

WHEN RECORDED, RETURN TO:

Real Estate Services Division
50 E. North Temple St., 12th Floor
Salt Lake City, Utah 84150
Attn: Property No. 543-4475

DOC # 20060024402

Agreement Page 1 of 7
Russell Shirts Washington County Recorder
6/7/06 4:54 PMFee \$ 26.00By DIXIE TITLE CO



SURFACE WATER ACCOMMODATION GUARANTEE

THIS SURFACE WATER ACCOMMODATION GUARANTEE (this
“Guarantee”) is made and executed this 2nd day of May, 2006, by and
between RED CLIFFS SQUARE, LC, a Utah limited liability company (“Grantor”), in
favor of CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF
JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole (“CPB”).

R E C I T A L S

- A. Grantor is the owner of a certain parcel of land situated in St. George, Washington County, Utah (the “**Burdened Parcel**”). The Burdened Parcel is more particularly described on Exhibit A attached hereto and incorporated herein by this reference.
- B. CPB is the owner of that certain parcel of land situated immediately adjacent to and West of the Burdened Parcel (the “**Benefited Parcel**”). The Benefited Parcel is more particularly described as tax parcel #SG-5-2-22-47.
- C. The natural flow of surface water emanating on the Benefited Parcel is southerly and eastward, thus excess surface water from the Benefited Parcel runs onto the Burdened Parcel. Additionally, there currently exists a detention pond on the southwest portion of the Burdened Parcel (the “**Detention Pond**”), which Detention Pond is used to hold excess water emanating from the Benefited Parcel.
- D. CPB desires to obtain from Grantor a guarantee that Grantor will accept, collect, and accommodate said excess surface water emanating from the Benefited Parcel and flowing on to the Burdened Parcel.
- E. Grantor desires to guarantee CPB that Grantor will accommodate on the Burdened Parcel, the excess surface water emanating from the Benefited Parcel. Grantor desires to guarantee this accommodation to CPB by means of designs, methods, and appurtenances Grantor determines to be most appropriate, including redirection of excess surface water flows, relocation, and/or reconfiguration of the detention pond, that are in accordance with St. George City regulations and approvals.

F. Grantor desires to grant an Accommodation Guarantee to CPB under the terms hereinafter set forth.

TERMS AND CONDITIONS

NOW, THEREFORE, for the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledge, the parties agree as follows:

1. **Grant of Accommodation Guarantee.** Grantor hereby conveys to CPB a perpetual, non-exclusive, guarantee for the benefit of the Benefited Parcel, and for the purpose of draining, accommodating, and retaining excess surface water on the Burdened Parcel, which flows from the Benefited Parcel. Grantor guarantees to CPB the following: Grantor will accept the excess surface water from Benefited Parcel where it currently flows onto the Burdened Parcel; divert, accommodate, and dispose of the excess surface water on the Burdened Parcel.
2. **Duration.** The Accommodation Guarantee and obligations outlined in this Guarantee are perpetual and shall run with the land and shall be for the benefit of the Benefited Parcel, and will burden the Burdened Parcel.
3. **Building Restrictions on the Burdened Parcel.** Grantor shall not be encumbered or limited by CPB in Grantor's Master Plan design by accommodation of Benefited Parcel's excess surface water and Grantor's development of Burdened Parcel.
4. **Maintenance of the Improvements.** Grantor, at Grantor's sole cost and expense, intends to design, construct, maintain, and operate alternative detention methods and appurtenances to the standards of other drainage and detention systems located within St. George., Utah, and in a condition that complies with all laws, ordinances, regulations, and requirements of any governmental agency having authority to regulate surface water runoff facilities or any improvements located therein.
5. **Relocation of the Detention Pond.** Grantor shall have the right, but not the obligation, at Grantor's sole cost and expense, to redesign, reconfigure, and/or relocate the Detention Pond, so long as such redesign, reconfiguration, and/or relocation (a) is approved by all governmental authorities having jurisdiction to approve such redesigns, reconfigurations, and/or relocations, and (b) does not jeopardize CPB's use of the Benefited Parcel. Grantor guarantees any such redesign, reconfiguration, and/or relocations will provide CPB with drainage and storage capacities

equivalent to the current Detention Pond and this Accommodation Guarantee provide.

6. **Enforceability and Litigation Expenses.** If any action, suit, or proceeding is brought by a party hereto with respect to a matter or matters covered by this Guarantee or if a party finds it necessary to retain an attorney to enforce its rights under this Guarantee, all costs and expenses of the prevailing party incident to such proceeding or retention, including reasonable attorney fees, shall be paid by the non-prevailing party.
7. **Governing Law.** This agreement shall be governed by, construed and interpreted in accordance with the laws of the State of Utah and shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

EXECUTED by Grantor and CPB on the date first set forth above.

Grantor:

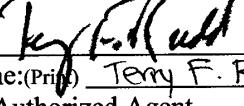
RED CLIFFS SQUARE, LC, a Utah limited liability company

By: 

Name: (Print) Robert D. Irvine
Title: mgr.

CPB:

CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole

By: 

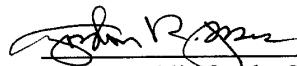
Name: (Print) Terry F. Rindfuss
Its: Authorized Agent



STATE OF UTAH)
:ss
COUNTY OF SALT LAKE)

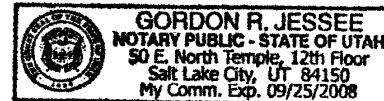
On this 2nd day of May, 2006, personally appeared before me
Terry F. Rudd, personally known to me to be the Authorized Agent of
**CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS
CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole**, who acknowledged
before me that he signed the foregoing instrument as Authorized Agent for the
**CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS
CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole**, and that the seal
impressed on the within instrument is the seal of said Corporation; and that said
instrument is the free and voluntary act of said Corporation, for the uses and purposes
therein mentioned, and on oath stated that he was authorized to execute said instrument
on behalf of said Corporation and that said Corporation executed the same.

WITNESS my hand and official seal.



Notary Public for the State of Utah

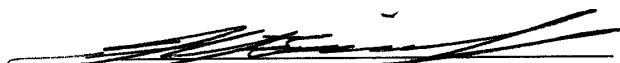
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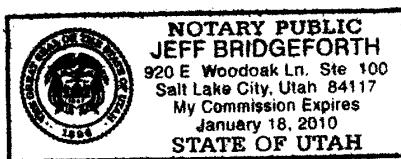
The foregoing instrument was acknowledged before me this 4th day of
May, 2006, by Robert D. Devine personally known to me to be the
Manager of RED CLIFFS SQUARE, LC, a Utah limited liability company, and whose
name is subscribed to the within instrument, and acknowledged that he executed the same
for and on behalf of RED CLIFFS SQUARE, LC, a Utah limited liability company.

WITNESS my hand and official seal.



Notary Public for the State of Utah

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PEPG ENGINEERING, L.L.C.

Civil Engineering
Land Surveying
Wetlands
Land Planning
Environmental
Construction
Services

Date: April 6, 2006

EXHIBIT "A"

Red Cliffs Square

The following description has been rotated to the City HCN:

Basis of Bearing is South 89°03'43" East, between the Northwest corner of Section 22, and the North Quarter Corner of Section 22, Township 42 South, Range 15 West, Salt Lake Base and Meridian.

Beginning at a point being 424.91 feet South 89°03'43" East along the Section line and 165.90 feet South 00°56'17" West from the Northwest corner of Section 22, Township 42 South, Range 15 West, Salt Lake Base and Meridian; said point being on a Southerly boundary of the "Red Cliffs Drive" Right of Way (St. George Commercial Center Subdivision, Entry No. 737111 Book: 1428 Page: 2649); and running thence along said "Red Cliffs Drive" the following three (3) courses: North 54°39'25" East, 162.67 feet to a point on a 1400.00 foot radius curve to the right; thence 164.88 feet along said curve through a central angle of 06°44'52" (chord bears North 58°01'51" East, 164.78 feet); thence North 61°24'17" East, 162.88 feet to a point on a 30.00 foot radius curve to the right; thence 48.88 feet along said curve through a central angle of 93°20'45" (chord bears South 71°55'20" East, 43.65 feet); thence South 25°14'58" East, 162.71 feet to a point on a 997.00 foot radius curve to the right; thence 451.50 feet along said curve through a central angle of 25°56'48" (chord bears South 12°16'34" East, 447.65 feet); thence South 00°41'50" West, 339.62 feet to a point on the Northerly boundary the "850 North Street" Right of Way boundary; thence along said Right of Way Boundary the following two (2) courses: 28.32 feet along a 18.00 foot radius curve to the right through a central angle of 90°08'05" (chord bears South 45°45'53" West, 25.49 feet); thence North 89°10'05" West, 449.26 feet; thence North 31°08'38" West, 188.62 feet to a point on a 69.49 foot radius curve to the left; thence 85.67 feet along said curve through a central angle of 70°37'56" (chord bears North 20°53'08" East, 80.34 feet); thence North 59°05'29" East, 152.68 feet; thence North 30°49'29" West, 260.08 feet; thence North 59°00'51" East, 10.44 feet; thence North 30°59'58" West, 170.36 feet to the point of beginning.

Contains: 432,739 SQ. FT.
9.93 Acres

TAX Serial No. SG-5-2-22-44 and
SG-5-2-22-47

BENEFITED PARCEL:

Parcel 1:

Beginning on the East line of a public roadway (2450 East Street) at a point which is South $0^{\circ}36'06''$ East along the Section line 829.10 feet, an North $89^{\circ}23'54''$ East 41.00 feet from the Northwest corner of Section 22, Township 42 South, Range 15 West, Salt Lake Base and Meridian, Washington County, Utah; and running thence South $0^{\circ}36'06''$ East along said Roadway line 50.00 feet to the centerline of a proposed public roadway; thence North $89^{\circ}23'54''$ East along said centerline 537.27 feet; thence North $0^{\circ}36'06''$ West 25.00 feet; thence South $89^{\circ}23'54''$ West along said proposed roadway 512.27 feet to the point of a 25.00 foot radius curve to the right; thence Northwesterly along the arc of said curve 39.27 feet to the point of beginning.

TAX Serial No. 56-5-2-22-45

Parcel 2:

Beginning on the East line of a public roadway (2450 East Street) at a point which is South $0^{\circ}36'06''$ East along the Section line 829.10 feet, and North $89^{\circ}23'54''$ East 41.00 feet from the Northwest corner of Section 22, Township 42 South, Range 15 West, Salt Lake Base and Meridian, Washington County, Utah; and running thence North $0^{\circ}36'06''$ West along said roadway line 118.00 feet to the point of a 338.84 foot radius curve to the left; thence Northwesterly along the arc of said curve and roadway line 187.82 feet; thence North $32^{\circ}21'36''$ West along said roadway line 39.975 feet, more or less, to the point of a 25.00 foot radius curve to the right; thence Northerly along the arc of said curve 38.80 feet to a point on the South line of the frontage road along the I-15 Freeway, said point being on an 11,601.16 foot radius curve to the left, the radius which bears North $33^{\circ}26'14.3''$ West from said point; thence Northeasterly along the arc of said curve and roadway line 305.62 feet; thence South $32^{\circ}26'$ East 657.46 feet to the North line of a 50.00 foot wide public roadway (proposed); thence South $89^{\circ}23'54''$ West along said public roadway 512.27 feet to the point of a 25.0 foot radius curve to the right; thence Northwesterly along the arc of said curve 39.27 feet to the point of beginning.

TAX Serial No. 56-5-2-22-45

Parcel 3:

A parcel of land located in the Northwest $\frac{1}{4}$ of Section 22, Township 42 South, Range 15 West, Salt Lake Base and Meridian being more particularly described as follows:

Beginning at a point on the Southerly boundary line of Red Cliffs Drive, said point being North $89^{\circ}30'15''$ East, 651.78 feet along the Section line and South $53^{\circ}49'18''$ West, 280.89 feet from the Northwest corner of said Section 22 and running thence South $32^{\circ}26'00''$ East, 513.65 feet; thence South $00^{\circ}36'06''$ East, 283.08 feet; thence South $89^{\circ}23'54''$ West, 653.23 feet to the Easterly boundary line of 2450 East Street; thence North $00^{\circ}36'06''$ West, 5.00 feet along said boundary line; thence North $89^{\circ}23'54''$ East, 537.27 feet; thence North $00^{\circ}36'06''$ West, 25.00 feet; thence North

32°26'00" West, 657.46 feet to said Southerly boundary line of Red Cliffs Drive; thence Northeasterly along said boundary line on the arc of a curve to the left, having a radius of 11,601.16 feet and a central angle of 01°08'49" (Chord bears North 55°05'19" East 232.22 feet) to the point of beginning.

TAX Serial No. SG-5-2-22-45 and SG-5-2-22-47

LESS AND EXCEPTING from the aforementioned Parcels 1, 2 and 3 the following:
THE FOLLOWING DESCRIPTION HAS BEEN ROTATED TO THE CITY HCN:
BASIS OF BEARING IS SOUTH 89°03'43" EAST, BETWEEN THE NORTHWEST CORNER OF SECTION 22, AND THE NORTH QUARTER CORNER OF SECTION 22, TOWNSHIP 42 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN. BEGINNING AT A POINT BEING SOUTH 89°03'43" EAST, 506.17 FEET ALONG THE SECTION LINE AND SOUTH 00°56'17" WEST, 315.99 FEET FROM THE NORTHWEST CORNER OF SECTION 22, TOWNSHIP 42 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE NORTH 59°00'51" EAST, 10.44 FEET; THENCE SOUTH 30°59'58" EAST, 340.84 FEET; THENCE SOUTH 00°49'56" WEST, 253.10 FEET; THENCE NORTH 89°10'05" WEST, 109.65 FEET TO A POINT THAT IS PERPENDICULARLY DISTANT 5 FEET MORE OR LESS FROM THE "DESERET INDUSTRIES PROPERTY" (BOOK 920 PAGE 217 ENTRY NO. 0504517); AND RUNNING THENCE 5 FEET, MORE OR LESS, PERPENDICULARLY DISTANT ALONG SAID "DESERET INDUSTRIES" THE FOLLOWING COURSE: NORTH 31°08'38" WEST, 188.62 FEET TO A POINT ON A 69.49 FOOT RADIUS CURVE TO THE LEFT; THENCE 85.67 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 70°37'56" (CHORD BEARS NORTH 20°53'08" EAST, 80.34 FEET); THENCE NORTH 59°05'29" EAST, 152.68 FEET; THENCE NORTH 30°49'29" WEST, 260.08 FEET TO THE POINT OF BEGINNING.