

When Recorded Return to:

DRAFT 8/22

Third Amendment to Master Development Agreement
Green Farm Project, West Haven Utah

This Third Amendment to the Master Development Agreement (the “**Third Amendment**”) is made effective this ____ day of September____, 2022 between West Haven City (the “**City**”) and Green Farm Community, LLC, a Utah limited liability company (“**Developer**”) relating to the long-term, mixed-use master-planned project known as The Green Farm (the “**Project**”). The City and the Developer may hereinafter be referred to individually as the “**Party**” and collectively as the “**Parties**”.

RECITALS

- A. The Parties entered into a Master Development Agreement relating to the Project effective as of May 2, 2017 (the “**Master Development Agreement**”).
- B. The Parties amended the MDA in November 2018 (the “**First Amendment**” and again in July 2019 (the “**Second Amendment**”).
- C. The Master Development Agreement, including the First Amendment and Second Amendment thereto, may hereinafter be referred to collectively as the “**MDA**”.
- D. On July 13, 2022, the City issued a notice of default letter to Master Developer with regard to several development issues relating to the Project (the “**Letter**”).
- E. The Parties promptly met to resolve all of the issues outlined in the Letter and are executing this Third Amendment to document the resolution of those issues and to amend the MDA as needed to reflect these new agreements.

AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed by the Parties as follows:

1. **Commercial Parcel Development.** “Section 4.6 Development of Commercial Parcels” of the Master Development Agreement is hereby deleted and replaced with the following paragraph:
 - a. “4.6. *Development of Commercial Parcels. The Parties understand and agree that:*
 - i. *portions of Parcel A shall be designated as MZ-Mixed Use with Commercial Overlay (as described and depicted in **Exhibit A** attached hereto and incorporated herein which shall supplement figure 2 of the MDA). Development of the commercial areas of the Parcel and residential portion of Parcel A shall be developed consistent with the MZ-Zone Commercial Overlay, the Master Plan and this MDA.*
 - ii. *all of Parcel B has been developed for residential use consistent with development plans properly approved and agreed to by the Parties” (as described and depicted in **Exhibit B** attached hereto and incorporated herein and which shall amend and supplement Exhibit B of the Second Amendment.)”*
2. **Accounting for Residential Units.** “Section 4.3 Accounting for Residential Units on Parcels Developed by Master Developer” of the Master Development Agreement is hereby deleted and replaced with the following paragraph:
 - a. “4.3. *Accounting for Residential Units on Parcels Developed by Master Developer.” Upon delivery to the City of a proposed Preliminary Plat or Commercial Site Plan for review, Master Developer shall provide the City a Development Report in the format of the attached chart referred to as **Exhibit C**, containing all of said information updated to the date of the most recent recordation.”*
3. **Development of Certain Open Space and Parks.** All references in the MDA relating to the location, timing for improvement and dedication of Open Space (including but not limited to Section 8.2 relating to the dedication and Ownership of Open Space, Pocket Parks and Trails and page 2 of the First Amendment as well as the Neighborhood Park in Plat C) are hereby modified to the extent necessary to address the following issues and terms:
 - a. “8.2 *Dedication and Ownership of Open Space, Pocket Parks and Trails. The Parties agree that the Open Space Areas comprising approximately 73.6 acres shown on the attached Concept Plan Map labeled **Exhibit D**, exceeds the required acres of Open Space. While Exhibit D includes both the former Exhibit B from the Master Development Agreement and the newly revised Concept Plan Map, the newly revised Concept Plan Map contains the latest version of the Open Space plan and the Parties agree it controls. The*

improvements shown on the new Concept Plan Map attached as Exhibit D shall be made and dedicated as follows:

- i. **Open Space Area 1-4 and 6 shown on Exhibit D** shall be improved as follows, and each shall be dedicated to the City as public Open Space following improvement, as described more fully below:
 1. **Hard scape (e.g., concrete, asphalt, pickle ball courts, etc.)**
 - a. Area 1: 12/31/22 (improvement and dedication)
 - i. Dry stream bed, weed barrier, cobble, grading, and trails (trails crossing irrigation easement are subject to timely third-party approval)
 - b. Area 2: 12/31/22 (dedication anticipated 6/1/23)
 - i. Trails and grading
 - c. Area 3: 12/31/22 (dedication anticipated 6/1/23)
 - i. Parking lot, concrete walkways, trails, hammerhead, and pickleball courts (including fencing and lighting)
 - d. Area 4: 12/31/22 (improvement and dedication)
 - i. Trails and grading
 - e. Area 6: 12/31/23 (improvement and dedication)
 - i. Pond excavation and trails
 2. **Plants, vegetation, trees, mulch and grass**
 - a. Area 1:12/31/22 (improvement and dedication)
 - b. Area 2:12/31/22 (dedication anticipated 6/1/23)
 - c. Area 3:12/31/22 (dedication anticipated 6/1/23)
 - d. Area 4: 12/31/22 (improvement and dedication)
 - e. Area 6: 12/31/23 (improvement and dedication)
 3. **Water feature and pavilions**
 - a. Area 1: 6/1/23 (improvement and dedication)
 4. As described above, dedication of Areas 2 and 3 is anticipated by 6/1/23 assuming the grass has been established to the degree it can be mowed.
 5. If the grass has not been established to the degree it can be mowed by 6/1/23, then the parties shall meet in good faith to discuss and agree upon mutually acceptable alternatives for dedication and how to proceed.”
- ii. All plant and vegetation improvements are subject to extension if approval by Weber Basin of sufficient irrigation water to sustain same is not timely achieved.
- iii. All hardscape dates are subject to extension due to material shortages and supply chain concerns which Developer cannot control. Developer to provide documentation from suppliers confirming material shortages.

- iv. *Developer agrees to maintain Open Space through the time it is dedicated to the City.*

- b. An Improvement Agreement generally in the form attached hereto as **Exhibit G** and relating to funding for Open Space improvements located in Areas 1, 2, 3 and 4 (except Community Center improvements which will be addressed in Section 4 below) shall be made effective on 10/1/2022 and in the amount of Two Million, Two Hundred Forty-Four Thousand, Three Hundred Ninety-Two dollars and 91/100 (\$2,244,392.91).

- c. *Prior to dedication, Developer shall be responsible to submit a Notice of Dedication together with a design to the City showing the intended improvements for each of the areas shown on **Exhibit D**.*
 - i. **Open Space Area 5 (Neighborhood Park C) shown on Exhibit D.** Developer agrees to complete this Neighborhood Park under the following schedule:
 - 1. **Designs to be submitted** to City by: 10/31/22.
 - 2. **Description of Improvements:** It is anticipated that the following improvements will be made for Open Space Area 5: parking lot, a trail, and a playground
 - 3. **Hardscape and parking** for the Neighborhood Park will be completed by: 6/30/2023, subject to the contingencies described below:
 - ii. *All plant and vegetation improvements are subject to extension if approval by Weber Basin of sufficient irrigation water to sustain same is not timely achieved.*
 - iii. *All hardscape dates are subject to extension due to material shortages and supply chain concerns which Developer cannot control. Developer to provide documentation from suppliers confirming material shortages.*
 - iv. *City and Developer agreed this Neighborhood Park C will be dedicated to the City, but that Developer agrees to maintain this Open Space through the time it is dedicated to the City.*

- d. An Improvement Agreement generally in the form attached hereto as **Exhibit G** and relating to funding for Open Space improvements located in Area 5 shall be made effective 3/1/2023, or 30 days after final approval of plans by the City whichever is later, which plans will include an amount to be held under the terms of the Improvement Agreement equal to the estimated costs of said Improvements.

- 4. **Development of Community Center.** References in the MDA relating to the timing for a portion of the improvement and dedication of Open Space for Parcel C (now labeled as Area 3 on Exhibit D and of referred to generally as Silo Park), including but not limited to Section 8.2 relating to the dedication and Ownership of Open

Space, Pocket Parks and Trails and page 2 of the First Amendment, are hereby deleted and/or modified and replaced with the following terms relating to **“Silo Park” to be constructed in Area 3:**

- a. *“Developer and City will jointly design and pay for the construction of a City owned community center as part of the improvements within Silo Park at Green Farm generally consistent with Design Plans for Silo Park described and depicted on **Exhibit E.**”*
 - i. *The overall construction cost cap agreed to by the Parties is \$550,000 (which cap shall only be modified with the mutual agreement of the Parties).*
 - ii. *Developer will pay 50% and the City will pay 50% of said development costs as they become due, and each will be responsible to the third parties individually for their respective shares.*
 - iii. *Developer has submitted the preliminary design for Community Center to the City.*
 - iv. *A general description of the minimum interior finishes are as follows and shall be to a commercial grade:*
 1. *Kitchen: quartz or granite countertops, large sink, refrigerator, oven, light fixtures, and microwave;*
 2. *Bathrooms (at least 2): tile or acid cured concrete flooring, wall tile per health code, 1 toilet per bathroom, 1 sink and faucet per bathroom, light fixtures, ADA accessible with hanging countertop;*
 3. *Walls and ceilings: drywall and paint;*
 4. *Flooring: acid cured concrete;*
 5. *Lighting: recessed lighting with chandelier in entry; and*
 6. *Heating and air conditioning sized appropriately for the building.*
 - v. *Upon approval of the preliminary designs, Developer will have the final construction plans prepared and submitted to the City for approval.*
 - vi. *Developer shall submit preliminary plans by 12/1/2022 and all Parties agree to act in good faith to have the final construction plans approved by January 1, 2023.*

- vii. *It is anticipated that construction will begin on or before April 1, 2023, subject to the availability of construction materials and timely final city approvals, and construction shall proceed as generally outlined in the schedule made part of the final construction plans.*
- viii. *It is anticipated that approximately 50% of the construction for Community Center will occur in 2023 and that Community Center will be completed in 2024 with the remaining 50% of construction costs to be paid by the Parties in 2024.*
- ix. *A more detailed description of the construction process shall be established with the creation of the construction plans, but the pro rata payment of each Parties' portion of the construction costs for Community Center shall occur as follows:*
 - 1. Once Developer believes its contractors' or subcontractors' work it satisfactory, it will prepare and submit to the City progress invoices related to the portion of the Improvements that have been completed;
 - 2. Within seven (7) business days after receipt of a progress invoice, the City shall inspect that portion of the work for which payment is being requested;
 - 3. If that portion of the work completed meets the required standards, the City shall authorize Developer, in writing, that payment can be processed for the requested progress invoice (the "City Authorization"), at which point each Party shall pay its pro-rata share to the contractor or sub-contractor (which pro-rata share is described in the various Sections of this Amendment);
 - 4. If that portion of the work completed does not meet the City's approval, the City shall promptly (within three (3) business days) describe for Developer in a detailed writing any deficiencies it observes, and Developer shall then instruct its contractor or subcontractor to remedy the issues (after which the steps described in items 1-4 above shall be repeated);
 - 5. Contemporaneously with the receipt of any progress payment, Developer's contractors or subcontractors shall provide both City and Developer with a signed lien waiver wherein each agree to waive any claim or security interest in that portion of the Improvements that are completed and for which payment has been received (the "Lien Waiver"); and
 - 6. Once all Improvements have been completed, they shall be promptly dedicated to the City.

- b. An Improvement Agreement generally in the form attached hereto as **Exhibit G** and relating to funding for Developer's portion of the Community Center

shall be made effective on 3/1/2023 (or 30 days after final approval of plans by the city whichever is later) and in the amount of \$275,000.

5. **Construction of cul-de-sac or hammerhead at terminus of 4550 West.** All references in the MDA relating to the timing for construction of a hammerhead or cul-de-sac at the terminus of 4550 West (including paragraph 6 of the Second Amendment) shall be deleted, modified and/or replaced with the following:
 - a. *“The construction of the cul-de-sac or hammerhead at the terminus of 4550 West shall be completed by Developer on or before October 31, 2022, subject to the following conditions:*
 - i. *Timely approval of the designs of the cul-de-sac or hammerhead by the City; and*
 - ii. *Availability of construction materials to Developer in a manner that allows said constructions to be completed by said date. Developer to provide documentation from a supplier confirming material.”* shortages.
 - b. The Improvement Agreement related to these Improvements are included in the Improvement Agreement described in Section 3.b above.
6. **Construction of 3675 South.** Developer will complete the construction of 3675 South to 4700 West, which improvements will be completed by December 31, 2022, but is subject to UDOT approval so this completion date may necessarily need to be extended if UDOT approval cannot be timely achieved.
 - a. Developer shall promptly provide City with a copy of any UDOT approval letter relating to this Improvement.
 - b. At the completion and dedication of 3675 South to 4700 West, all Parties agree the temporary access currently upon 4450 West will be permanently terminated and all Parties acknowledge the real property beneath that access has been platted and approved by the City for a building lot.
7. **Open Space Area 6.** All references in the MDA and Section 3(f) of the Second Amendment relating to the timing and construction of a regional stormwater facility, which will hereinafter be referred to as the Green Farm pond project (the “Pond Project”), are hereby modified to the extent necessary to allow for the following provisions. Further, the Parties jointly agree to the following scope of work and timing for the Pond Project depicted in Exhibit D.
 - a. **Design and Plan.** Developer shall design and submit to the City for review and approval all plans for the Pond Project on or before December 1, 2022, generally consistent with the cost and scope discussed below.

b. **Pond Project Scope:**

i. **Pond Size:** 5 acres of real property with an average depth of 8 feet.

ii. **Pond Location:** Poulter Preserve Property (Open Space Area 6 on **Exhibit D** (East of Parcel E)).

iii. **Description of Pond Project:**

1. It is anticipated that the following improvements will be made for the Pond Project: excavation and grading of the pond to an average depth of 8 feet; installation of a trail to the pond, a parking lot, lights at the parking lot, natural landscaping around the pond; a pond aeration system; and control structures. The costs of these items will be allocated as outlined below.

iv. **Developer Contribution:**

1. Excavation of 3 acres of real property with an average depth of water at 8 feet.

2. The construction of a loop trail around the pond (dirt) with paved connection to the City trail system.

3. Developer to install no less than 50 trees of a minimum of 1 inch caliper.

4. Parking lot with 10 car capacity.

5. All Pond Project construction management.

6. Electric power to the edge of the pond in one location.

7. In addition to the items listed above, Developer shall contribute 60% of the total mutually approved improvement costs for the Pond Project, beyond those specifically contributed by the individual Parties and which will be described and approved by the Parties in the Pond Project plans.

8. A sixty (60) foot right-of-way containing an asphalt road will be constructed north of the pond and will connect the Green Farm Subdivision to the subdivision immediately east thereof.

v. **City Contribution:**

1. Excavation of 2 acres of real property with an average depth of water at 8 feet (which real property is already owned by the City and does not need dedication).

2. Products and/or services needed to construct the aeration and control structures to manage and control the pond's inflow and out-flow.
3. Acquisition and dedication of all water rights needed to sustain the Pond Project.
4. In addition to the items listed above, City shall contribute 40% of the total mutually approved improvement costs for the Pond Project, beyond those specifically contributed by the individual Parties and which will be described and approved by the Parties in the Pond Project plans.

vi. **Total Cost:**

1. It is anticipated that the sum of all Improvement costs for the Pond Project will not exceed \$2,000,000. All Parties agree to act in good faith to have the final construction plans approved within 60 days following Developer's submission to the City of the proposed plans for the Pond Project. Once the final designs have been agreed upon, Developer will acquire bids for the entire Pond Project, and obtain the City's approval of same, prior to starting any construction.
2. A more detailed description of the construction process shall be established with the creation of the construction plans for the Pond Project, but the pro rata payment of each Parties' portion of the constructions costs for the Pond Project will be the same as the process used for the Community Center, as described more fully in Section 4 above.

vii. **Construction Schedule:**

1. Developer will complete the hard scape and soft scape (vegetation) installation on or before December 31, 2023.
- c. An Improvement Agreement generally in the form attached hereto as **Exhibit G** and relating to funding for Developer's portion of the Open Space improvements located in Area 6 shall be made effective on 6/1/2023 (or 30 days after final approval of plans by the city whichever is later), which plans will include an amount to be held under the terms of the Improvement Agreement equal to the estimated costs of said Improvements.
8. **Streets and Alleys.** Table 3 to the Master Development Agreement describes and depicts the street cross-sections that were initially approved in the MDA. These street and alley descriptions and depictions are hereby modified as follows:

a. **Public ROW.**

- i. An additional 40 feet Public ROW cross section was submitted and approved by the City (both Planning Commission and City Council) when the final plats for Parcels B and C were approved.
- ii. A copy of this cross-section is hereby added to Table 3 (as Table 3.1) and is attached hereto as **Exhibit F** as an approved Street Cross-Section for use within the various phases of the Project.
- iii. Hereafter, the Public ROW cross-section it will be designated as a “private” street with no on street parking allowed.

b. **Alleys.**

- i. Table 3 of the Master Development Agreement depicts a 20 feet Street Cross-Section labeled “Alley.”
- ii. The 20 feet Street Cross-Section in Table 3 in the Master Development Agreement is hereby deleted and replaced with a 27 feet “*Private*” Street Cross Section, as depicted and described more fully in **Exhibit F**.
- iii. When Table 3 Street Cross Sections are labeled “Public Street” they will be dedicated to West Haven City at the time of the recording of the final plat within any approved Parcel Plat in the Project.

9. **Open Space Designation for Area 7.** All references in the MDA to Open Space to be dedicated contemporaneously with the approval of the Development Application for Area 7 (the “Area 7 Open Space”) are hereby amended and replaced by the following:

- a. The Area 7 Open Space shall consist of approximately 31 acres, as depicted and described in Exhibit D.
- b. Neither party shall have any responsibility to improve the Area 7 Open Space.
- c. Developer shall maintain the Area 7 Open Space through the time of dedication.

10. **Courtyard Phases 2 and 3 (Parcel C).** Developer, at its costs and expense, and at a location it deems appropriate, has agreed to construct up to 40 guest parking spaces to Courtyard Phases 2 and 3 to help alleviate the concern that some guests were parking in the public ROW. These Improvements will be made with the Improvements related to Open Space Area 5 described in Section 3 above.

11. **Amendments and Modifications.** The terms of the MDA, including the prior amendments, are hereby modified to the extent necessary to allow for the amended terms described in this Third Amendment. If a conflict arises between the terms of the MDA, or any of the prior amendments, the terms of this Third Amendment shall govern.

12. **No Current Defaults.** The Parties acknowledge and agree that upon execution of this Third Amendment, any and all claims of default by either Party, including any and all concerns of the City expressed in the Letter, have been resolved and on the effective date of this Third Amendment neither party has any defaults or unresolved claims against the other under the terms of the MDA (as amended) and the MDA, as amended, with its vested rights and obligations of each Party is in full force and effect.
13. **Authorization.** Each Party has reviewed the terms of this Third Amendment with legal counsel and each individual signing for each Party represents that the individual signing for each party has received the proper authority to sign this Third Amendment for and on behalf of that Party.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DRAFT

[Signature Pages Related to Third Amendment to MDA]

IN WITNESS WHEREOF, the undersigned has executed this Third Amendment to the MDA as of the date above written.

WEST HAVEN CITY

By: _____

Its: _____

Approved as to Form:

WEST HAVEN CITY ATTORNEY:

DRAFT

[Signature Pages Related to Third Amendment to MDA]

MASTER DEVELOPER

By: _____
Its: Manager

DRAFT

EXHIBIT A

Portions of Parcel A shall be designated as MZ-Mixed Use with Commercial Overlay



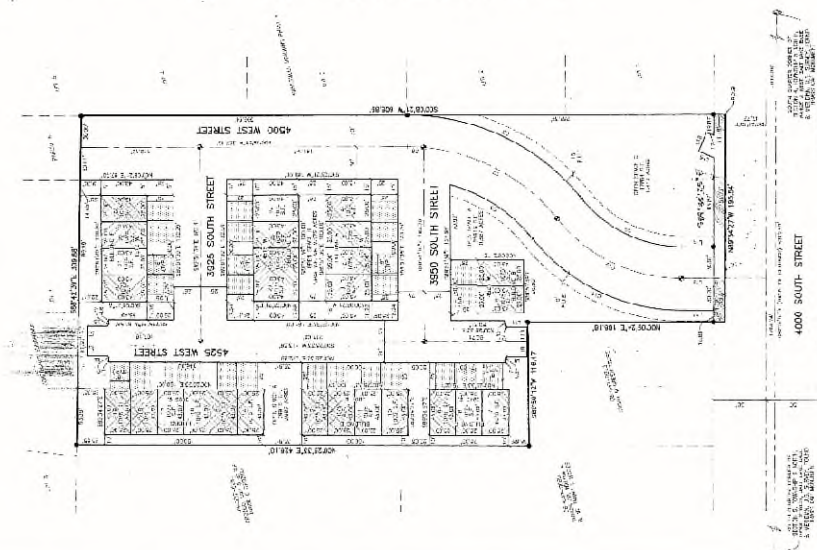
EXHIBIT B

Parcel B showing Residential Development as Agreed to and Approved by the Parties

DRAFT

The Courtyard at Green Farm

PART OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASIN A MERIDIAN, U.S. SURVEY
CITY OF WEST HAVEN, WEBER COUNTY, UTAH
SEPTEMBER, 2019



CURVE TABLE

Curve No.	Stationing	Radius (ft)	Delta (deg)	Chord (ft)	Chord Bearing	Curve Length (ft)	Mid Chord Distance (ft)
1	1+00.00 to 1+15.71	1000.00	36.00	114.30	S 54.00° E	15.71	3.43
2	1+15.71 to 1+31.42	1000.00	36.00	114.30	S 54.00° E	15.71	3.43

BASIS OF BEARINGS

The bearings were obtained from the U.S. National Bureau of Geodesy, U.S. Geographical Names, 2010.

NARRATIVE

The plat shows the layout of the proposed subdivision. The boundaries of the lots are shown by solid lines. The easements are shown by dashed lines. The utility lines are shown by dotted lines.

BOUNDARY DESCRIPTION

The boundary of the subdivision is described as follows: ...

LINE TABLE

Line No.	Stationing	Description
1	1+00.00 to 1+15.71	Curve 1
2	1+15.71 to 1+31.42	Curve 2
3	1+31.42 to 1+47.13	Curve 3

ALLOTTEES CERTIFICATE

WE HEREBY CERTIFY THAT THE ABOVE DESCRIBED LOTS HAVE BEEN ALLOTTED TO THE PERSONS WHOSE NAMES ARE SET FORTH IN THE ADJACENT TABLE.

CHANGELING AND CERTIFICATE

WE HEREBY CERTIFY THAT THE ABOVE DESCRIBED LOTS HAVE BEEN CHANGED TO THE PERSONS WHOSE NAMES ARE SET FORTH IN THE ADJACENT TABLE.

ACKNOWLEDGMENT

ON THIS 15th day of September 2019, at Salt Lake City, Utah, the following persons, whose names are hereunto subscribed, acknowledged to me, the undersigned, that they executed the foregoing plat for the purposes therein expressed.

WEST HAVEN CITY ENGINEER

WEST HAVEN CITY ENGINEER
115 7th St. West Haven, UT 84414
Tel: 435-335-7000
www.westhaven.gov

WEST HAVEN CITY PLANNING COMMISSION

WEST HAVEN CITY PLANNING COMMISSION
115 7th St. West Haven, UT 84414
Tel: 435-335-7000
www.westhaven.gov

WEST HAVEN CITY ATTORNEY

WEST HAVEN CITY ATTORNEY
115 7th St. West Haven, UT 84414
Tel: 435-335-7000
www.westhaven.gov

REVEE & ASSOCIATES, INC.

REVEE & ASSOCIATES, INC.
115 7th St. West Haven, UT 84414
Tel: 435-335-7000
www.reeve.com

EXHIBIT C
Development Report Format

**The Green Farm
Land Use Matrix**

Parcel Number	Acres	% Total Acres	Base Density	Max Density	Approved to Date	Pending to Date	Available Density	Units per Acre
A	17.540	6%	97	129		94	35	5.36
B	3.798	1%	35	47	27		20	7.11
C	49.649	18%	108	165	165		0	3.32
D	25.627	9%	44	67	41		26	1.60
E	43.236	16%	152	202	158		44	3.65
F	22.667	8%	90	117		50	67	2.21
G	5.000	2%	10	14			14	
H	4.987	2%	10	11	11		0	2.21
I	30.000	11%	60	60			60	
OS	70.000	26%						
Total	272.504	100%	606		402	144	60	

Current as of July 28, 2022.



EXHIBIT D

Overall Open Space Concept Plan

Previous Conceptual Plan

DRAFT



Current Concept Plan



Concept Plan

Green Farm, West Haven, Utah

July 27, 2022

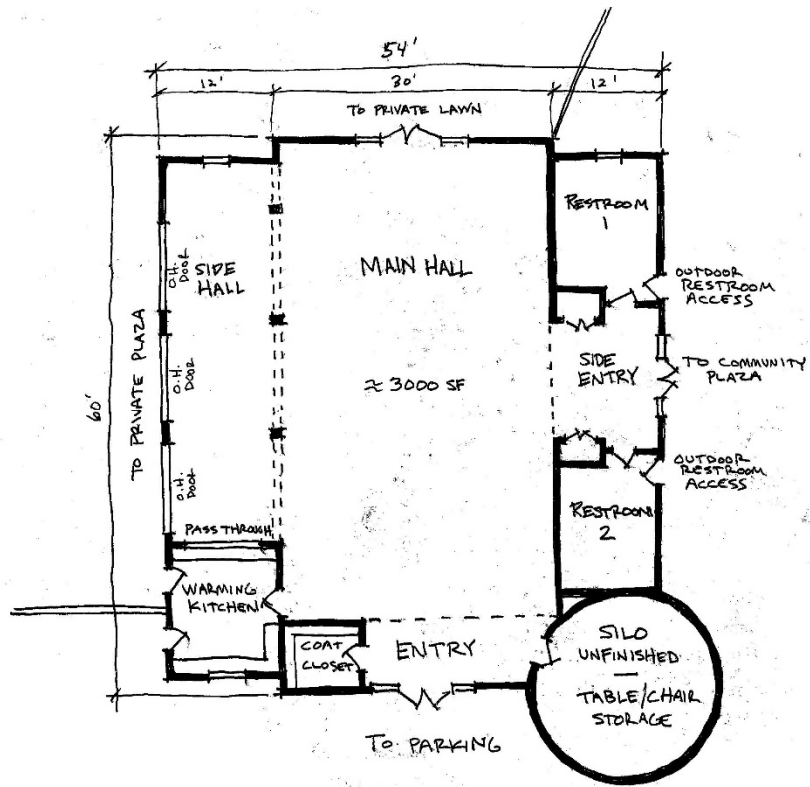
dk Think Architecture

EXHIBIT E

Design Plans for the Community Center



DRAFT

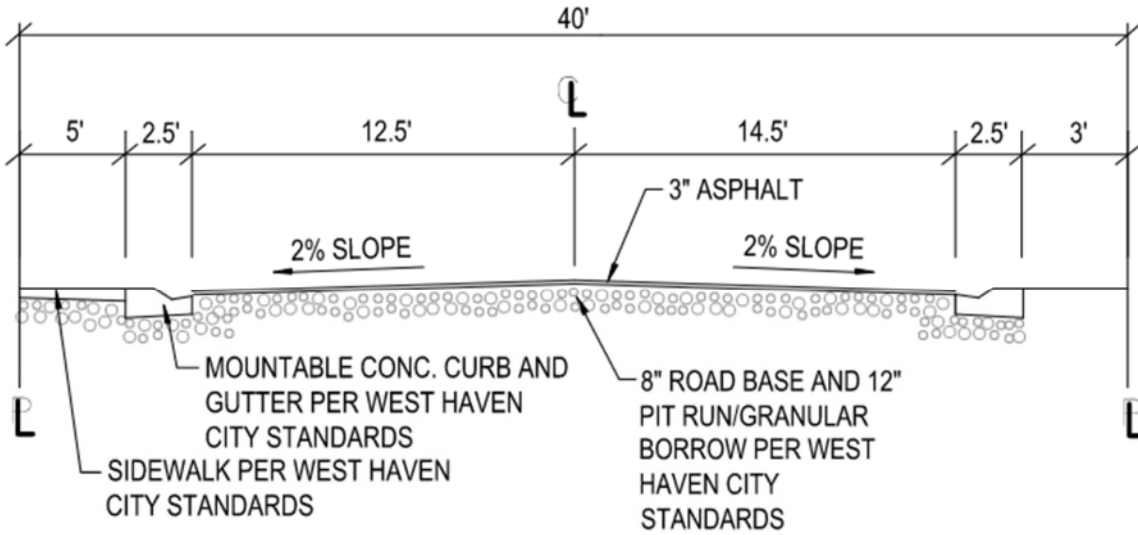


DRAFT

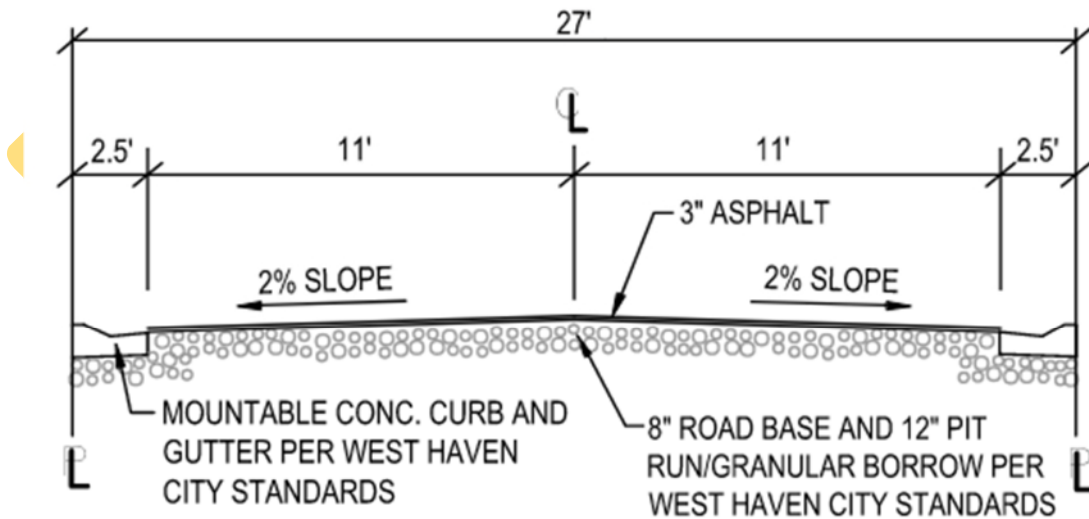
EXHIBIT F

Street and Alley Cross-Sections

40-foot public right of way



27-foot private alley



3 TYPICAL 27 FOOT CROSS SECTION

SCALE: NONE

EXHIBIT G
Improvement Agreement

DRAFT