission of Weber County.

**Building Permit** means the County's building permit or building permit review process, as specified in County Laws.

**Buildout** means the completion of all of the development on all of the Property for all of the Project.

**Code** means the County's Code containing its land use regulations adopted pursuant to the Act.

**County** means Weber County, a political subdivision of the State of Utah.

**County Consultants** means those outside consultants employed by the County in various specialized disciplines such as traffic, hydrology, legal, or drainage for reviewing certain aspects of the development of the Project.

**County Laws** means the ordinances, policies, standards, and procedures of the County related to zoning, subdivisions, development, public improvements, and other similar or related matters that have been and may be adopted in the future.

**Design Review** means the County's design review process, as specified in County Laws.

**Development Right, Residential** means the right to develop one residential dwelling unit.

**Default** means a material breach of this Agreement.

**Denial** means a formal denial issued by the final decision-making body of the County for a particular type of Development Application but does not include review comments or "redlines" by County Staff.

**Development Application** means an application to the County for development of a portion of the Project including a Subdivision, a Design Review, a Building Permit, a Conditional Use Permit, or any other permit, certificate, or other authorization from the County required for development of the Project.

**Development Standards** means a set of standards adopted in County Laws or approved by the County as a part of this Agreement that control certain aspects of the design and construction of the development of Property. Development Standards include, but are not limited to, setbacks, building sizes, height limitations, architecture standards, building materials, parking and signage; and, the design and construction standards for buildings, roadways, and infrastructure.

**Hotel** means a building consisting of 16 or more sleeping units designed for temporary lodging for compensation, in which no provision is made for cooking in any individual room or suite, and may or may not provide meals.

**Impact Fees** means those fees, assessments, or payments of money imposed by a political subdivision of the State as a condition on development activity as specified in Utah Code Ann., §§ 11-36a-101, et seq.

**Intended Uses** means those permitted and conditional uses identified in the Form-Based Zone, or as otherwise allowed by this Agreement.

**Modification Request** means a request to amend this Agreement.

**Non-County Agency** means a governmental entity, quasi-governmental entity, or water or sanitary sewer authority, other than those of the County, which has jurisdiction over the approval of any aspect of the Project.

**Notice** means any notice to or from any party to this Agreement that is either required or permitted to be given to another party.

**Outsourc[e] [ing]** means the process of the County contracting with County Consultants to provide technical support in the review and approval of the various aspects of a Development Application as is more fully set out in this Agreement.

**Parcel** means any parcel of land within the Property created by any means other than a Subdivision plat, upon which development is not approved.

**Pathway** means a 10-foot wide paved multi-use pathway designed to county engineer's specifications.

**Phase** means the development of a portion of the Project at a point in a logical sequence as determined by Master Developer.

**Planning Commission** means the Ogden Valley Planning Commission.

**Project** means the development to be constructed on the Property pursuant to this Agreement with the associated public and private facilities, Intended Uses, and all of the other aspects approved as part of this Agreement including its exhibits.

**Project Infrastructure** means those items of public or private infrastructure which are specified in this Agreement, by the Code, or as a condition of the approval of a Development Application, that are necessary for development of the Property, such as local roads or utilities.

**Property** means the real property subject to this Agreement as more fully described in Exhibit "A" and generally mapped in Exhibit "B."

**Public Financing** means revenue generated from the taxable value of the Property that is returned to Master Developer to pay for public infrastructure installation or improvements. Public Financing includes but is not limited to an additional property tax implemented by means of a Public Improvement District, Special Improvement District, Special Service District, Special Assessment Area, Redevelopment Area, Community Reinvestment Area, or any other tax-revenue generator with similar intent and application. It also includes Tax Increment Financing or a tax-burdened bond that will finance the Project's public improvements.

**Subdeveloper** means an entity not "related" (as determined by Internal Revenue Service regulations) to Master Developer which purchases a Parcel for Subdivision platting pursuant to future development.

**Subdivision** means the division of any portion of the Project into a subdivision pursuant to the Act and/or the Code.

**Subdivision Application** means the application to create a Subdivision.

**Exhibit A: Legal Description of the Property**

**Parcel #: 220210150**

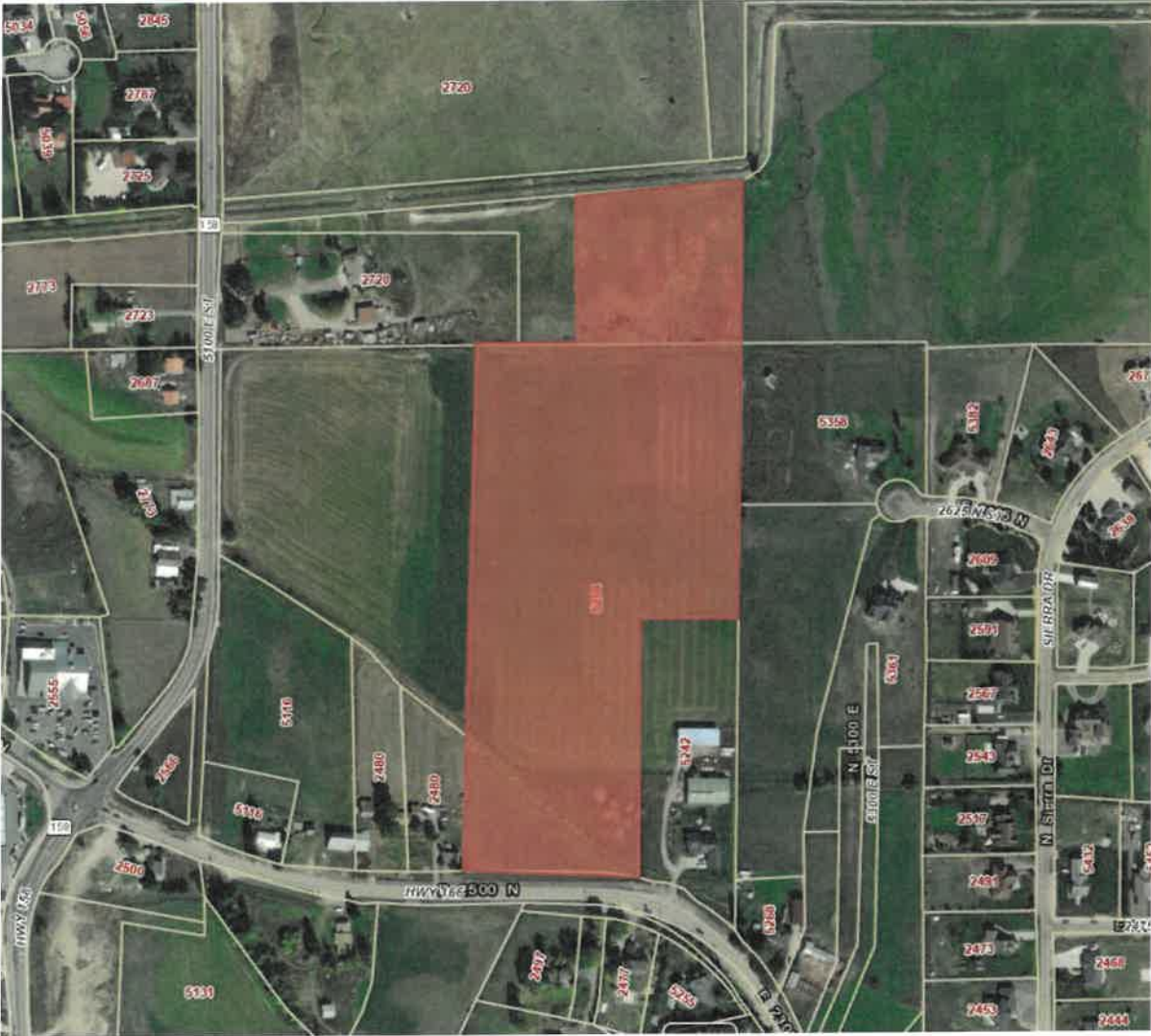
PART OF THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 7 NORTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN, BEGINNING AT A POINT ON THE SOUTH LINE OF SAID SOUTHEAST QUARTER BEING LOCATED SOUTH 89°50'05" EAST 870.06 FEET ALONG THE SOUTHLINE OF SAID SOUTHEAST QUARTER FROM THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER, RUNNING THENCE NORTH 01°05'01" EAST 369.18 FEET TO THE SOUTH LINE OF THE UNITED STATES OF AMERICA CANAL, THENCE ALONG THE SOUTH LINE OF SAID CANAL NORTH 85°37'40" EAST 452.19 FEET, THENCE SOUTH 01°05'01" WEST 404.96 FEET TO THE SOUTHLINE OF SAID SOUTHEAST QUARTER THENCE ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER NORTH 89°50'05" WEST 450.20 FEET TO THE POINT OF BEGINNING.

**Parcel #: 224060002**

ALL OF THE REMAINDER PARCEL, BROWNS SUBDIVISION 1ST AMENDMENT, WEBER COUNTY, UTAH.

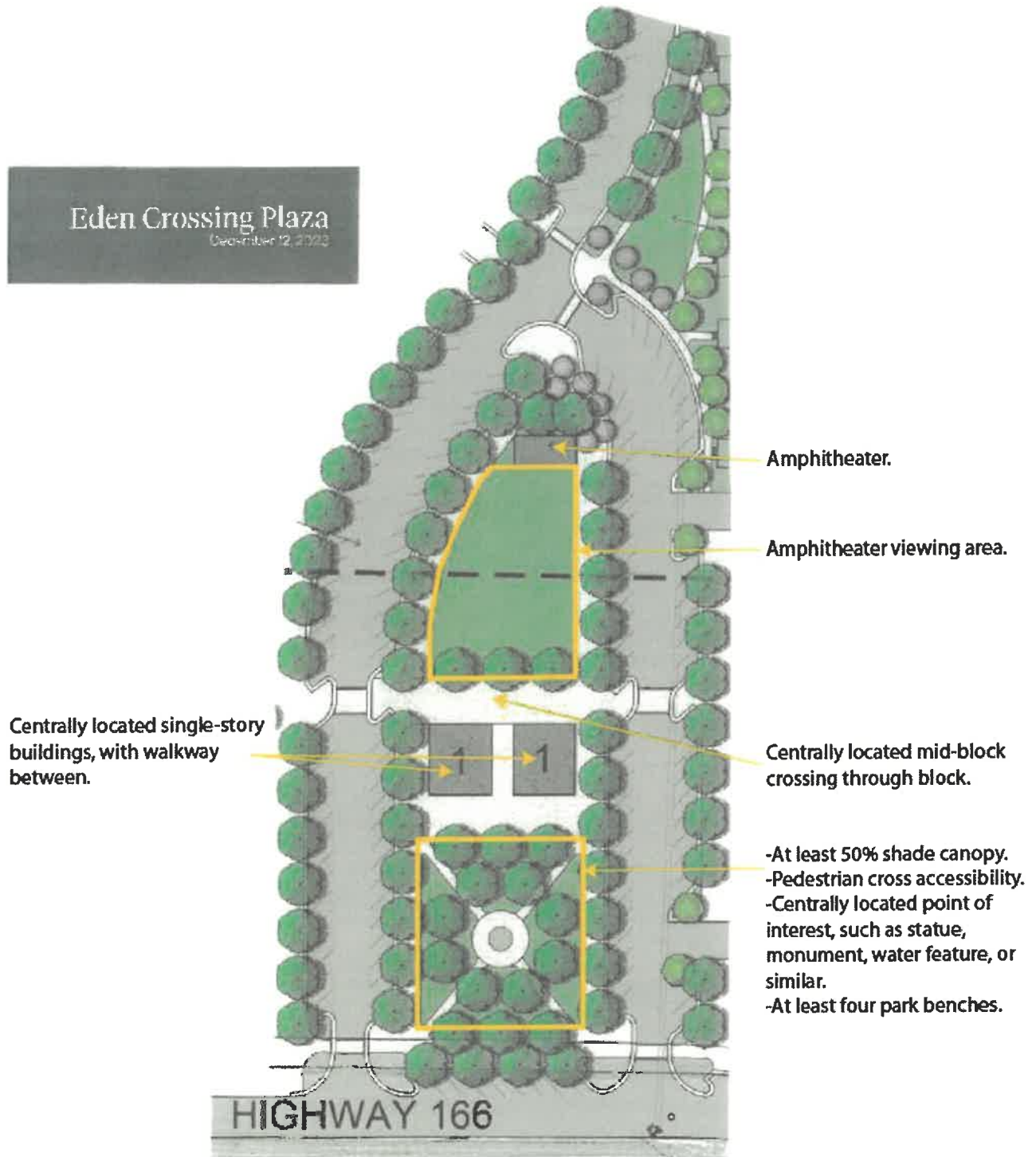


Exhibit B: Map of Property



## Exhibit C: Conceptual Plaza Design

**Eden Crossing Plaza**  
December 12, 2023



**Exhibit D: Street-Frontage for Certain Development Area.**

