

DEVELOPMENT AGREEMENT

- PARTIES:**
1. City of Meridian
 2. GFI – Meridian Investments II, LLC, a Utah limited liability company, as an undivided 16.85% interest as tenants-in-common; Alpine 24 Investments, LLC, a Utah limited liability company, as an undivided 12.12% interest as tenants-in-common; RWG Investments, LTD., a Utah limited partnership, as an undivided 18.69% interest as tenants-in-common; GFI-Meridian Investments III, LLC, a Utah limited liability company, as an undivided 33.65% interest as tenants-in-common; and DFG Investments, LTD., a Utah limited partnership, as an undivided 18.69% interest as tenants-in-common (collectively, “Owner/Developer”).

THIS DEVELOPMENT AGREEMENT (this “Agreement”), is made and entered into this 14th day of May 2021, by and between **City of Meridian**, a municipal corporation of the State of Idaho, hereafter called CITY, whose address is 33 E. Broadway Avenue, Meridian, Idaho 83642 and **Owner/Developer**, whose address is 74 East 500 South, Ste. 200, Bountiful, UT 84010.

1. **RECITALS:**

- 1.1 **WHEREAS**, Owner/Developer is the sole owner, in law and/or equity, of certain tract of land in the County of Ada, State of Idaho, described in Exhibit “A”, which is attached hereto and by this reference incorporated herein as if set forth in full, herein after referred to as the Property; and
- 1.2 **WHEREAS**, Idaho Code § 67-6511A provides that cities may, by ordinance, require or permit as a condition of zoning that Owner/Developer make a written commitment concerning the use or development of the subject Property; and
- 1.3 **WHEREAS**, City has exercised its statutory authority by the enactment of Section 11-5B-3 of the Unified Development Code (“UDC”), which authorizes development agreements upon the annexation and/or re-zoning of land; and
- 1.4 **WHEREAS**, Owner/Developer submitted an application for annexation of 41.28 acres of land with a C-G (General Retail and Service Commercial) and R-40 (High Density Residential) zoning districts of the property listed in Exhibit “A”, attached hereto, under the Unified Development Code, which generally describes how the Property will be developed and what improvements will be made; and

- 1.5 **WHEREAS**, Owner/Developer made representations at the public hearings before Planning and Zoning Commission and the Meridian City Council, as to how the Property will be developed and what improvements will be made; and
- 1.6 **WHEREAS**, the record of the proceedings for requested annexation and zoning held before Planning and Zoning Commission and the City Council, includes responses of government subdivisions providing services within the City of Meridian planning jurisdiction, and includes further testimony and comment; and
- 1.7 **WHEREAS**, on the 17th day of November, 2020, the Meridian City Council approved certain Revised Findings of Fact and Conclusions of Law and Decision and Order (“Findings”), which have been incorporated into this Agreement and attached as Exhibit “B”; and
- 1.8 **WHEREAS**, the Findings require Owner/Developer to enter into a Development Agreement before the City Council takes final action on final plat; and
- 1.9 **WHEREAS**, Owner/Developer deems it to be in its best interest to be able to enter into this Agreement and acknowledges that this Agreement was entered into voluntarily and at its urging and request; and
- 1.10 **WHEREAS**, City requires Owner/Developer to enter into a development agreement for the purpose of ensuring that the Property is developed and the subsequent use of the Property is in accordance with the terms and conditions of this Agreement, herein being established as a result of evidence received by the City in the proceedings for zoning designation from government subdivisions providing services within the planning jurisdiction and from affected property owners and to ensure zoning designation are in accordance with the amended Comprehensive Plan of the City of Meridian on December 19, 2019, Resolution No. 19-2179, and the UDC, Title 11.

NOW, THEREFORE, in consideration of the covenants and conditions set forth herein, the parties agree as follows:

2. **INCORPORATION OF RECITALS:** That the above recitals are contractual and binding and are incorporated herein as if set forth in full.

3. **DEFINITIONS:** For all purposes of this Agreement the following words, terms, and phrases herein contained in this section shall be defined and interpreted as herein provided for, unless the clear context of the presentation of the same requires otherwise:

- 3.1 **CITY:** means and refers to the **City of Meridian**, a party to this Agreement, which is a municipal Corporation and government subdivision of the state of

Idaho, organized and existing by virtue of law of the State of Idaho, whose address is 33 East Broadway Avenue, Meridian, Idaho 83642.

3.2 **OWNER/DEVELOPER:** means and refers to GFI – Meridian Investments II, LLC, a Utah limited liability company, as an undivided 16.85% interest as tenants-in-common; Alpine 24 Investments, LLC, a Utah limited liability company, as an undivided 12.12% interest as tenants-in-common; RWG Investments, LTD, a Utah limited partnership, as an undivided 18.69% interest as tenants-in-common; GFI-Meridian Investments, III, LLC, a Utah limited liability company, as an undivided 33.65% interest as tenants-in-common; and DFG Investments, LTD, a Utah limited partnership, as an undivided 18.69% interest as tenants-in-common, whose address is 74 East 500 South, Ste. 200, Bountiful, UT 84010, hereinafter called OWNER/DEVELOPER, the party that is developing said Property and shall include any subsequent developer(s) of the Property.

3.3 **PROPERTY:** means and refers to that certain parcel(s) of Property located in the County of Ada, City of Meridian as in Exhibit “A” describing a parcel to be annexed and bound by this Development Agreement and attached hereto and by this reference incorporated herein as if set forth at length.

4. **USES PERMITTED BY THIS AGREEMENT:** This Agreement shall vest the right to develop the Property in accordance with the terms and conditions of this Agreement.

4.1 The uses allowed pursuant to this Agreement are only those uses allowed under the UDC.

4.2 No change in the uses specified in this Agreement shall be allowed without modification of this Agreement.

5. **CONDITIONS GOVERNING DEVELOPMENT OF SUBJECT PROPERTY:**

5.1. Owner/Developer shall develop the Property in accordance with the following special conditions:

- a. Owner/Developer is required to submit a Development Agreement Modification if any future development or application materially deviates from the approved Development Plan, as attached hereto as Exhibit “C”, and recorded Development Agreement. The City shall not issue a building permit until the property is subdivided.
- b. Owner/Developer shall comply with the design standards as proposed and shown in Exhibit VII.D of the Staff Report that is attached to the Findings of Fact and Conclusions, attached hereto as Exhibit “B”. Owner/Developer shall also comply with the following additional design standards at a minimum:
 1. Street level commercial must have at least 40% of the linear dimension of the façade as windows or doorways;

2. No wall frontage shall continue uninterrupted by a window or public access for a linear distance of greater than 12 feet;
 3. The principle doorway for public entry into a building shall be from the fronting street;
 4. Minimally six (6) of the eleven (11) proposed single-story structures shall be built with a first story clear ceiling height of 12-15 feet, especially those two structures along the main internal thoroughfare built adjacent to the proposed street cross-section 2 as seen in Exhibit VII.C of the Staff Report that is attached to the Findings of Fact and Conclusions attached hereto as Exhibit "B"; and
 5. In place of the fourth bullet point shown in Exhibit VII.D of the Staff Report that is attached to the Findings of Fact and Conclusions attached hereto as Exhibit "B", the following provision shall apply: Minimize single-story structures; on single-story structures, use architectural facades to add height wherever possible and visually effective.
- c. All street cross-sections (excluding commercial parking lot drive aisles) shall be consistent with the submitted cross-sections as shown in Exhibit VII.E of the Staff Report that is attached to the Findings of Fact and Conclusions attached hereto as Exhibit "B", commensurate with the Ten Mile Interchange Specific Area Plan (TMISAP) for traditional neighborhood design. Commercial drive aisles should still be designed with a high degree of pedestrian connectivity and comfort in mind, and utilize on-street parking where feasible to separate pedestrians from automotive traffic.
 - d. Owner/Developer shall preserve the Civic portion of the site for the future development of a multi-modal transit station. Interim uses shall be limited to shared/overflow parking, open space, and temporary uses (i.e. outdoor markets, car shows, mobile sales units, special events, and others as outlined in UDC 3-4. If by 2040 no Valley-wide study is adopted or the Treasure Valley High Capacity Transit Study determines a transit station is not necessary here, this restriction shall be null and void.
 - e. All future landscaping and lighting shall be consistent with the TMISAP and Public Works standards.
 - f. No accesses to N. Ten Mile Road and W. Franklin Road are approved with this application; access points to these arterial roadways will be reviewed in conjunction with the future traffic impact study required by Ada County Highway District (ACHD) upon future development of the subject site and any future subdivision.
 - g. Upon future development, and upon dedication of the required right of way by third parties, Owner/Developer shall construct half plus twelve feet of the future collector street where it abuts the Property located in the southeast corner of the Property, as shown on the approved Development Plan.
 - h. Owner/Developer shall construct the east-west street in the northern portion of the site as a full public street ending in the southeast corner of the proposed Civic site as

shown on the approved Development Plan in Exhibit VII.C of the Staff Report that is attached to the Findings of Fact and Conclusions attached hereto as Exhibit “B”.

- i. Future development of this site shall comply with the Ten Mile Interchange Specific Area Plan (TMISAP) goals submitted by Owner/Developer, as shown in Exhibit VII.D of the Staff Report that is attached to the Findings of Fact and Conclusions attached hereto as Exhibit “B”; all other goals stated in the TMISAP shall also be complied with to the extent possible other than the Floor Area Ratio (FAR) requirement.
- j. Future development of both the commercial and residential structures shall comply with the applicable architectural design guidelines within the TMISAP and the Architectural Standards Manual (ASM).
- k. Future development shall be consistent with the development and dimensional standards listed in UDC 11-2A-8 for the R-40 zoning district and those listed in UDC 11-2B-3 for the C-G zoning district.
- l. Owner/Developer shall comply with the ordinances in effect at the time of application submittal.
- m. The future residential development on this site shall be developed with a density range of 8-15 dwelling units per acre, based on the acreage of the entire site.
- n. If an agreement with ACHD to relocate their pond to the constrained piece in the southwest corner of the site is not accomplished, the Applicant shall coordinate with the Parks Department to include a public amenity (trail hub lot) in the southwest corner of the site, labeled as possible ACHD pond relocation on the approved Development Plan. If neither agreement can be made, Owner/Developer may construct this area with a specialty use that allows for an activity node for the development. Future development plans shall show this area of the approved Development Plan with greater detail following these discussions.
- o. Minimally those commercial buildings fronting along the central thoroughfare, proposed to be built adjacent to the labeled street section 2, shall be built as close to the back of sidewalk as possible—outdoor dining may be used in this area as an alternative but building façades shall be built no further than 10 feet from back of sidewalk in any case.
- p. The proposed plazas as shown in Exhibit VII.E of the Staff Report that is attached to the Findings of Fact and Conclusions attached hereto as Exhibit “B”, shall be built as raised islands for added pedestrian safety and placemaking; the addition of bollards shall also be considered for added safety and to delineate travel areas.
- q. Future development and potential changes to the development shall include no more than 45% of the subject site with residential uses, as measured in acres and square feet.

6. **COMPLIANCE PERIOD** This Agreement must be fully executed within six (6) months after the date of the Findings for the annexation and zoning or it is null and void.

7. **DEFAULT/CONSENT TO DE-ANNEXATION AND REVERSAL OF ZONING DESIGNATION:**

- 7.1 **Acts of Default.** Either party's failure to faithfully comply with all of the terms and conditions included in this Agreement shall constitute default under this Agreement.
- 7.2 **Notice and Cure Period.** In the event of Owner/Developer's default of this Agreement, Owner/Developer shall have thirty (30) days from receipt of written notice from City to initiate commencement of action to correct the breach and cure the default, which action must be prosecuted with diligence and completed within one hundred eighty (180) days; provided, however, that in the case of any such default that cannot with diligence be cured within such one hundred eighty (180) day period, then the time allowed to cure such failure may be extended for such period as may be necessary to complete the curing of the same with diligence and continuity.
- 7.3 **Remedies.** In the event of default by Owner/Developer that is not cured after notice as described in Section 7.2, Owner/Developer shall be deemed to have consented to modification of this Agreement and de-annexation and reversal of the zoning designations described herein, solely against the offending portion of Property and upon City's compliance with all applicable laws, ordinances and rules, including any applicable provisions of Idaho Code §§ 67-6509 and 67-6511. Owner/Developer reserve all rights to contest whether a default has occurred. This Agreement shall be enforceable in the Fourth Judicial District Court in Ada County by either City or Owner/Developer, or by any successor or successors in title or by the assigns of the parties hereto. Enforcement may be sought by an appropriate action at law or in equity to secure the specific performance of the covenants, agreements, conditions, and obligations contained herein.
- 7.4 **Delay.** In the event the performance of any covenant to be performed hereunder by either Owner/Developer or City is delayed for causes that are beyond the reasonable control of the party responsible for such performance, which shall include, without limitation, acts of civil disobedience, strikes or similar causes, the time for such performance shall be extended by the amount of time of such delay.
- 7.5 **Waiver.** A waiver by City of any default by Owner/Developer of any one or more of the covenants or conditions hereof shall apply solely to the default and defaults waived and shall neither bar any other rights or remedies of City nor apply to any subsequent default of any such or other covenants and conditions.

8. **INSPECTION:** Owner/Developer shall, immediately upon completion of any portion or the entirety of said development of the Property as required by this Agreement or by City ordinance or policy, notify the City Engineer and request the City Engineer's inspections and written

approval of such completed improvements or portion thereof in accordance with the terms and conditions of this Agreement and all other ordinances of the City that apply to said Property.

9. **REQUIREMENT FOR RECORDATION:** City shall record this Agreement, including all of the Exhibits, and submit proof of such recording to Owner/Developer, prior to the third reading of the Meridian Zoning Ordinance in connection with the re-zoning of the Property by the City Council. If for any reason after such recordation, the City Council fails to adopt the ordinance in connection with the annexation and zoning of the Property contemplated hereby, the City shall execute and record an appropriate instrument of release of this Agreement.

10. **ZONING:** City shall, following recordation of the duly approved Agreement, enact a valid and binding ordinance zoning the Property as specified herein.

11. **SURETY OF PERFORMANCE:** The City may also require surety bonds, irrevocable letters of credit, cash deposits, certified check or negotiable bonds, as allowed under the UDC, to insure the installation of required improvements, which the Owner and/or Developer agree to provide, if required by the City.

12. **CERTIFICATE OF OCCUPANCY:** No Certificates of Occupancy shall be issued in any phase in which the improvements have not been installed, completed, and accepted by the City, or sufficient surety of performance is provided by Owner/Developer to the City in accordance with Paragraph 11 above.

13. **ABIDE BY ALL CITY ORDINANCES:** That Owner/Developer agrees to abide by all ordinances of the City of Meridian unless otherwise provided by this Agreement.

14. **NOTICES:** Any notice desired by the parties and/or required by this Agreement shall be deemed delivered if and when personally delivered or three (3) days after deposit in the United States Mail, registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

CITY:
City Clerk
City of Meridian
33 E. Broadway Ave.
Meridian, Idaho 83642

with copy to:
City Attorney
City of Meridian
33 E. Broadway Avenue
Meridian, Idaho 83642

OWNER/DEVELOPER:
c/o GFI – Meridian Investments III, LLC
74 East 500 South, Ste. 200
Bountiful, UT 84010

with copy to:
Deborah Nelson
Givens Pursley LLP
601 W Bannock St
Boise ID 83702

14.1 A party shall have the right to change its address by delivering to the other party a written notification thereof in accordance with the requirements of this section.

15. **ATTORNEY FEES:** Should any litigation be commenced between the parties hereto concerning this Agreement, the prevailing party shall be entitled, in addition to any other relief as may be granted, to court costs and reasonable attorney's fees as determined by a Court of competent jurisdiction. This provision shall be deemed to be a separate contract between the parties and shall survive any default, termination or forfeiture of this Agreement.

16. **TIME IS OF THE ESSENCE:** The parties hereto acknowledge and agree that time is strictly of the essence with respect to each and every term, condition and provision hereof, and that the failure to timely perform any of the obligations hereunder shall constitute a breach of and a default under this Agreement by the other party so failing to perform.

17. **BINDING UPON SUCCESSORS:** This Agreement shall be binding upon and inure to the benefit of the parties' respective heirs, successors, assigns and personal representatives, including City's corporate authorities and their successors in office. This Agreement shall be binding on Owner/Developer, each subsequent owner and any other person acquiring an interest in the Property. Nothing herein shall in any way prevent sale or alienation of the Property, or portions thereof, except that any sale or alienation shall be subject to the provisions hereof and any successor owner or owners shall be both benefited and bound by the conditions and restrictions herein expressed. City agrees, upon written request of Owner/Developer, to execute appropriate and recordable evidence of termination of this Agreement if City, in its sole and reasonable discretion, had determined that Owner/Developer have fully performed their obligations under this Agreement.

18. **INVALID PROVISION:** If any provision of this Agreement is held not valid by a court of competent jurisdiction, such provision shall be deemed to be excised from this Agreement and the invalidity thereof shall not affect any of the other provisions contained herein.

19. **DUTY TO ACT REASONABLY:** Unless otherwise expressly provided, each party shall act reasonably in giving any consent, approval, or taking any other action under this Agreement.

20. **COOPERATION OF THE PARTIES:** In the event of any legal or equitable action or other proceeding instituted by any third party (including a governmental entity or official) challenging the validity of any provision in this Agreement, the parties agree to cooperate in defending such action or proceeding.

21. **FINAL AGREEMENT:** This Agreement sets forth all promises, inducements, agreements, condition and understandings between Owner/Developer and City relative to the subject matter hereof, and there are no promises, agreements, conditions or understanding, either oral or written, express or implied, between Owner/Developer and City, other than as are stated herein. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless reduced to writing and signed by them or their successors in interest or their assigns, and pursuant, with respect to City, to a duly adopted ordinance or resolution of City.

21.1 No condition governing the uses and/or conditions governing re-zoning of the subject Property herein provided for can be modified or amended without the approval of the

City Council after the City has conducted public hearing(s) in accordance with the notice provisions provided for a zoning designation and/or amendment in force at the time of the proposed amendment.

22. **EFFECTIVE DATE OF AGREEMENT:** This Agreement shall be effective on the date the Meridian City Council shall adopt the amendment to the Meridian Zoning Ordinance in connection with the annexation and zoning of the Property and execution of the Mayor and City Clerk.

[end of text; signatures, acknowledgements, and Exhibits A, B and C follow]

ACKNOWLEDGMENTS

IN WITNESS WHEREOF, the parties have herein executed this agreement and made it effective as hereinabove provided.

OWNER/DEVELOPER:

GFI – Meridian Investments II, LLC,
a Utah limited liability company, as an
undivided 16.85% interest as tenants-in-common

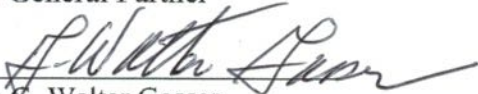
By: 
Trevor Gasser, Manager

Alpine 24 Investments, LLC,
a Utah limited liability company, as an
undivided 12.12% interest as tenants-in-common

By: 
G. Walter Gasser, Manager

RWG Investments, LTD.,
a Utah limited partnership, as an
undivided 18.69% interest as tenants-in-common

By: WGA-III, INC. a Utah corporation
Its: General Partner


By: G. Walter Gasser
Its: President

GFI-Meridian Investments III, LLC,
a Utah limited liability company, as an
undivided 33.65% interest as tenants-in-common

By: 
Trevor Gasser, Manager

**DFG Investments, LTD.,
a Utah limited partnership, as an
undivided 18.69% interest as tenants-in-common**

By: WGA-III, INC. a Utah corporation
Its: General Partner

By: [Signature]
G. Walter Gasser
Its: President

CITY OF MERIDIAN

ATTEST:

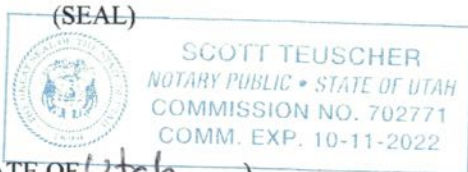
By: _____
Mayor Robert E. Simison

Chris Johnson, City Clerk

STATE OF Utah)
: ss:
County of Davis)

On this 14 day of May, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared **Trevor Gasser** known or identified to me to be Manager of **GFI – Meridian Investments II, LLC**, and the person who signed above and acknowledged to me that he executed the same on behalf of said entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



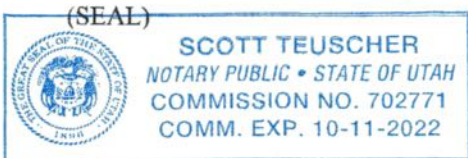
[Signature]
Notary Public for KeyBank
Residing at: 562 S Main St Bountiful UT
My Commission Expires: 10-11-2022

STATE OF Utah)
: ss:
County of Davis)



On this 14 day of May, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared **G. Walter Gasser** known or identified to me to be Manager of **Alpine 24 Investments, LLC**, and the person who signed above and acknowledged to me that he executed the same on behalf of said entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



[Signature]
Notary Public for KeyBank
Residing at: 562 S Main St Bountiful UT
My Commission Expires: 10-11-2022

STATE OF Utah)
 : ss:
County of Davis)

On this 14 day of May, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared **G. Walter Gasser** known or identified to me to be the President of **WGA-III, Inc.**, a Utah corporation, and the General Partner of **RWG Investments, LTD.**, a Utah limited partnership, who subscribed said limited partnership name to the foregoing instrument, and acknowledged to me that such corporation executed the same in said limited partnership name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)



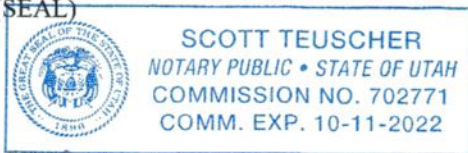
Scott Teuscher
Notary Public for Key Bank
Residing at: 562 S Main St Bountiful UT
My Commission Expires: 10-11-2022

STATE OF Utah)
 : ss:
County of Davis)

On this 14 day of May, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared **G. Walter Gasser** known or identified to me to be Manager of **GFI - Meridian Investments, III LLC**, and the person who signed above and acknowledged to me that he executed the same on behalf of said entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)



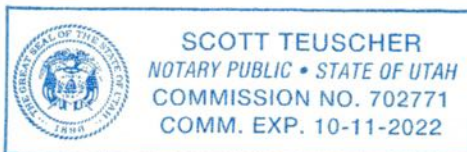
Scott Teuscher
Notary Public for Key Bank
Residing at: 562 S Main St Bountiful UT
My Commission Expires: 10-11-2022

STATE OF Utah)
 : ss:
County of Davis)

On this 14 day of May, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared **G. Walter Gasser** known or identified to me to be the President of **WGA-III, Inc.**, a Utah corporation, and the General Partner of **DFG Investments, LTD.**, a Utah limited partnership, who subscribed said limited partnership name to the foregoing instrument, and acknowledged to me that such corporation executed the same in said limited partnership name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)



Scott Teuscher
Notary Public for Key Bank
Residing at: 562 S Main St Bountiful
My Commission Expires: 10-11-2022

STATE OF IDAHO)
 : ss
County of Ada)

On this ____ day of _____, 2021, before me, a Notary Public, personally appeared **Robert E. Simison** and **Chris Johnson**, known or identified to me to be the Mayor and Clerk, respectively, of the **City of Meridian**, who executed the instrument or the person that executed the instrument of behalf of said City, and acknowledged to me that such City executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

Notary Public for Idaho
Residing at: _____
Commission expires: _____