DOC # 20090028798
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Russell Shirts Washington County Recorder
07/27/2009 09:13:48 AM Fee $ 0.00
By ST GEORGE CITY

When Recorded Return to:
City of St. George
Attn: Legal Department
175East 200 North
St. George, Utah 84770

TAX ID#: SG-6745-G-1, 6745-I-2, SG-6745-G-7, SG-6745-G-6, SG-6745-G-9, SG-6745-G-14, SG-6745-G-5, SG-6745-G-10, SG-6745-G-8, SG-6745-G-3, SG-6745-G-2, 6745-I-1, SG-6745-G-4, SG-6745-G-1

DEVELOPMENT AGREEMENT

FOR

DESERT CANYONS

THIS DEVELOPMENT AGREEMENT (herein "Agreement") is entered into this 16th day of July, 2009, by and between Desert Canyons Development, Inc., a Utah corporation, ("Developer") and the City of St. George, a municipal corporation and political subdivision of the State of Utah (herein "City") for the land to be included in or affected by the project known as "Desert Canyons" (herein the "Planned Community").

RECITALS

WHEREAS, Developer has real property located within the city limits of the City, which is described in ***Exhibit "A"*** hereto (herein "Development Property"); and

WHEREAS, Developer's predecessor-in-interest in the Development Property, Leucadia Financial Corporation, and City entered into a Memorandum of Understanding (herein "MOU") dated July 16, 1998, herein incorporated as ***Exhibit "B"***, with respect to the development of the Development Property; and

WHEREAS, Developer has succeeded to all of Leucadia's rights under the MOU in accordance with the terms of Article 10 thereof; and

WHEREAS, Developer is contemplating the development of the Development Property for residential, commercial and industrial purposes; and

WHEREAS, City and Developer desire public streets, trails, parks, water features, public buildings and open space within the Planned Community; and

WHEREAS, City and Developer will be engaged in construction and development on land adjacent to and within the Planned Community in concurrent time frames, and the parties agree to cooperate in order to reduce interference when installing utilities extensions and timing of improvements; and

WHEREAS, Developer is willing to dedicate to City a portion of the Development Property for public roads (consistent with the terms of the MOU), trails, parks and open space and make certain improvements on the Development Property in a manner that is in harmony with the objectives of City's approved and adopted zoning regulations and related general zoning plan and long-range development objectives and which addresses the more specific planning issues set forth in this Agreement; and

WHEREAS, Developer and City anticipate that the development of the Planned Community will take place over the course of several years, therefore Developer and City shall meet on or before the five year anniversary from the date of the execution of this Agreement to discuss what changes, if any, need to be made to the Development Agreement. At that meeting the parties' discussion will include, but not be limited to, a review of whether conditions set forth in the agreement have been met; and

WHEREAS, City, acting pursuant to its authority under UTAH CODE ANNOTATED 10-9a-101, et seq. and its ordinances, resolutions, and regulations and in furtherance of its land use policies, has made certain determinations with respect to the proposed Planned Community, and, in the exercise of its legislative discretion, has elected to approve this Agreement;

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

1. Recitals. The Recitals above are hereby incorporated into this Agreement.

2. Definitions. "Agreement" means and refers to this Development Agreement for Desert Canyons between Developer and City with respect to the Planned Community.

"City" means and refers to the City of St. George, a municipal corporation and political subdivision of the State of Utah.

"Circulation Plan" means and refers to the road circulation plan set forth as Exhibit 4.1 to the Zone Plan.

"Developer" means and refers to the initial owner of the Planned Community, who is anticipated to create the Planning Areas and convey the same, through sale or otherwise, to the Secondary Developers. This definition extends to successors and assigns of Developer, provided such successors and assigns acquire all of the rights to the master development of the Planned Community which are currently held by Developer.

"Development Property" means and refers to the parcels of real property located in St. George, Washington County, State of Utah, which are subject to this Agreement and which are more particularly described with the legal descriptions set forth in Exhibit "A" hereto.

"Engineering Drawings" means and refers to the detailed onsite and/or offsite plans for roadway improvements and underground utilities with respect to each Planning Area or Secondary Phase to be developed within the Planned Community.

"Impact Fee Credits" means and refers to credits for impact fees granted by City pursuant to this Agreement.

"Master Association" means and refers to an association that shall be created by Developer consisting of Developer and/or some or all of the private owners of lots and parcels in the Planned Community which will have the responsibility of enforcing the Master Declaration. "Sub-associations" or "neighborhood associations" may also be created with respect to the

distinct Planning Areas and/or Secondary Phases of the Planned Community, and shall be subject to the Master Association.

"Master Declaration" means and refers to a declaration of covenants, conditions and restrictions for the residential and commercial portions of the Planned Community which shall be created by Developer and recorded in the Washington County Recorder's Office with respect to the entire Planned Community. The Master Declaration shall set forth the rights and obligations of Developer, the Secondary Developers, the Master Association, and the individual owners in the Planned Community with respect to one another, and may establish a lien for the collection of assessments and serve other purposes common to declarations in similar projects. Other "sub-declarations" may also be recorded with respect to the distinct Planning Areas and/or Secondary Phases of the Planned Community, but all shall be subject to the Master Declaration.

"Master On-site Improvements" means and refers to all sewer, storm and culinary water, natural gas, underground utility systems, streets, streetscapes, curbs and gutters, bridges, traffic control devices, sidewalks, parks, trails, or other improvements which are developed within the boundaries of the Planned Community, but outside the boundaries of the distinctively defined Planning Areas. Such improvements include, but are not limited to, any improvements which are common to two or more Planning Areas.

"MOU" means and refers to that certain Memorandum of Understanding dated July 16, 1998, with respect to the development of the Development Property, by and between, Leucadia Financial Corporation (Developer's predecessor-in-interest in the Development Property) and City, which is incorporated into this Agreement by reference as ***Exhibit "B"*** hereto.

"Open Space" means and refers to land within the Development Property which shall not be used for the construction of dwelling units, commercial buildings, or other similar structures, which may be either privately owned by Developer, Secondary Developers or the Master Association, or dedicated to and owned by City. This Open Space is more fully described in ***Exhibit "C"*** attached hereto and incorporated herein.

"Phasing Plan" means and refers to the residential and commercial phasing plan set forth as Exhibit 6.1 to the Zone Plan. The alpha numeric designations shown on the plan are for convenience in describing the various areas of development phasing and do not reflect any particular order of progress.

"Planned Community" means and refers to the project known as "Desert Canyons," anticipated to be developed upon the Development Property pursuant to the terms of this Agreement and the Zone Plan.

"Planning Area" means and refers to a defined parcel of land within the Planned Community which is to be created and established by a Record of Survey, approved by City, which Record of Survey and deed or deeds consistent with the same will be filed for public record in the office of the Washington County Recorder. As used herein the term "Planning Area" includes Sub-Planning Areas as the same may be created from time to time. The general

layout of the initial Planning Areas anticipated to be created within the Planned Community is depicted in the Phasing Plan.

"Preliminary Engineering Drawings" means and refers to preliminary engineering drawings as described in Section 7.3.

"Record of Survey" means and refers to each record of survey prepared by licensed engineers and suitable for recording setting forth metes-and-bounds descriptions of Planning Areas.

"Required Open Space" means and refers to the total amount of open space for the Planned Community required by the Zoning Regulations, which City and Developer agree is 506.48 acres and which is more particularly identified on ***Exhibit "C"*** hereto.

"Secondary Developer" means and refers to an individual or entity that submits a subdivision plat for approval for the development of a Planning Area or a smaller portion thereof (a Secondary Phase). Developer and/or any third party developer which is a successor-in-interest to Developer in a given Planning Area may be a Secondary Developer for purposes of this Agreement.

"Secondary On-site Improvements" means and refers to all sewer, storm and culinary water, natural gas, underground utility systems, streets, curbs and gutters, sidewalks, bridges, traffic signals, parks, trails, or other improvements which are required to be developed within the boundaries of each of the distinctive Planning Areas in the Planned Community, as a condition of approval and permitting of development of individual Planning Areas or Secondary Phases, as set forth in this Agreement.

"Secondary Phase" means and refers to a portion of any given Planning Area for which a Secondary Developer files a plat for development approval.

"Sub-Planning Area" means and refers to a defined parcel of land within a Planning Area, or within another "Sub-Planning Area," that is created and established by a Record of Survey, approved by City, and the Record of Survey and deed or deeds consistent with the same filed for public record in the office of the Washington County Recorder.

"Zone Plan" means and refers to the City-approved Desert Canyons Area Zone Plan Application, Version 1, dated October 1, 2007, together with Addendum #1 thereto, dated November 20, 2007, and Addendum #2 thereto, dated February 2008, and Addendum #3 thereto, dated April 2008, as the same may be further amended through the normal zone change process, all of which are incorporated and made a part of this Agreement by reference as ***Exhibit "D"*** hereto.

"Zoning Regulations" means and refers to City's zoning regulations and related general zoning map or plan, as the same may be amended from time to time.

3. Development Property. The legal description of the Development Property is set forth in ***Exhibit "A"*** hereto and incorporated with this reference. No additional property may be

added to the Development Property for the purposes of this Agreement except by written amendment to this Agreement executed and approved by Developer and City.

4. Vested Rights and Reserved Legislative Powers. With the adoption of the Zone Plan by City and the recording for public record of this Agreement, Developer's right to develop the Planned Community as described herein and in accordance with the Zone Plan is hereby vested, subject to the provisions hereof allowing for modification of specific requirements as development of the Planned Community progresses toward completion. The parties intend that the rights granted to Developer and the entitlements for the Planned Community under this Agreement and in the Zone Plan are both contractual and provided under the common law concept of vested rights. Nothing in this Agreement shall limit the future exercise of the police power by City in enacting zoning, subdivision, development, transportation, environmental, open space and related land use plans, policies, ordinances and regulations after the date of this Agreement, provided that the exercise of such power and the enactments of such plans, policies, ordinances and regulations shall not restrict Developer's vested rights to develop the Planned Community as provided herein or alter or modify to Developer's detriment Developer's rights under this Agreement. Nothing in this Agreement shall limit Developer's right to seek and obtain zoning changes and variances with respect to any part of the Development Property. This Agreement is not intended to and does not bind the city council of City in the independent exercise of its legislative discretion with respect to its Zoning Regulations, except to the extent specifically covenanted as set forth herein. The provisions of this Agreement by recording shall run with the land to the benefit and burden of the Development Property.

5. Developer's and Secondary Developer's Obligations Comprehensive; Right to Change Zone Plan and Zoning; Compliance with City Design and Construction Standards. The obligations of Developer described by this Agreement and the Zone Plan are intended to be comprehensive of all obligations required of Developer by City. Developer may carry out the development of the Planned Community in accordance with the Zone Plan, subject to the terms of this Agreement, and may change the Zone Plan or the zoning with respect to one or more Planning Areas from time to time with City's approval through the normal zone change process. Developer acknowledges and agrees that, unless expressly stated otherwise, nothing in this Agreement shall be deemed to relieve it from the obligation to comply with all applicable laws and requirements of City necessary for development of the Planned Community, including the payment of fees and compliance with City's design and construction standards for public improvements which are approved at the time of construction, subject to Impact Fee Credits and allowances as may otherwise be set forth herein.

6. Time for Construction and Completion of the Planned Community. Except as otherwise provided in this Agreement, the schedule for commencement, construction, phasing, order of phasing, and completion of any and all development of the Planned Community shall be at Developer's discretion, but subject to any time restrictions provided by law, including the requirement under City Code 10-8-5J that PD zones expire and revert to the previous zone after 18 months if no building permit has been obtained for the zone or unless a final plat is recorded. However, Developer may submit up to three (3) written requests, as needed, to the City requesting administrative renewals each for an 18 month time period for the PD Zone and the City may, in its reasonable discretion, grant such administrative renewals without additional fees

or hearings for such renewals. In the event that Developer fails to meet any deadlines required by law, Developer may submit a new application for the renewal of such a permit.

7. General Obligations

7.1 Minor Subdivisions. At Developer's option, one or more of the several Records of Survey required to divide the Development Property into Planning Areas (and Planning Areas into Sub-Planning Areas, and so forth) may be submitted to City for approval pursuant to the exemption from plat requirements found in Utah Code Ann. § 10-9a-605(1) (2007) and St. George City Code § 11-4-5. The Planning Areas are anticipated to be offered for sale or lease by Developer, and to be purchased or leased by Secondary Developers, which will subsequently take each Planning Area, or distinct Secondary Phase within a given Planning Area, individually through the subdivision approval process with City. A Planning Area may consist of two or more Secondary Phases in the event a Secondary Developer determines to seek subdivision approval of the Planning Area in multiple phases.

7.2 Records of Survey. City and Developer shall cooperate in the development and approval of Records of Survey intended for the division of the Development Property into distinct Planning Areas pursuant to the Phasing Plan. Each Record of Survey for a Planning Area shall identify the location of the public roadways servicing the Planning Area and, to the extent applicable to the Planning Area, within the Planned Community but outside of the Planning Area. Additionally, each Record of Survey for a Planning Area shall identify the location of all section corner monuments, local monuments, United States Geological Survey (USGS) triangulation monuments (if any within the area), and National Oceanic Administration Association (NOAA) elevation monuments. All section corner monuments are required to be tied in and adjusted to the City of St. George Horizontal Control Network (HCN) survey, approved by the St. George City Surveyor as required by the City HCN Ordinance (St. George City Code 9-11-1). All monuments existing within the proposed area for development shall be referenced out by professional land surveyors and approved by St. George City and Washington County Surveyors. Monument records shall be filed with the Washington County Surveyors Office for each monument visited pertaining to the Record of Survey. Subdivision plats shall meet the same requirements as the Record of Survey, except they shall be recorded with the Washington County Recorder's Office. After recording, each Record of Survey may be amended with the filing of an appropriate amendment thereto and deeds reflecting the same. The approval of City shall only be required to amend the Record of Survey in the event that parcels to be dedicated to City are affected by the amendment. Each Record of Survey shall also contain a data grid with information regarding the acreage of open space, and undevelopable area, for each Planning Area.

7.3 Engineering Drawings. City and Developer shall cooperate in the development of Engineering Drawings for public roads, adjacent trails and utilities to service the Planned Community. The Engineering Drawings prepared with respect to each public road shall contain construction standards at a level sufficient to ensure consistent quality throughout the development phases of the Development Property. Developer shall comply with all standard City approval procedures for final Engineering Drawings. However, Preliminary Engineering Drawings shall be prepared in conjunction with Planning Area Records of Survey for the purpose of defining roadway alignments, roadway right of way dedication plats, cost estimates, and

assuring compliance with hillside ordinance requirements. Preliminary Engineering Drawings shall reflect compliance with general utility requirements and show in general terms the public infrastructure improvements proposed to serve each Planning Area. Preliminary Engineering Drawings will not need to meet the level of detail or the approval process typical for final construction drawings nor be subject to review or approval of the Joint Utilities Committee.

7.3.1 Final Plans. All final Engineering Drawings shall be prepared in accordance with the requirements of City's "Standards for Design and Construction." Developer agrees to designate certain roadways within the project as ninety foot wide rights of way as shown on the Planned Community circulation plans contained in the Zone Plan. While Developer agrees to dedicate land for ninety foot wide rights of way, Developer is only required to plan for the construction of roadway widths that are consistent with the traffic analysis for the Planned Community. Developer acknowledges that City requires developers to build roadways for their developments. This requirement shall also apply to Developer. Some Planning Areas may only require half of the road width (with infrastructure necessary to support two way traffic) to be built before the rest of the roadway is built. Where feasible, the center two lanes will be constructed on roadways with planned medians. City shall be responsible for the costs of oversizing or other alterations in roads where City requests oversizing or alteration over what is required to meet Developer's plan. Developer and Secondary Developers will not be required to bond for or build any roadway until the time of recording of the subdivision final plat for the Planning Area that the roadway services.

7.3.2 Southern Parkway. City acknowledges that, consistent with the terms of the MOU, Developer will have no responsibility for developing Engineering Drawings for, or for any costs associated with the planning, development, construction or maintenance of, the limited access road and interchanges thereon within the Planned Community identified on the Circulation Plan as the "Southern Parkway," or any other roads identified in paragraphs 4.2 and 4.3 of the MOU.

7.3.3 Developer Responsibility for Dedications and Improvements. Except as otherwise provided herein or in the MOU, or as subsequently agreed to by City and Developer, the dedication of any public road shall not relieve Developer of responsibility for the completion of all improvements, including, but not limited to, trails, landscape strips and utility improvements, required to be constructed upon, adjacent to or under such road to service the Planned Community. City reserves the right to review and accept all such improvements, at which time City shall assume responsibility for repair, maintenance and upkeep of the improvements pursuant to accepted City standards only after the one year warranty period required for all public improvements has expired.

7.3.4 Utility Improvements, Extensions and Oversizing. Certain improvements and utility extensions or oversizing which shall be designated in each Engineering Drawing shall be installed on a joint and cooperative basis by City and Developer or Secondary Developer to avoid conflicts in construction and to achieve economies of scale. Developer's or Secondary Developer's engineer(s) and City's representative(s) shall meet together in the development phase of each Final Plat and associated Engineering Drawing and ensure that the improvements and development contemplated therein are coordinated and that to the extent possible such improvements are developed in cooperation, and the allocation of costs for such

improvements is on a fair and reasonable basis, consistent with existing law, the other provisions of this Agreement, and other agreements for sharing costs of power, water, sewer and other improvements between and among City, Developer, Secondary Developers and third parties, if any. City shall be responsible for the costs of oversizing or other alterations in roads and utilities where City requests oversizing or alteration over what is required to meet Developer's plan and consistent with the policy of upsizing.

7.4 Sale or Lease of Individual Planning Areas. Following approval and filing for record a Record of Survey and associated deeds creating a Planning Area or Areas within the Planned Community, Developer may proceed with the sale or lease of the individual Planning Area(s) so created thereby, to Secondary Developers.

7.5 Open Space. The amount of Open Space within a Planning Area, if any, shall be indicated in the Record of Survey with respect to such Planning Area, although the exact location of the Open Space within the Planning Area need not be designated until the time of preliminary plat approval for such Planning Area. Planned Community Open Space may either be dedicated to City or retained by Developer. Developer may transfer all or a portion of retained Planned Community Open Space to one or more Secondary Developers and/or to the Master Association. Any Planned Community Open Space to be dedicated to City shall be dedicated at such times as subdivision plats are approved for new development in the Planning Areas. The intent of this provision is to provide Developer and City the flexibility to determine the final location and boundaries of the Planned Community Open Space, while still allowing City to have ample review over the final location and boundaries of the Planned Community Open Space to ensure general compatibility with the Zone Plan and compliance with City's minimum open space requirements.

7.5.1 Master Plan to Control Open Space. The designation of open space shall be in accordance with the Master Plan of the Planned Community. Each Planning Area shall comply on an individual basis with open space requirements as outlined in City Code and this Development Agreement. ***Exhibit "C"*** sets forth the amount of open space required for the project and in each respective zone. City and Developer agree that the total amount of open space for the Planned Community required by the Zoning Regulations, is 506.48 acres as more particularly identified on ***Exhibit "C"*** hereto.

7.5.2 Open Space Features. Any credit or benefit given to Developer by City, or any requirement of City, which is based upon the total amount of Open Space in the Planned Community or within a given Planning Area, including but not limited to the requirement to preserve a certain percentage of a given subdivision as open space in accordance with Zoning Regulations, shall include but shall not be limited to the following features, whether dedicated to City or retained in common non-public or private ownership: natural open space, natural parks, community parks, neighborhood parks, local parks, trails, streams, washes, hillsides, cliff line setbacks, golf courses, and any additional setbacks or frontage on roadways or along natural features which are voluntary and exceed City requirements or as otherwise recognized by City ordinance.

7.5.3 Compliance with Hillside Ordinance Requirements. Developer shall comply with any and all hillside ordinance requirements as outlined in St. George City

Code 10-13A-1 et seq. These requirements shall apply in addition to any open space requirements.

7.5.4 Public Parks and Trails. Parks and trails shall be established within the Planned Community according to the following criteria: four acres of park land shall be established for every 1000 of population within the Planned Community, based on a residential population factor of 2.5 persons per dwelling unit. ***Exhibit "C"*** sets forth an estimate of the total park and trail areas within the Planned Community. The Planned Community total park and trail areas include local parks, neighborhood parks, community parks, natural parks, and trails.

Neighborhood Parks, Natural Parks, and Trails: Developer or Secondary Developer shall dedicate land to City for neighborhood parks, natural parks, and trails. Such dedications will occur from time to time as plats for residential subdivisions in the Planned Community are recorded, with the quantity of land dedicated for parks and trails based on the density of the proposed subdivision at the time of platting according to the above criteria. In addition to dedicating land, Developer or Secondary Developer shall construct "basic" neighborhood parks and trails at its own expense in accordance with the City's Neighborhood Park Design manual and shall dedicate to the City such constructed trails, and such constructed park facilities that are over 4 acres in size. Developer or Secondary Developer shall commence construction of the neighborhood parks and trails no later than the time when 75% of the units in the related subdivision have been completed. City shall, at its sole discretion, bear the cost of any enhancements to the parks above and beyond the "basic" park standards. City shall be responsible to maintain trails and public parks 4 acres and above which are dedicated to City. Trails dedicated to the City shall consist of Regional Trails 10' in width and Community Trails 8' in width. See Exhibit 3.4 Open Space & Trails Plan for the routing of Regional and Community trails.

Community Park: Developer or Secondary Developer shall dedicate 10 acres of land within area P-5 shown on Exhibit 3.4 for a community park, or in another location within the Planned Community suitable for a community park as mutually agreed to by Developer and City. Such dedication shall occur no later than 5 years from the effective date of this Agreement. City shall bear the cost of the construction and improvement of the community park. The timing of the construction of the community park shall be in City's sole discretion. If Developer or Secondary Developer elects to construct the community park prior to the time the City desires to construct the community park, then City may execute an agreement with Developer or Secondary Developer to address the Impact Fee Credits and building of the community park at that time. In accordance with section 7.33, Developer shall be responsible for the construction of roadways within the Planned Community including any planned roadway fronting the Community Park.

7.5.5 Golf Course and Recreation Facilities. Developer may pursue the design and development of a golf course or other recreation facilities within any zone within the Planned Community. If developed, all portions of such facilities within the Planned Community shall count toward Open Space requirements and shall not replace or substitute any requirement for neighborhood or community parks requirements as outlined in this Agreement and by applicable City ordinances.

7.5.6 Monitoring and Reporting Open Space as Development Progresses. With the filing of each subdivision plat in the Planned Community for approval with City, Developer, or Secondary Developer filing such plat, shall submit with the same a report on Open Space which: (a) identifies by map or description the amount of Open Space (and total acreage of the same) within the subdivision; (b) identifies by map or description the Open Space (and total acreage of the same) utilized to meet Open Space requirements for plats previously approved.

7.6 Density of Residential Units. Residential unit densities in each individual Planning Area are set forth in the Zone Plan.

7.7 Improvement Costs. Developer will bear all on-site development and improvement costs necessitated by development of the Planned Community, except (i) as otherwise provided in the MOU, this Agreement, any existing or subsequent cost sharing agreements or other subsequent agreements between Developer and City, (ii) for those costs that City customarily or by statute or ordinance bears with respect to development within its jurisdiction (Developer acknowledges that City handles these matters on a project basis), (iii) for those costs for which Developer is granted Impact Fee Credits or other allowances, and (iv) for the costs of any City-requested upsizing or additional capacities or additional improvements, and (v) for the costs of improvements related to City owned trails, parks, open spaces and public buildings. However, Developer recognizes that developing without a particular order of progress puts greater strain on the development of public improvements. Therefore, Developer will coordinate its development with the construction of roads, utilities, etc., to decrease any potential strain on the system.

7.7.1 Construction of Master On-site Improvements. Developer may enter into different types of transactions with Secondary Developers with respect to Planning Areas, including without limitation sales, development leases or ground leases. As a condition of such transactions Developer may contractually obligate the Secondary Developer to install, construct, complete and dedicate all or any portion of the Master On-site Improvements. The Master On-site Improvements servicing, attributable to and appurtenant to a Planning Area, as set forth in the Engineering Drawing for such Planning Area, shall be completed by the Secondary Developer in conjunction with the development of the Planning Area.

7.7.2 Construction of Secondary On-site Improvements. Secondary On-site Improvements shall be completed and bonded for as required for all other subdivisions in City and as set forth in City ordinances and standards. Such completion and/or bonding shall be the responsibility of each individual Secondary Developer in the course of developing individual subdivisions within the Planned Community.

7.8 Easement and Right of Way Dedication. Except as otherwise provided in the MOU, this Agreement, or any subsequent agreement between Developer and City, public easements and public rights of way identified in the Zone Plan shall be granted or dedicated at no cost to City as a part of the Record of Survey Road Dedication Plat to benefit each Planning Area in an overall comprehensive plan for the Planned Community. City and Developer shall grant cross easements as may be required by the Record of Survey for the entire Planned Community. Developer shall reserve such easements as are reasonably necessary for drainage of the Planned

Community's runoff and irrigation tail waters. Such easements shall be located as to minimize impact on the servient property.

7.9 City Facilities and Landscape Improvements. City will permit and cooperate in Developer's efforts to ameliorate the landscaping and design impact of City's irrigation system, water, drainage, and reuse system, including water feature design. In addition, City will permit and cooperate in Developer's efforts to enhance and improve landscaping features on any City owned property within the Planned Community. To the extent reserved by Developer, Developer will dedicate to City when appropriate such easements in locations acceptable to Developer as shall be reasonably necessary to accommodate City's irrigation system water and reuse system water.

7.10 Impact Fee Reimbursements. City may reimburse Developer or Secondary Developer for actual costs based on any future agreement between City and Developer. The City will only build community parks when, at City's sole discretion, the development of property within the Planned Community has progressed to the point that a community park is needed. If the Developer elects to build a community park earlier, then the City may execute an agreement with Developer to address the impact fees and building of the community park at that time.

7.11 Model Homes and Sales Center. Developer and/or Secondary Developers may construct model home complexes and sales centers in one or more Planning Areas. Plans for such shall be reviewed and approved by the Master Association.

7.12 Mineral Extraction and Aggregate Processing. Developer may, on property owned by Developer or where mineral rights are retained or obtained, throughout the course of the development of the Planned Community, develop or permit development of one or more mineral extraction sites and aggregate processing plants on the Development Property and may sell or utilize the products of such operations within and outside the Planned Community, subject to permitting requirements for such operations as set forth in City ordinances and other applicable law.

7.13 Cooperation in Obtaining Available Funding. Developer intends to explore all available sources of financing for the development of the Planned Community and completion of the improvements required, including private and public sources, wherever available. City agrees to cooperate with Developer as needed and consistent with City's best interests, to assist Developer and to sponsor Developer's requests when appropriate, in obtaining and using any state, regional or federal funds, including but not limited to grants, funds, or other monies that may be available or become available for the acquisition, construction, or maintenance of public facilities within the Planned Community. Furthermore, without being bound to the creation or implementation of the same, the parties agree to discuss the possibility of utilizing one or more special improvement districts or other similar public financing vehicles to finance public improvements within the Planned Community, to the extent authorized by applicable state law.

7.14 Regulatory Matters. City and Developer shall reasonably cooperate with respect to compliance with regulatory matters that affect both parties with respect to the

development of the Planned Community. Other requirements of law and processes typical to the development process that are not covered by this Agreement are not waived by this Agreement, but all such processes shall proceed consistent with this Agreement.

8. Miscellaneous.

8.1 Agreement to Run With the Land. This Agreement shall be recorded in the Office of the Washington County Recorder, shall be deemed to run with the Development Property, shall encumber the same, and shall be binding on and inure to the benefit of all successors and assigns of Developer in the ownership or development of any portion of the Development Property.

8.2 Assignment. This Agreement and each of the provisions, terms or conditions hereof can be assigned by Developer to another party provided that the responsibilities and obligations arising hereunder are also assigned.

8.3 No Joint Venture, Partnership or Third Party Rights. This Agreement does not create any joint venture, partnership, undertaking or business arrangement between the parties hereto or any rights or benefits to third parties, except as expressly provided herein.

8.4 Integration. The parties acknowledge and agree that this Agreement does not supersede the MOU and that the MOU continues to be a valid and binding agreement. This Agreement, the MOU, the Zoning Application dated October 2007, the Traffic Impact Study dated October 2007, and in other traffic related correspondence between Developer's representative (Orth-Rodgers Inc.) and City contain the entire agreement between the parties with respect to the subject matter hereof and thereof and integrate all prior conversations, discussions or understandings of whatever kind or nature and may only be modified by a subsequent writing duly executed and approved by the parties hereto.

8.5 Notices. Any notices, requests, or demands required or desired to be given hereunder shall be in writing and shall be given using one of the following methods of delivery: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), nationally recognized overnight courier (with all fees prepaid), facsimile, or email. Notices shall be effective upon receipt. Any party giving a notice shall address the notice to the receiving party at the following addresses:

City:

City Manager
St. George City Hall
175 East 200 North
St. George, Utah 84770
Fax: 435-674-4226
Email: gesplin@sgcity.org

Developer:

Desert Canyons Development, Inc.
Attn: Curt Gordon, President
113 East 200 North #2
St. George, Utah 84770
Fax: 435-688-2277
Email:
curt@desertcanyonsdevelopment.com

With a copy to:

City Attorney
St. George City Hall
175 East 200 North
St. George, Utah 84770
Fax: 435-627-4260
Email: shawn.guzman@sgcity.org

With a copy to:

Chris Engstrom
Durham, Jones & Pinegar, P.C.
192 East 200 North, Third Floor
St. George, UT 84770
Fax: 435-628-1610
Email: cengstrom@djplaw.com

Any party may change its address by giving written notice to the other party in accordance with the provision of this section.

8.6 Governing Law. The laws of the State of Utah govern all matters arising out of or relating to this Agreement.

8.7 Interpretation. Whenever the context requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof. The provisions of this Agreement shall be constructed as both covenants and conditions in the same manner as though the words importing such covenants and conditions were used in each separate provision hereof.

8.8 Successors and Assigns. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

8.9 Court Costs. In the event of any litigation between the parties arising out or related to this Agreement, the prevailing party shall be entitled to an award of reasonable court costs, including reasonable attorney fees.

8.10 Expenses. Developer and City each shall pay their own costs and expenses incurred in preparation and execution of and performance under this Agreement, except as otherwise expressly provided herein. In the event of any action under or related to this Agreement, with or without suit, the party which is found in default, or the party against whom a right or forfeiture is successfully asserted, shall pay the costs and disbursements of such action.

8.11 Waiver. Acceptance by either party of any performance less than required hereby shall not be deemed to be a waiver of the rights of such party to enforce all of the terms and conditions hereof. No waiver of any such right hereunder shall be binding unless reduced to writing and signed by the party to be charged therewith.

8.12 Effective Date. This Agreement shall be effective as of the date filed for public record in the office of the Recorder for Washington County, Utah.

IN WITNESS WHEREOF, the parties hereunder have executed this Agreement on the date first written above.

[SIGNATURE PAGE TO FOLLOW]

CITY OF ST. GEORGE

Daniel D. McArthur, Mayor

Attest:

Gay Cragun, City Recorder

Approved as to form:

City Attorney

DESERT CANYONS DEVELOPMENT, INC.

Curt Gordon, President

STATE OF UTAH)
ss:
COUNTY OF WASHINGTON)

On the 9th day of July, 2009 personally appeared before me Curt Gordon, who being duly sworn, did say that he is the President of Desert Canyons Development, Inc., and Curt Gordon indicated to me that said company executed the same.

Notary Public

NOTARY PUBLIC
ROCHELLE N. YATES
320 N. SUNFLOWER DR. #23
SAINT GEORGE, UT 84790
MY COMM EXP 09/07/2009
STATE OF UTAH

STATE OF UTAH)
ss:
COUNTY OF WASHINGTON)

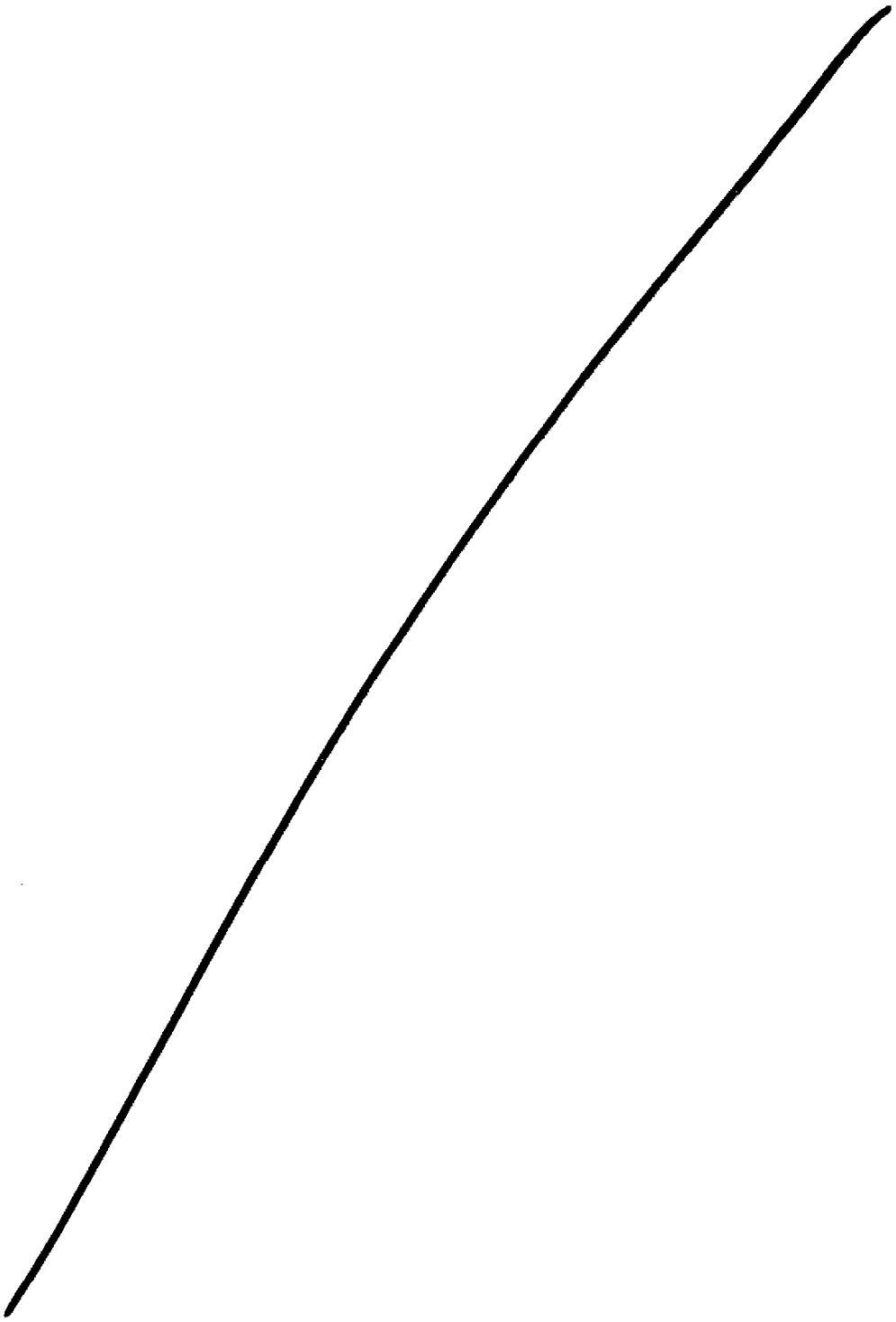
On the 16 day of July, 2009, personally appeared before me Daniel D. McArthur, who being duly sworn, did say that he is the Mayor of the City of St. George, and Daniel D. McArthur indicated to me that said city executed the same.

Notary Public

DIANA M. HAMBLIN
Notary Public
State of Utah
My Commission Expires March 23, 2013
579076

EXHIBIT A

Legal Description of Development Property



Secs. 25, 26, 27, 34, 35, and 36; T43S, R15W, SLB&M

July 1, 2009

LEGAL DESCRIPTION
Desert Canyons Boundary

Beginning at the Northwest Corner of Section 27, Township 43 South, range 15 West, Salt Lake Base and Meridian; said point being the POINT OF BEGINNING;

Thence running along the North Section Line of Section 27, South 88°44'29" East, 1,981.30 Feet; thence leaving said Section line South 24°33'54" West, 2,429.64 Feet; thence South 65°26'06" East, 981.62 Feet; thence South 24°02'57" West, 352.26 Feet; thence South 65°48'31" East, 2,007.19 Feet; thence North 24°33'54" East, 3,338.59 Feet; thence South 88°49'13" East, 2,968.49 Feet; thence North 39°22'33" West, 867.31 Feet to a point on the Northerly Section Line of Section 26; thence running along said Section Line, South 88°49'36" East, 564.01 Feet to the North One-Quarter Corner of Section 26; thence running along the North Section Line of Section 26, South 88°52'03" East, 2,641.93 Feet to the Northeast Corner of Section 26; thence running along the North Section Line of Section 25, South 88°50'19" East, 2,638.35 Feet to the North One-Quarter Corner of Section 25; thence running along the North Section Line of Section 25, South 88°50'25" East, 2,638.80 Feet to the Northeast Corner of Section 25; thence running along the East Section Line of Section 25, South 01°09'47" West, 2,642.41 Feet to the East One-Quarter Corner of Section 25; thence running along the East Section Line of Section 25, South 01°11'15" West, 2,311.62 Feet; thence leaving said Section Line North 88°50'01" West, 658.56 Feet; thence South 01°10'16" West, 330.25 Feet to a point on the Southerly Section Line of Section 25; thence running along said Section Line, North 88°50'05" West, 1,975.41 Feet to the South One-Quarter Corner of Section 25; thence running along the South Section Line of Section 25, North 88°50'05" West, 2,643.07 Feet to the Southwest Corner of Section 25; thence running along the Easterly Section Line of Section 35, South 01°10'49" West, 2,638.51 Feet to the East One-Quarter Corner of Section 35; thence running along the East Section Line of Section 35, South 01°34'56" West, 523.65 Feet to a point on the Utah/Arizona Stateline, said point also being the Southeast Corner of Section 35; thence running along said Stateline on a line projected between Stateline Monument 31m and 30m, North 88°44'59" West, 3,297.50 Feet to Stateline Monument 30m; thence running said Stateline North 88°47'01" West, 5,275.91 Feet to Stateline Monument 29m; thence running along said Stateline North 88°43'59" West, 1,985.51 Feet to the Southwest Corner of Section 34; thence running along the West Section Line of Section 34, North 01°08'39" East, 521.74 Feet to the West One-Quarter Corner of Section 34; thence running along the West Section Line of Section 34 North 01°10'29" East, 2,639.44 Feet to the Northwest Corner of Section 34; thence running along the West Section Line of Section 27, North 01°09'44" East, 2,640.24 Feet to the West One-Quarter Corner of Section 27; thence running along the West Section Line of Section 27, North 01°09'45" East, 2,640.96 Feet to the POINT OF BEGINNING.

Less and Excepting all of the Southern Parkway right-of-way as described by Special Warranty Deed and recorded as Document Nos. 20080018844, 20080018845, 20080018846, 20080018878, 20080018879, and 20080018880 on file with the Washington County Recorder's Office.

Containing 99,719,265 Square Feet or 2,289.23 Acres, more or less.

EXHIBIT B

Memorandum of Understanding

The Memorandum of Understanding dated July 16, 1998 between Leucadia Financial Corporation and the City of St. George is incorporated herein by this reference as if fully set forth herein.

MEMORANDUM OF UNDERSTANDING
FOR DEVELOPMENT OF THE SOUTH BLOCK PROPERTY

This MEMORANDUM OF UNDERSTANDING FOR DEVELOPMENT OF THE SOUTH BLOCK PROPERTY (hereafter, "Agreement") is made and entered into at St. George, Utah, as of the 21st day of July, 1998, by and between the City of St. George, a Utah City of the third class (the "City"), and Leucadia Financial Corporation, a Utah corporation ("Leucadia"). The City and Leucadia are hereinafter sometimes collectively referred to as the "Parties".

RECITALS

A. The City is the owner of a certain tract of real estate located in the Tortoise Habitat Conservation Area comprising approximately 420.96 gross acres (the "Tortoise Property"). The Tortoise Property is legally described on Exhibit "A" attached hereto.

B. The City is the owner of a certain tract of real estate located in the Black Hills Subdivision comprising approximately 1.17 gross acres (the "Black Hill Property"). The Black Hill Property is legally described on Exhibit "B" attached hereto.

C. The United States Bureau of Land Management ("BLM") is the owner of (i) a certain tract of real estate which is located partly within the City and partly in unincorporated Washington County, the County portion of which is contiguous to the corporate limits of the City, comprising approximately 2,682.92 gross acres (the "South Block Property"); (ii) approximately 29.34 acres in the Atkinville area ("Atkinville Property"); and (iii) approximately 19.55 acres on Webb Hill (the"BLM Webb Property"). These tracts are collectively known as the "BLM Properties". The BLM Properties are legally described on Exhibit "C" attached hereto. The City has adopted a policy declaration pursuant to Utah Statutes § 10-2-414 designating the County portion of the South Block Property for annexation.

D. Leucadia is the owner of a certain tract of real estate located within the City, comprising approximately 234.21 gross acres (the "Webb Hill Property"). The Webb Hill Property is legally described on Exhibit "D" attached hereto.

E On October 19, 1995, the City adopted a Resolution Approving Zone Change for Webb Hill from OS-20 to R-1-40 Subject to Conditions (the "Resolution"), which Resolution adopted as conditions the terms, conditions and limitations of a Development Stipulation made by Leucadia (the "Development Stipulation").

F. In the Development Stipulation, Leucadia agreed that it would not develop the face of Webb Hill for three years while the City, the BLM and Leucadia negotiated the terms of an exchange agreement.

G. The City, Leucadia and the BLM have negotiated a land trade and exchange agreement whereby the City will convey the Tortoise Property to the BLM in exchange for the BLM's conveyance of the BLM Properties to the City, and the City then will convey the BLM Properties and the Black Hill Property to Leucadia in exchange for Leucadia's conveyance of the Webb Hill Property to the City. After taking into account the appraised values of the lands involved in the trade, there are certain imbalances in the trade which the Parties will resolve through non monetary agreements related to the development of some of the properties involved in the trade.

H. In consideration for the trade, and in furtherance of the Resolution and the Development Stipulation, the Parties now seek to specify certain development conditions and obligations for the annexation and eventual development of the South Block Property and related lands. To that end, Leucadia is about to materially change its positions in reliance upon the execution of this Agreement by the City and the performance by the City of its undertakings contained herein.

NOW, THEREFORE, in consideration of the foregoing preambles and in consideration of the mutual covenants, agreements, and conditions hereinafter contained, and the benefits anticipated to inure to each of them, the Parties do hereby agree as follows:

1. RECITALS.

1.1 The foregoing recitals are material to this Agreement and are incorporated herein, as if restated in their entirety in this Article 1.

1.2 This Agreement and all of the Parties' rights, obligations and liabilities under this Agreement, at the option of Leucadia upon notice to the City, shall terminate and become null and void if Leucadia fails to acquire title to the BLM Properties.

2. ANNEXATION OF REMAINDER OF SOUTH BLOCK PROPERTY.

2.1 Annexation. The City shall, to the best of its ability, upon receipt of a proper petition for annexation from Leucadia, annex into the City all portions of the South Block Property which then are not located within the City. Both Leucadia and the City agree to cooperate in the annexation process.

2.2 Zoning. Upon annexation of the remainder of the South Block Property, the entire South Block Property shall be zoned in accordance with a master plan prepared for the property and mutually acceptable to both parties. In the event the master plan is not completed

at the time of annexation the property shall be zoned "Mining and Grazing", until such time as a master plan is mutually acceptable and approved by the City, at which time the zoning shall be in accordance with the master plan. It is mutually understood the property may be developed with various densities of single and multi-family residential housing, as well as commercial, industrial and office zoned areas.

2.3 Utilities. Upon annexation, the City shall extend to Leucadia the same privileges and rights with regard to St. George City water and sewer service as are currently available to any other land owner within the City's municipal boundaries. Leucadia understands that it may be required to pay a portion or all of the cost of utility extensions to the South Block Property.

3. FUTURE AIRPORT.

3.1 Airport Site. Approximately 313.93 acres of land located within the South Block Property ("the Airport Site") may be affected by the possible future construction and operation of the new St. George City Airport. The Airport Site is legally described on Exhibit "E" attached hereto and is divided into areas hereinafter described as the "249.75-Acre Site" and the "64.18-Acre Site."

3.2 Deed Restriction on Airport Site. Leucadia agrees that the Airport Site will be subject to whatever deed restrictions are imposed by the Federal Aviation Administration or St. George City on similar land similarly located near other airports in order to safely and efficiently operate an airport.

3.3 Option for City to Acquire 249.75-Acre Site. Leucadia hereby grants to the City the option to acquire for airport purposes only, the 249.75-Acre Site at a purchase price of $700 per acre plus an amount equal to 15% thereof compounded annually from the date of the land trade referenced herein to the date the land is conveyed to the City. The term of this option shall run for a period of five years starting on the date of this Agreement and ending on the fifth (5^{th}) anniversary of the date of this Agreement. At the end of the five-year option period, if the City has not exercised this option, the City shall have a first right of refusal to acquire for airport purposes only the 249.75-Acre Site for a period of five years beginning on the day following the last day of the five-year option period, and ending on the tenth (10^{th}) anniversary of the date of this Agreement. The purchase price of the 249.75-Acre Site pursuant to such right of first refusal shall be the then fair market value of the 249.75-Acre Site as determined by appraisal. If the City and Leucadia cannot agree on an appraiser to use for the appraisal, each entity may select its own appraiser, both of whom will work together in deriving a fair market value for the 249.75-Acre Site. If the first two appraisers cannot agree, on the then fair market value of the 249.75-Acre Site, the first two appraisers will select a third appraiser who will determine such value, and whose decision shall be binding upon the City and Leucadia. Under no circumstances shall the value and purchase price of the 249.75-Acre

Site be less than $700 per acre plus an amount equal to 15% thereof compounded annually from the date of the land trade referenced herein to the date the land is conveyed to the City.

3.4 Option for City to Acquire 64.18-Acre Site. Leucadia hereby grants to the City the option to acquire for airport purposes only the 64.18-Acre Site at a purchase price equal to the fair market value of the 64.18-Acre Site as determined by appraisal. The term of this option shall run for a period of five years starting on the date of this Agreement and ending on the fifty (5th) anniversary of the date of this Agreement. If the City and Leucadia cannot agree on an appraiser to use for the appraisal, each entity may select its own appraiser, both of whom will work together in deriving a fair market value for the 64.18-Acre Site. If the first two appraisers cannot agree on the fair market value of the 64.18-Acre Site, the first two appraisers will select a third appraiser who will determine such value and whose decision shall be binding upon the City and Leucadia. At the end of the five-year option period, if the City has not exercised this option, the City shall have a first right of refusal to acquire for airport purposes only the 64.18-Acre Site for a period of five years beginning on the day following the last day of the five-year option period and ending on the tenth (10th) anniversary of the date of this Agreement, at a purchase price equal to its fair market value as determined by a competing offer or the appraisal process set forth above in this Section 3.4.

3.5 Exercise of Options to Acquire and First Rights of Refusal to Acquire. The City may exercise either or both options to acquire the 249.60 -Acre Site and/or the 64.18-Acre Site granted in this Article 3 only by providing written notice of such exercise to Leucadia in the manner set forth in Article 3 hereof, no later than the thirtieth (30th) day prior to the date of expiration of the term of the applicable option to acquire or first right of refusal to acquire. The City may exercise either or both of its rights of first refusal to acquire the 249.75-Acre Site or the 64.18-Acre Site only by providing written notice of such exercise to Leucadia in the manner set forth in Article 3 hereof, prior to the tenth (10th) anniversary of this Agreement but not later than the thirtieth (30th) day after the date that the City is advised, by Leucadia or otherwise, that the 249.75-Acre Site or the 64.18-Acre Site, as the case may be, is being sold by Leucadia. In the event the purchase price for any such transaction is to be determined by appraisal, the same shall be determined within sixty (60) days following the date of exercise of the option or the right of first refusal by the City. The City shall agree to use its best efforts to close the purchase and sale of the 249.60 -Acre Site and/or the 64.18-Acre Site, as appropriate, within ninety (90) days following such exercise. In no case shall the closing occur later than one hundred-eighty (180) days following the exercise of the option or the right of first refusal. If the City is unable to close the purchase and sale within the one hundred-eighty day (180) day period at no fault of Leucadia, then the option or options shall immediately expire at the end of said period. If the delay in closing is due to an issue or issues under Leucadia's control, the closing shall take place no later than ten (10) days after Leucadia has resolved said issues. Leucadia shall convey fee simple title to the 249.60 -Acre Site and/or the 64.18-Acre Site to the City, by Special Warranty Deed, subject to all easements, covenants, conditions and restrictions of record on the date of closing in exchange for City's payment of the purchase price.

3.6 City's Duty to Reconvey. In the event that the City shall exercise any option to acquire, or any first right of refusal to acquire, the 249.75-Acre Site and/or the 64.18-Acre Site granted in Article 3, the City agrees that it will use the Airport Site, and every portion thereof, for airport purposes only, and that the City will not use any portion of the airport Site for any other purpose. In the event that the City thereafter determines that any portion of the Airport Site is not necessary or convenient for airport purposes, then the City shall promptly reconvey to Leucadia fee simple title to said portion by good, sufficient and recordable quit claim deed (subject to no encumbrances, liens or restrictions other than those existing at the time of conveyance to the City), and Leucadia shall return to the City the purchase price (or a proportionate share of the purchase price, in the event of a reconveyance of any portion of the Airport Site) with interest. The interest rate used to calculate the interest portion of the reimbursement shall be the Citibank prime rate of interest in effect at the time the reconveyance is triggered, compounded annually from the date of the City's purchase. The deed of conveyance from Leucadia to the City under Paragraphs 3.3 and 3.4 above may, in Leucadia's judgment, contain a right of reverter or similar provision setting forth the agreements contained in this Paragraph 3.6.

4. ROAD ISSUES.

4.1 Road Master Plan. The Parties agree to accept the location of the road layout shown in the South Block Master Road Plan (Exhibit "F") with the understanding the roads may need minor adjustment as actual engineering of these roads takes place.

4.2 Dedication of Land for Roads. Leucadia agrees that, when road development is imminent and the exact location of the road is determined, Leucadia will deed the land under the proposed roadway depicted on the South Block Master Road Plan to the City or the State of Utah Department of Transportation ("UDOT") free and clear of any encumbrances created by Leucadia. It is agreed the right-of-way for the main east/west road shall be 186 feet in width, and the right-of-way for the airport access roads shall be 80 feet in width.

4.3 Construction Costs. In exchange for deeding the land for the roads to the appropriate government entity, Leucadia will not be required to pay, through special improvement district or any other means, any construction or other costs associated with the improvement of the roads depicted on the South Block Master Road Plan, other than expenditures required by the City's rules and regulations of general application for curb, gutter and sidewalk where Leucadia's development abuts said roads. If Leucadia develops any portion of the South Block Property prior to the construction of the roads depicted on the South Block Master Road Plan, Leucadia will be responsible for the cost of construction of roads sufficient for Leucadia's development needs, but will not be required to participate in any upgrading or over sizing of these roads, which upgrading or over sizing shall be the sole responsibility of the City or UDOT, as the case may be.

4.4 Access. The City shall allow curb cuts and road entries as requested by Leucadia to access its land as shown on the South Block Master Road Plan.

5. INDIAN RUIN MITIGATION.

The BLM has previously approved the mitigation plan for the archeological sites on the South Block Property as provided in that certain Memorandum of Agreement Submitted to the Advisory Council on Historic Preservation Pursuant to 36 CFR 800.6(a) for the Fort Pearce Wash Desert Tortoise Exchange Tract (the "Preservation Agreement") attached hereto as Exhibit "G." Leucadia shall complete said mitigation plan within three years, at a cost of approximately $105,000.

6. CITY REQUIREMENTS.

Except as provided herein or in any exhibit attached hereto, Leucadia shall be subject to and comply with all of the provisions of the City's Zoning Ordinance, the Subdivision Control Ordinance, Building Code and all other applicable ordinances, codes, rules and regulations in effect from time to time, including, without limitation, the amount of all fees, charges, expenses, and costs provided for therein.

7. COOPERATION OF THE PARTIES.

It is understood and agreed that time is of the essence of this Agreement and that all Parties will make every reasonable effort to expedite the completion of the matters described herein It is further understood and agreed that the successful consummation of this Agreement requires the continued cooperation of the Parties. In connection with Leucadia's performance of its obligations under this Agreement, the City agrees to execute such applications and documents as may be necessary to obtain approvals and authorizations from other governmental or administrative agencies and to cooperate otherwise to the extent necessary to support Leucadia's performance of those obligations.

8. CONFLICT BETWEEN THIS AGREEMENT AND CITY ORDINANCES.

If any pertinent existing resolutions or ordinances, or interpretations thereof, of the City are inconsistent or in conflict with any provision hereof, then the provisions of this Agreement and the ordinances passed in pursuance hereof shall constitute lawful and binding amendments to, and shall supersede the terms of said inconsistent ordinances or resolutions, or interpretations thereof, as they may relate to the Development.

9. TERM

This Agreement shall be binding upon and inure to the benefit of the Parties, the successors to Leucadia, and any successor municipal authorities of the City and successor municipalities, for a period of 50 years from the date of execution hereof (the "Term"). In the

event of the annexation of the Subject Properties to the City, the zoning of the Subject Properties or the execution and delivery of this Agreement is challenged either directly or indirectly in any court proceeding which shall delay the construction of the Development, the period of time during which such litigation is pending, to the extent permitted by law, shall not be included in calculating such Term.

10. ASSIGNABILITY.

This Agreement shall run with the land and, as such, shall be assignable to and binding upon subsequent grantees and successors in interest of Leucadia. In the event Leucadia sells the South Block Property, Leucadia shall have no further liability under this Agreement.

11. NOTICES.

All notices or other writings which any party is required to, or may wish to, serve upon any other party in connection with this Agreement shall be in writing and shall be delivered personally or sent by certified or registered mail, return receipt requested, postage prepaid, to the following addresses or faxed to the Parties at the following facsimile numbers:

(a) If to City:
Gary Esplin, City Manager
City of St. George
175 East 200 North
St. George, Utah, 84770

(b) If to Leucadia:
Lawrence W. Pinnock
Leucadia Financial Corporation
529 East South Temple
Salt Lake City, Utah, 84102

With copies to:
Morton M. Steinberg, Esq.
Rudnick & Wolfe
203 N. LaSalle Street
Suite 1800
Chicago, Illinois 60601-1293
FAX: (312) 236-7516

or to such other address or facsimile number as any party may from time to time designate in written notice to the other Parties. All notices shall be deemed effective as of the date of receipt, in the case of personal delivery; two days after deposit in the U. S. mails, in the case of notice sent by certified or registered mail; and as of the date of transmission, if delivered by fax (provided the transmitting machine provides a record confirmation of the day and time of transmission)

12. SEVERABILITY.

If any provision of this Agreement is held invalid, such provision shall be deemed to be removed therefrom and the invalidity thereof shall not affect any of the other provisions contained herein.

13. REMEDIES AND ENFORCEABILITY.

(a) Any party to this Agreement may, either in law or equity, by suit, action, mandamus, or other proceedings, enforce or compel performance of this Agreement. No action taken by any party hereto pursuant to the provisions of this Article 13 or pursuant to the provisions of any other Article of this Agreement shall be deemed to constitute an election of remedies, and all remedies set forth in this Agreement shall be cumulative and nonexclusive of otherwise available to any party at law or in equity.

(b) In the event of a material breach of this Agreement, the Parties agree that the party alleged to be in breach shall have 30 days after notice of said breach to correct the same prior to the non-breaching party's seeking of any remedy provided for herein (provided, however, that said 30-day period shall be extended if the defaulting party has initiated the cure of said default and is diligently proceeding to cure the same).

(c) If any of the Parties shall fail to perform any of its obligations hereunder, and the party affected by such default shall have given notice of such default to the defaulting party, and such defaulting party shall have failed to cure such default within 30 days of such default notice (or any extension of said 30 day period if the defaulting party has initiated the cure of said default and is diligently proceeding to cure the same), then in addition to any and all other remedies that may be available, either in law or equity, the party affected by such default shall have the right (but not the obligation) to take such action as in its reasonable discretion and judgment shall be necessary to cure such default. In such event, the defaulting party hereby agrees to pay and reimburse the party affected by such default for all reasonable costs and expenses incurred by it in connection with action taken to cure such default.

(d) Notwithstanding the foregoing, under no circumstances shall any of the Parties be liable to the other Parties for any consequential or punitive damages as a result of a default by any party under this Agreement.

(e) The failure of any of the Parties to insist upon the strict and prompt performance of the terms, covenants, agreements, and conditions herein contained, or any of them, imposed upon any other party, shall not be construed as a waiver or relinquishment of any party s right thereafter to enforce any such term, covenant, agreement, or condition, but the same shall continue in full force and effect.

14 CAPTIONS AND DESIGNATIONS.

Throughout this Agreement, the singular shall include the plural and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires. Article and Section numbers and caption headings are purely descriptive and shall be disregarded in construing this Agreement.

15 INTEGRATION/EXHIBITS.

This Agreement constitutes the entire agreement and understanding of the Parties relative to the subject matter hereof superseding all prior agreements, understandings and negotiations (all of which are expressly merged herein). All exhibits to this Agreement are incorporated herein by this reference thereto.

IN WITNESS WHEREOF, Leucadia and the City have executed this Agreement, all on or before the day and year first above written.

ATTEST:

City Clerk

CITY:
CITY OF ST. GEORGE, a Utah City of the third class

By: _____
Mayor

Approved by Resolution of the Mayor and Commissioners of the City of St. George, Utah, this 16 day of July, 1998.

LEUCADIA:

LEUCADIA FINANCIAL CORPORATION,
a Utah corporation

ATTEST:

By: _____
Its _____

By: _____
Its: _____

STATE OF UTAH)
) SS.
COUNTY OF Wash.)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that _____ and _____, personally known to me to be the City Mayor and City Clerk, respectively, of the City of St. George, and

personally known to me to be the same persons whose names are subscribed to the foregoing Agreement, appeared before me this day in person and severally acknowledged that as such City Mayor and City Clerk, they signed and delivered the said Agreement as such City Mayor and City Clerk, and caused the corporate seal of said City to be affixed thereto, pursuant to authority given by the Board of Trustees of said City, as their free and voluntary act and as the free and voluntary act and deed of said City, for the uses and purposes therein set forth.

KENT PROVSTGAARD
NOTARY PUBLIC • STATE of UTAH
ST. GEORGE, UT. 84770
COMM. EXP. 12-14-2001

Given under my hand and official seal, this 21 day of July, 1998.

NOTARY PUBLIC

STATE OF UTAH)
) SS.
COUNTY OF Salt Lake)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Patrick D. Bienvenue, personally known to me to be the same person whose name is subscribed to the foregoing Agreement, appeared before me this day in person and acknowledged that, as President of Leucadia Financial Corporation, he signed and delivered said Agreement, as his free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 30 day of July, 1998.

Notary Public

My Commission Expires:

June 30, 1999

NOTARY PUBLIC
NATHAN K. MOSES
529 East South Temple
Salt Lake City, Utah 84102
My Commission Expires
June 30, 1999
STATE OF UTAH

LIST OF EXHIBITS

EXHIBIT A:	Legal Description of Tortoise Property
EXHIBIT B:	Legal Description of Black Hill Property
EXHIBIT C:	Legal Description of South Block Property
EXHIBIT D:	Legal Description of Webb Hill Property
EXHIBIT E:	Legal Description of the Airport Site
EXHIBIT F:	South Block Master Road Plan
EXHIBIT G:	Preservation Agreement

EXHIBIT C

Desert Canyons Zoning Designation and Open Space Summary

(see attached)

Table 3.2 (Addendum #3)

DESERT CANYONS ZONING DESIGNATION & OPEN SPACE SUMMMARY

June, 2009

Desert Canyons Gross Area	**2289.06**	Acres
Total Dwellig Units	**6317**	Units

RESTRICTED DEVELOPMENT AREAS

Flood Way (modified)	111.6 Acres	(this area does not count toward open space)

DESERT CANYONS ZONE AREAS

Residential Zones

			Open Space %	Open Space Area	
R1-12	63.77	Acres	15%	9.57	*May include open space off parcel
R1-10	479.45	Acres	15%	71.92	*May include open space off parcel
R-3	88.88	Acres	15%	13.33	*May include open space off parcel
PD-8	550.66	Acres	30%	165.2	May inlcude front yards
PD-12	119.35	Acres	30%	35.81	May inlcude front yards
Sub Total Residential Zones	**1302.11**	Acres		**295.82**	Residential Open Space

Mixed Use Zones

CRM	**264.87**	Acres	25%	**66.22**	Mixe Use Open Space

Resort Zone

R-1	**130.41**	Acres	25%	**32.60**	Resort Open Space

Commercial and Industrial Zones

AVI	118.26	Acres	25%	29.57	
ASBP	295.49	Acres	25%	73.87	
C-2	33.61	Acres	25%	8.40	
Sub Total Commercial/Industrial	**447.36**	Acres		**111.84**	Comm. & Indust. Open Space May inlcude parking lots etc.

Open Space Zones

OS	144.31	Acres	0%	
	144.31	Total Plan Open Space		

Total All Areas	**2289.06**	**506.48**	Total Required Open Space

DENSITY CALCULATION

Total Units	6317 Units
Total Residential Land Area	1566.98 Acres
Total Attributable Open Space	137.14 Acres
Overall Density	3.71 units per acre

PARKS CALCULATION ESTIMATE

Population Factor	2.5 persons per unit	Community Parks 10 Acres
Projected Population	15792.5 people	Neighborhood Parks 20 Acres
**4 acres per 1000 population	63.2 Acres	Natrual Park 40 Acres

OPEN SPACE BREAKDOWN

Predesignated Open Space	148.88
Open Space Zone	137.14
	286.02
	220.46 *Undesignated Open Space

*In addition to the Open Space shown on the plan, Open Space may consist of any of the following; Golf Course, Parks, Natural Parks, Natural Open Space, Trails, Storm Water Detention Basins, Recreation Areas, etc.

** The actual quantity of park land calculated for the project shall be based upon the residential subdivision plats submitted and approved by the City.

EXHIBIT D

Desert Canyons Area Zone Plan

The Desert Canyons Area Zone Plan consists of the Desert Canyons Area Zone Plan Application, Version 1, dated October 1, 2007 (contained in a separate binder), together with Addendum #1 thereto, dated November 20, 2007 (contained in a separate bound folder), and Addendum #2 thereto, dated February 2008, (contained in a separate bound folder) Addendum #3 thereto, dated April, 2009 (contained in a separate bound folder), all of which are incorporated herein by this reference as if fully set forth herein.