

DRAFT

WHEN RECORDED, MAIL TO:

City Recorder

Park City Municipal Corporation

P. O. Box 1480

Park City, Utah 84060

**DEVELOPMENT AGREEMENT
FOR THE INTERMOUNTAIN HEALTHCARE (IHC) MASTER PLANNED
DEVELOPMENT (MPD), AS AMENDED, LOCATED ON LOTS 1, 2, 4, 5, 6, 7, 8, 9, 10,
11, AND 12 OF THE THIRD AMENDED INTERMOUNTAIN HEALTHCARE PARK
CITY MEDICAL CAMPUS/USSA HEADQUARTERS AND TRAINING FACILITY
SUBDIVISION PLAT LOCATED AT ROUND VALLEY DRIVE, PARK CITY, SUMMIT
COUNTY, UTAH**

This Development Agreement is entered into as of this ____ day of _____, 2017, by and between IHC Hospital, Inc. (“Developer”) as the owner and developer of certain real property located in Park City, Summit County, Utah, on which Developer proposes the development of a project known as the Intermountain Healthcare (IHC) Master Planned Development, and Park City Municipal Corporation, a municipality and political subdivision of the State of Utah (“Park City”), by and through its City Council.

RECITALS

A. Developer is the owner of LOTS 1, 2, 6, 8, 9, 10, 11, and 12 OF THE SECOND- AND THIRD AMENDED INTERMOUNTAIN HEALTHCARE PARK CITY MEDICAL CAMPUS/USSA HEADQUARTERS AND TRAINING FACILITY SUBDIVISION PLATS located on Round Valley Drive in Park City, Summit County, Utah, as described in the Legal Description, which is attached hereto as Attachment 1, and incorporated herein by this reference (the “Property”), on which it has obtained approval for the development known as the Intermountain Healthcare (IHC) Master Planned Development aka IHC MPD, as amended, and as more fully described in the incorporated approved MPD Plans attached hereto as Attachment 2. Lots 4 and 5 OF THE SECOND AND THIRD AMENDED INTERMOUNTAIN HEALTHCARE PARK CITY MEDICAL CAMPUS/USSA HEADQUARTERS AND TRAINING FACILITY SUBDIVISION PLATS are owned by Park City Municipal Corporation. Lot 7 OF THE SECOND AND THIRD AMENDED INTERMOUNTAIN HEALTHCARE PARK CITY MEDICAL CAMPUS/USSA HEADQUARTERS AND TRAINING FACILITY SUBDIVISION PLATS was originally owned by the Developer and is part of this MPD and its amendments, and is now owned by Physicians Holding, Inc.

B. The Property is also subject to an Annexation Agreement that set forth terms and conditions under which the City would annex certain land, consisting of 157 acres and located in unincorporated Summit County, Utah at the northwest corner of State Road 248 and Highway 40, into the corporate limits of the City and extend municipal services to the Property. The Annexation Agreement recorded at Summit County on 1/23/2007 (Entry No. 00802747) and attached hereto as Attachment 3, includes as an attachment certain Findings and Annexation Agreement Points that apply to the IHC MPD.

C. The Property is subject to the Second and Third Amended Intermountain Healthcare Park City Medical Campus/USSA Headquarters and Training Facility Subdivision plats attached hereto as Attachment 4.

D. Park City requires development agreements under the requirements of the Park City Land Management Code (“LMC”) Section 15-6-4 (G) for all Master Planned Developments.

E. Developer is willing to design and develop the Project in a manner that is in harmony with and intended to promote the long-range policies, goals and objectives of the Park City General Plan, and to address other issues as more fully set forth below.

F. Park City, acting pursuant to its authority under Utah Code Ann., Section 10-9-101, *et seq.*, and in furtherance of its land use policies, goals, objectives, ordinances, resolutions, and regulations has made certain determinations with respect to the proposed Project, and, in the exercise of its legislative discretion, has elected to approve this amended Development Agreement.

Now, therefore, in consideration of the mutual covenants, conditions and considerations as more fully set forth below, Developer and Park City hereby agree as follows:

1. **Property**

The IHC MPD, as Amended, consists of Lots 1, 2, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the Intermountain Healthcare Park City Medical Campus / USSA Headquarters and Training Facility Subdivision (IHC/USSA Subdivisions as Amended), and generally includes an Intermountain Healthcare Hospital of 300,000 square feet (180 Unit Equivalents) located on Lot 1 and Support Medical Office space of 150,000 square feet (150 Unit Equivalents) located on Lots 1, 7, and 10. The Peace House facility was approved to be located on Lot 8. Lot 2 was dedicated as open space. Lot 4, originally identified for 28 deed restricted housing units, is identified for public safety uses such as a Fire Station or other public safety buildings, and open space. Lot 5 is dedicated to the City for future recreation uses. Support medical office uses previously approved for Lots 6 and 8 were transferred to Lot 1. Lot 9 contains a small Questar gas regulating facility, Lot 11 is a one acre lot surrounding Lot 9, and Lot 12 is a separate lot created by subdividing Lot 8 that has no currently assigned density or uses. Lot 3 of the IHC/USSA Subdivision is not part of the IHC MPD and is owned by and the location of the USSA Headquarters and Training Center Master Planned Development. The Second and Third Amended IHC/USSA Subdivision plats are attached hereto as Attachment 4.

The property is located on Round Valley Drive west of US 40 and east of the Round Valley Open Space area, in the Quinn’s Junction neighborhood of Park City, as described in the Park City General Plan. The property is located in the Community Transition (CT) Zoning District.

2. **Project Conditions, Exactions and Agreed Dedications**

2.1. The Action letters and MPD Plans as approved by the Planning Commission on May 23, 2007, attached hereto as Attachment 5, as amended and approved by the Planning Commission on October 8, 2014 and attached hereto as Attachment 6, and as further amended and approved by the Planning Commission on January 13, 2016 and attached hereto as Attachment 7, are incorporated herein as the Project; subject to changes detailed herein.

2.2. Developer and its successors agree to pay the then current impact fees imposed and as uniformly established by the Park City Municipal Code at the time of permit application, whether or not state statutes regarding such fees are amended in the future.

2.3. Developer and any successors agree that the following are required to be entered into and approved by Park City prior to issuance of a Building Permit: (a) a construction mitigation plan, (b) utility and grading plans, (c) a storm water plan, (d) flood plain and wetland delineation studies; and (e) a water efficient landscape and irrigation plan showing snow storage areas.

2.4. Developer is responsible for compliance with all local, state, and federal regulations regarding any contaminated soils as well as streams and wetlands. Developer is responsible for receiving any Army Corp of Engineer Permits required related to any disturbance of streams and wetlands.

2.5 Developer Exactions and agreed upon public dedications are outlined in the Annexation Agreement. The following are outstanding Developer obligations:

- a. Trails Easement – being executed prior to building permit issuance for final phase of Hospital construction.
- b. Affordable Housing – 4 AUEs – Upon payment of Intermountain of \$816,000 to Peace House and Peace House completing construction of its facility.
- c. Affordable Housing – 6.82 AUEs – To be fulfilled before certificate of occupancy of full build out of the hospital.
- d. Silver Summit Frontage Road Easement – Upon request by Park City Municipal Corporation and prior to certificate of occupancy of final phase of Hospital construction.
- e. Parking Study – Upon submission of next application for construction on Hospital campus by Intermountain Healthcare

3. **Vested Rights and Reserved Legislative Powers**

3.1 Subject to the provisions of this Agreement, Developer shall have the right to develop and construct the Project in accordance with the uses, densities, intensities, and general configuration of development approved by this Agreement, subject to compliance with the other applicable ordinances and regulations of Park City.

3.2 **Reserved Legislative Powers.** Developer acknowledges that the City is restricted in its authority to limit its police power by contract and that the limitations, reservations and exceptions set forth herein are intended to reserve to the City all of its police power that cannot be so limited. Notwithstanding the retained power of the City to enact such legislation under the police powers, such legislation shall only be applied to modify the existing land use and zoning regulations which are applicable to the Project 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. Any such proposed legislative changes affecting the Project and terms and conditions of this Agreement applicable to the Project shall be of general application to all development activity in the City; and, unless the City declares an emergency, Developer shall be entitled to the required 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. **Successors and Assigns.**

4.1 **Binding Effect.** This Agreement shall be binding on the successors and assigns of Developer in the ownership or development of any portion of the Project.

4.2 **Assignment.** Neither this Agreement nor any of the provisions, terms or conditions hereof can be assigned to any other party, individual or entity without assigning the rights as well as the responsibilities under this Agreement and without the prior written consent of the City, which consent shall not be unreasonably withheld. Any such request for assignment may be made by letter addressed to the City and the prior written consent of the City may also be evidenced by letter from the City to Developer or its successors or assigns. This restriction on assignment is not intended to prohibit or impede the sale of parcels of fully or partially improved or unimproved land by Developer prior to construction of buildings or improvements on the parcels, with Developer retaining all rights and responsibilities under this Agreement.

5. **General Terms and Conditions.**

5.1 **Term of Agreement.** Construction as defined by the Uniform Building Code did commence within two (2) years of the date of the approval of the original MPD Construction, as defined by the Uniform Building Code. After Construction commences, the IHC Master Planned Development and this Agreement shall continue in force and effect until all obligations hereto have been satisfied. The Master Plan approval for the Project shall remain valid so long as construction is proceeding in accordance with the approved Phasing Plan as set forth herein (Attachment 8).

5.2 **Agreement to Run With the Land.** This Development Agreement shall be recorded against the Property, as described herein, and shall be deemed to run with the land and shall be binding on all successors and assigns of Developer in the ownership or development of any portion of the Property.

5.3 **No Joint Venture, Partnership or Third Party Rights.** This Development Agreement does not create any joint venture, partnership, undertaking or business arrangement between the parties hereto, nor any rights or benefits to third parties.

5.4 **Integration.** This Development Agreement, with Attachments incorporated herein, contains the entire Agreement with respect to the subject matter hereof and integrates all prior conversations, discussions or understandings of whatever kind or nature and may only be modified by a subsequent writing duly executed by the parties hereto.

5.5 **Severability.** If any part or provision of this Agreement shall be determined to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, then such a decision shall not affect any other part or provision of this Agreement except that specific provision determined to be unconstitutional, invalid or unenforceable. If any condition, covenant or other provision of this Agreement shall be deemed invalid due its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

5.6 Attorney's Fees. If this Development Agreement or any of the Attachments hereto are breached, the party at fault agrees to pay the attorney's fees and all costs of enforcement of the non-breaching party.

5.7 Minor Administrative Modification. Minor administrative modification may occur to this MPD approval without necessity of revision of this Agreement.

6. **Phasing.**

6.1 Project Phasing. The Project has been and will continue to be developed in multiple phases as outlined on the approved amended Phasing Plan attached hereto as Attachment 8.

6.2 Form of Ownership Anticipated for the Project. The Project will consist of hospital and medical office uses, the Peace House, Summit County Health Department and People's Health Clinic offices and clinics, future City recreational uses, public safety uses, open space, and other related improvements. Developer anticipates that the Lots and Parcels of the MPD will be owned and/or leased by Developer, or its assigns. Lot 5 was dedicated to the City for future recreational uses. Any proposal to condominiumize the Project for private ownership, fractional ownership and common ownership of land and common facilities requires additional approvals and shall be in compliance with applicable ordinances and state code.

7. **Water.**

Developer acknowledges that water development fees were calculated by the City in the same manner and in the same comparative amount as with other developments within the municipal boundaries and that impact fees so collected will not be refunded to Developer or to individual building permit applicants developing within the Project. Additional requirements regarding water are memorialized in the Annexation Agreement, attached hereto as Attachment 3, as recorded at Summit County on 1/23/2007 (Entry No. 00802747).

8. **Affordable Housing.**

This Master Planned Development is subject to affordable housing requirements as described in the Annexation Agreement, attached hereto as Attachment 3, as recorded at Summit County on 1/23/2007 (Entry No. 00802747). Additionally, the MPD is subject to a Housing Mitigation Plan approved by the Park City Housing Authority on June 4, 2016 and attached hereto as Attachment 9a. and an amended Housing Mitigation Plan as approved by the Park City Housing Authority on February 2, 2017, and attached hereto as Attachment 9b. The amended Housing Mitigation Plan includes requirements related to the Peace House facility proposed to be constructed on Lot 8 of the Third Amended IHC Subdivision plat. The Developer shall comply with the affordable housing requirements as amended with the February 3, 2017, Amended Affordable Housing Mitigation Plan, prior to receiving certificates of occupancy for the Peace House and the affordable housing requirements of the Annexation Agreement for future phases of the MPD.

9. **Physical Mine Hazards.**

There are no known Physical Mine Hazards on the property as determined through the exercise of reasonable due diligence by the Owner attached hereto as Attachment 10.

10. **Historic Structures.**

There are no known Historic Structures on the Property, according to the City's Historic Sites Inventory.

11. **Quinn's Junction Area Study.**

The City hereby confirms that the Property is located within the Quinn's Junction Area Study ("QJAS") and the findings and conclusions of the QJAS, attached hereto as Attachment 11, are consistent with the provisions of this Development Agreement.

12. **Ratification of Development Agreement.**

On December 14, 2016, the Planning Commission approved an extension to ratify the Development Agreement by July 13, 2017 as stated in the Extension of ratification Action Letter, attached hereto as Attachment 12.

13. **Notices.**

All notices, requests, demands, and other communications hereunder shall be in writing and shall be given (i) by Federal Express, UPS, or other established express delivery service which maintains delivery records, (ii) by hand delivery, or (iii) by certified or registered mail, postage prepaid, return receipt requested, to the parties at the following addresses, or at such other address as the parties may designate by written notice in the above manner:

To Developers:

IHC Health Services, Inc. Utah
36 South State Street, 23rd Floor
Salt Lake City, UT 84111
Attn: Corporate Real Estate Director

To Park City:

Park City Municipal Corporation
445 Marsac Avenue
PO Box 1480
Park City, UT 84060
Attn: City Attorney

Such communication may also be given by facsimile and/or email transmission, provided any such communication is concurrently given by one of the above methods. Notices shall be deemed effective upon receipt, or upon attempted delivery thereof if delivery is refused by the intended recipient or if delivery is impossible because the intended recipient has failed to provide a reasonable means for accomplishing delivery.

14. **List of Attachments.**

- Attachment 1- Legal Description of Property
- Attachment 2- Approved MPD Site Plan
- Attachment 3- Annexation Agreement (Recorded 1/23/2007 Entry No. 00802747)
- Attachment 4- Second and Third Amended IHC/USSA Subdivision plats
- Attachment 5- Action letter Planning Commission approval of MPD - May 23, 2007
- Attachment 6- Action letter Planning Commission approval of First Amended MPD - October 8, 2014
- Attachment 7- Action letter Planning Commission approval of Second Amended MPD -January 13, 2016
- Attachment 8- Phasing Plan (Approved Amended Phasing Plan - October 8, 2014)
- Attachment 9a- Housing Mitigation Plan approved on June 4, 2015
- Attachment 9b- Amended Housing Mitigation Plan approved on February 3, 2017
- Attachment 10- Mine Hazard Letter
- Attachment 11- Quinn’s Junction Area Study Findings and Conclusions
- Attachment 12- Extension of ratification by Planning Commission - December 14, 2016

IN WITNESS WHEREOF, this Development Agreement has been executed by the Developer by persons duly authorized to execute the same and by the City of Park City, acting by and through its City Council as of the ___ day of _____, 2017.

PARK CITY MUNICIPAL CORPORATION:

By: _____
Jack Thomas, Mayor

ATTEST:

By: _____
Michelle Kellogg, City Recorder

APPROVED AS TO FORM:

Mark D. Harrington, City Attorney

STATE OF UTAH)
 : ss
COUNTY OF SUMMIT)

On this ___ day of _____, 2017, personally appeared before me Jack Thomas, whose identity is personally known to me/or proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed), did say that he is the Mayor of Park City Municipal Corporation.

Notary Public:

DEVELOPER:

IHC Health Services, Inc. Utah
36 South State Street, 23rd Floor
Salt Lake City, UT 84111
Attn: Corporate Real Estate Director

By:

STATE OF UTAH)
 : ss
COUNTY OF SUMMIT)

On this ____ day of _____, 2017, personally appeared before me _____, whose identity is personally known to me/or proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed), did say that he is a managing partner of IHC Health Services, INC. Utah

Notary Public