

5th ADDENDUM TO THE DEVELOPMENT AGREEMENT

- PARTIES:**
1. City of Meridian
 2. Brighton Development, Inc., Owner/Developer

This 5th Addendum to the Development Agreement is made and entered into this _____ day of _____, 2017, by and between **City of Meridian**, a municipal corporation of the State of Idaho, hereafter called CITY, and **Brighton Development, Inc.**, whose address is 2929 W. Navigator Road, Meridian, ID 83642, hereinafter called OWNER/DEVELOPER.

RECITALS

A. CITY and OWNER/DEVELOPER entered into that certain DEVELOPMENT AGREEMENT on August 14, 2004 (Instrument # 103137116) and an ADDENDUM TO DEVELOPMENT AGREEMENT on July 24, 2013 (Instrument # 113083665), 2nd ADDENDUM TO DEVELOPMENT AGREEMENT on January 20, 2016 (Instrument # 2016-005060); 3RD ADDENDUM TO DEVELOPMENT AGREEMENT on January 12, 2017 (Instrument #2017-003462) and a 4th ADDENDUM TO DEVELOPMENT AGREEMENT on July 19, 2017 .

B. CITY and OWNER/DEVELOPER now desire to amend the Development Agreement and the Addendum to the Development Agreement and the 2nd Addendum to Development Agreement and the 3rd Addendum to Development and the 4th Addendum to Development Agreement and in accordance with the terms in this 5th Addendum, which terms have been approved by the Meridian Planning and Zoning Commission and the Meridian City Council in accordance with Idaho Code Section 67-6511A.

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

1. OWNER/DEVELOPER shall be bound by the terms of the Development Agreement, the Addendum to Development Agreement, the 2nd Addendum to Development Agreement and the 3rd Addendum and the 4th Addendum to Development except as specifically amended by the following:

SECTION 6: CONDITIONS GOVERNING DEVELOPMENT OF PROPERTY:

Owner/Developer shall develop the property in accordance with the original Development Agreement (Instrument #103137116) and the Addendum to Development Agreement (Instrument # 113083665) and the 2nd Addendum to Development Agreement (Instrument # 2016-005060 and the 3rd Addendum (Instrument # 2017-003462) and the 4th Addendum (Instrument # 2017-066043). In addition, the following provisions shall also be required:

1. *Direct access to W. Chinden Boulevard is prohibited in accord with UDC 11-3A-3 and 11-3H-4B.*
 2. *A minimum 35-foot wide street buffer is required along W. Chinden Boulevard, an entryway corridor and shall be landscaped in accord with the standards listed in UDC 11-3B-7C.*
 3. *A detached 10-foot wide multi-use pathway shall be provided along W. Chinden Boulevard, and along the north side of W. Director Street within a public use easement in accord with UDC 11-3H-4C.4. The public use easement shall be submitted to the City, approved by City Council and recorded prior to the City Engineer signing the final plat.*
 4. *Right-of-way (ROW) shall be reserved in the amount required by the Idaho Transportation Department for the expansion of W. Chinden Boulevard with development of the properties adjacent to Chinden Boulevard.*
 5. *A Certificate of Zoning Compliance and subsequent building permit application is allowed to be submitted for approval prior to recordation of the first phase of the subdivision where the assisted living facility is proposed to develop. The first phase final plat shall be recorded prior to issuance of the Certificate of Occupancy for the assisted living facility.*
 6. *The two accesses via N. Fox Run Way, a collector street, are allowed as depicted on the site plan.*
 7. *Development of the property at the southeast corner of W. Chinden Blvd. and N. Fox Run Way where the assisted living facility is proposed shall be generally consistent with the concept plan shown in Exhibit A.4 of the Staff Report that was approved with the Findings of Fact and Conclusions of Law approved by Meridian City Council on December 6, 2016. Development of the site shall substantially comply with the concept plan as attached in Exhibit "A".*
 8. *Construction of the street buffer landscaping and associated 10-foot wide multi-use pathways along W. Chinden Blvd. shall be constructed with the final plat for each phase of development.*
2. That Owner/Developer agrees to abide by all ordinances of the City of Meridian and the Property shall be subject to de-annexation of the Owner/Developer, or their assigns, heirs, or successor shall not meet the conditions of this addendum to the Development Agreement, and any new Ordinances of the City of Meridian as herein provided.
3. This Addendum shall be binding upon and insure to the benefit of the parties' respective heirs, successors, assigns and personal representatives, including City's corporate authorities and their successors in office. This Addendum shall be binding on the Owners/Developers of the Property, each subsequent owner and any other person(s) 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 hereon 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 Addendum if City, in its sole and reasonable discretion, had determined that Owner/Developer has fully performed its obligations under this Addendum.

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

5. This Addendum sets forth all promises, inducements, agreements, condition, and understandings between Owners/Developers and City relative to the subject matter herein, and there are no promises, agreements, conditions or under-standing, either oral or written, express or implied, between Owners/ Developers and City, other than as are stated herein. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this second addendum 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.

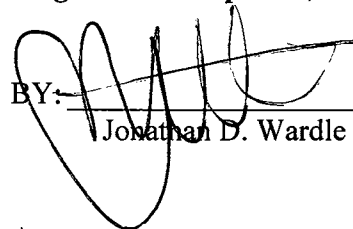
a. Except as herein provided, no condition governing the uses and/or conditions governing development of the subject Property herein provided for can be modified or amended within the approval of the City Council after the City has conducted public hearing(s) in accordance with the notice provisions provided for a zoning designation and/or amendment in force at the time of the proposed amendment.

6. This Addendum shall be effective as of the date herein above written.

ACKNOWLEDGMENTS

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

OWNER/DEVELOPER:
Brighton Development, Inc.

BY: 
Jonathan D. Wardle

CITY OF MERIDIAN

Attest:

Robert E. Simison, Mayor

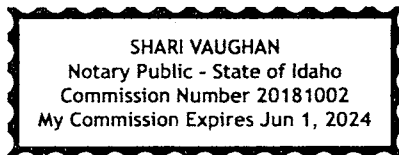
Chris Johnson, City Clerk

STATE OF IDAHO)
: ss:
County of Ada,)

On this 19th day of January, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared Jonathan D. Wardle known or identified to me to be the President of **Brighton Development, Inc.**, and acknowledged to me that he executed the same on behalf of said corporation.

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)



Shari Vaughan
Notary Public for Idaho
Residing at: Eagle, ID
My Commission Expires: 6-1-2024

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**, know 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: _____