

MEMORANDUM OF AGREEMENT AND RELEASE

This Agreement is made this 17<sup>th</sup> day of September, 2003, by and between Tooele City Corporation (hereinafter "the City") and Betty J. S. Johnson, Trustee (hereinafter "Mrs. Johnson").

The property (hereinafter "the Property") governed by this Agreement has the tax ID number 2-127-10, consisting of 5.62 acres (as indicated on the Tooele County plat, Book 2, Page 127), more or less, and has the following legal description on record at the Tooele County Recorder's Office:

Beginning on the line of a Tooele City street, said point being West along a Section line 473.47 feet and North 33 feet from the Southeast corner of Section 16, Township 3 South, Range 4 West, Salt Lake Base & Meridian, West 591.03 feet to a point 200 feet East from the East right-of-way line of State Road 36 (SR-36), North 6°50' East 141.2 feet, North 83°10' West 38.58 feet to the Southeast corner of the Koeven property, North 6°50' East 240 feet to Flinders Subdivision, South 80°29' East 180 feet along said Flinders Subdivision, South 83°10' East 144.40 feet along said Subdivision to the C. W. Pitt property corner North 48°54' East 352.88 feet along the Pitt property line to Flinders Subdivision, South 83°10' East 32 feet to the Flinders Subdivision corner, South 6°50' West 265.90 feet, South 311.13 feet to the Point of Beginning. Out of 2-127-2, 5.61 acres, more or less.

The City and Mrs. Johnson, based upon sufficient and mutually acceptable consideration, hereby agree as follows:

1. **Public Improvements.** Mrs. Johnson may construct a garage accessory to the existing primary residence located at the address of 105 East 1000 North in Tooele City, without the immediate construction of curb, gutter, sidewalk, and road widening improvements (collectively hereinafter "the Public Improvements") along 1000 North fronting the Property and without bonding for the same as otherwise required by Tooele City Code §§ 7-22-3 and 7-19-12.
2. **Rational Basis.** The City agrees to defer Mrs. Johnson's responsibility to construct the Public Improvements, as described in #1, above, based upon the following:
  - a. Adjacent parcels on the street do not have similar improvements.
  - b. Requiring full construction of the Public Improvements at the present time may be disproportional to the development approval sought (a garage) by Mrs. Johnson.
  - c. By letter dated September 22, 1997, an authorized Tooele City representative agreed to a similar deferral (the letter is attached hereto and incorporated herein as Exhibit A).
3. **Special Improvement District.** Mrs. Johnson agrees to waive any right she might otherwise have to contest or protest against a special improvement district (hereinafter "SID") and SID assessment for the future installation of the Public Improvements, and hereby agrees to the same. The specific provisions waived by Mrs. Johnson include Tooele City Code Chapter 4-12, as amended, and Utah Code Chapter 17A-3-301, as amended. Copies of these two chapters are incorporated herein **by reference** as Exhibits B and C, respectively. Exhibits B and C need not be recorded.
4. **Release.** Mrs. Johnson agrees to release the City from any and all claims for injury or

*Memorandum of Agreement and Release*  
*105 East 1000 North*  
*Page 2*

damages that may arise out of Mrs. Johnson not installing the Public Improvements in conjunction with construction of the primary residence or the garage on the Property.


5. Release. Mrs. Johnson agrees to release the City from any and all claims for damages that may arise out of the creation (and/or failure) of an SID and the installation of the Public Improvements.
6. No Precedent. The City and Mrs. Johnson agree that this Agreement does not create a precedent of any kind for application to other locations in Tooele City, due to the unique circumstances described herein.
7. No Waiver. Nothing in this Agreement shall be construed to waive Mrs. Johnson's responsibility to construct the Public Improvements.
8. Assignment. This Agreement shall be binding upon any and all successors and assigns of either all or any portion of the Property. This Agreement may not be assigned without written authorization by Tooele City.
9. Recordation. This Agreement shall be recorded by the City in the Tooele County Recorder's Office.
10. Prior Agreements. This Agreement shall supercede and replace the letter agreement attached as Exhibit A.
11. Amendment. This Agreement shall not be modified except by written amendment signed by both the City and Mrs. Johnson.

SIGNED:

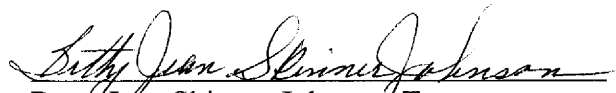
The City:

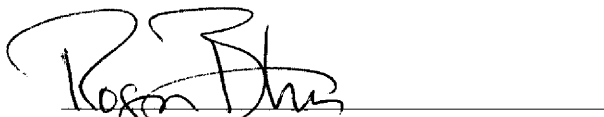
Mrs. Johnson:

  
 \_\_\_\_\_  
 Charlie Roberts, Mayor  
 Tooele City Corporation

  
 \_\_\_\_\_  
 Betty Jean Johnson

Approved at to Form:

  
 \_\_\_\_\_  
 Betty Jean Skinner Johnson, Trustee

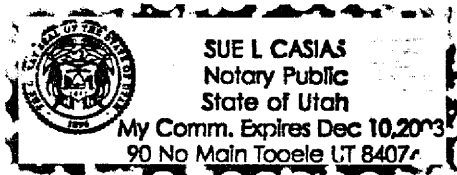
  
 \_\_\_\_\_  
 Roger Baker  
 Tooele City Attorney


*Memorandum of Agreement and Release*  
*105 East 1000 North*  
*Page 3*

STATE OF UTAH                    }  
  } ss.  
COUNTY OF TOOELE            }

BEFORE me, a notary public, appeared this day **Betty Jean Johnson**, also known as **Betty J. S. Johnson** and **Betty S. Johnson**, and **Betty Jean Skinner Johnson, Trustee**, who did affirm that they are the owners of the Property described in the foregoing instrument, and that they did execute the foregoing instrument on behalf of themselves as individual and trustee.

Dated this 18<sup>th</sup> day of September, 2003.



  
\_\_\_\_\_  
Notary Public  
Residing in Tooele County, Utah

*Memorandum of Agreement and Release*  
*105 East 1000 North*  
*Page 4*

## Exhibit A

September 22, 1997, Letter

*Tooele City Attorney*

*Roger Evans Baker*  
*City Attorney*

*90 North Main Street*  
*Tooele, Utah 84074-2191*  
*Phone: (801) 882-1801*  
*Fax: (801) 882-2361*

*Wayne Jones*  
*City Prosecutor*

*Sue L. Casias*  
*Legal Secretary*

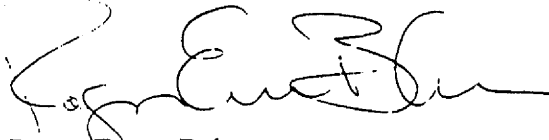
September 22, 1997

Mr. & Mrs. Ross Johnson

Dear Mr. & Mrs. Johnson:

This letter is to confirm your understanding that you will not be required to construct curb, gutter, and sidewalk fronting your property until such time as 1000 North is fully designed. Until that time, you may apply for building and occupancy permits. When 1000 North is fully designed, you will be required to construct the said improvements at your expense, as well as pay for the portion of 1000 North fronting your property. I have verified that 1000 North East of SR36 will be an 84 foot right-of-way, as provided in the Tooele City Transportation Master Plan.

Sincerely,



Roger Evans Baker  
Tooele City Attorney

*Memorandum of Agreement and Release*  
*105 East 1000 North*  
*Page 5*

## Exhibit B

Tooele City Code Chapter 4-12 (by reference)

*Memorandum of Agreement and Release*  
*105 East 1000 North*  
*Page 6*

## Exhibit C

Utah Code Chapter 17A-3-301 (by reference)