

RETURNED

BK 4800 PG 925

JUN 18 2009

E 2460600 B 4800 P 925-932
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
06/18/2009 03:11 PM
FEE \$0.00 Pgs: 8
DEP RTT REC'D FOR CLEARFIELD CITY

*12-718-0001 draw
0061*

TANNER HERITAGE PARK

DEVELOPMENT AGREEMENT

THIS AGREEMENT is made this 14th day of February 2007, by and between

Clearfield, a municipal corporation, and U.S. Development, Inc.

All lots 1-59 and parcels A+B of Tanner Heritage Estates

RECITALS

A. Developer intends to develop certain property situated in Clearfield City, Davis County, Utah, more particularly described in Exhibit A hereto and known as Tanner Heritage Park.

B. Developer owns or has a contractual right to purchase the property

C. The Developer desires to develop Tanner Heritage Park according to the Final Subdivision Plat and Utility Plan attached hereto as Exhibit B (the "Plat").

D. The City has approved the Plat submitted by the Developer for the development of the property

E. Developer and City are entering into this Development Agreement as part of the final plat approval for the Plat.

NOW, THEREFORE, in consideration of the premises and the terms and conditions herein stated and for other valuable consideration, the adequacy of which is acknowledged by the parties hereto, it is agreed as follows:

1. Developer's Undertaking

a. Developer hereby agrees to construct and to install, all improvements described in the plat and construction drawings. Developer agrees to pay for such improvements. In the event that Developer does not complete such improvements

according to the specific plans set forth in the Plat, the City shall have the right to cause such work to be done as is necessary to reasonably complete the installation of the improvements and Developer shall be liable for the cost of such additional work.

b. All housing units within the development of the Property shall be single-family dwellings and shall have a two-car garage.

c. Residential units shall have at least 1200 square feet of finished floor space on a rambler with full basement plan and 1500 square feet of finished floor space for all other styles. No slab on grade construction without footings is allowed.

d. Each main building on the Property shall have the following setbacks:
front yards - each odd numbered lot not in cul-de-sacs shall be 23 feet to the garage and each even numbered lot not in cul-de-sacs shall be 28 feet to the garage. All cul-de-sac lots shall be a minimum of 23 feet. All dwellings may have a 20 foot set back to the other living areas. Side yards shall have 9 feet on the garage side and 6 feet on the other side. Any remainder will be on the garage side. Corner side yards shall be 15 feet. Rear yards shall be a minimum of 25 feet.

e. Each unit shall have vinyl siding on units where siding is used, and front elevations shall have at least thirty percent (30%) of brick or rock with the remainder as stucco. All side and rear exterior finishes may be brick, stucco, rock, vinyl siding, or combinations thereof. Any stucco finishes shall not be installed using an exterior insulated finish system (EIFS). All homes on corner lots shall have wainscot of brick or rock with the remainder as stucco, or hardiplank on street side to match the front of the home.

f. All housing units within the development of the property shall have architectural shingles or superior grade.

g. Developer shall construct residential units on the Property in substantial conformance with the plans and elevations presented to the City during the approval process which elevations shall be kept on file in the records of Clearfield City its assigns, may modify the plans and elevations for residential units on the Property provided that such modifications satisfy the requirements of paragraphs 1(b), 1(c) and 1(e) of this Agreement and further provided that such modifications of the plans and elevations shall be presented to and approved by the Planning Commission and the City Council.

h. Developer agrees to provide and maintain a 7' wide paved walkway north of Lot 1. It will be fenced on both sides with a white vinyl fence meeting Clearfield City clear view ordinance.

i. The Developer shall record this Agreement as covenants running with the lots and Land in the Development and indicate on the approved final Subdivision Plat the existence of this Agreement and the recording data therefore.

j. The Developer shall install a 6 feet tall white vinyl fencing around the perimeter of the subdivision except through the park.

k. The Developer to expand and remodel existing Jacobsen Park according to plans and specifications attached herein and marked as exhibit C and donate the property to Clearfield City.

2. City's Undertakings.

a. City shall approve the Plat as provided for in Exhibit A attached hereto and immediately record said plat with the County Recorder's office.

b. City shall approve the final plats for the development of the Property provided that such final plats are consistent with the Plat.

3. General Terms and Conditions

a. Integration Clause. This document and those incorporated by reference constitute the entire agreement between the Parties and may not be amended except in writing signed by the Parties.

b. Exhibits Incorporated. Each exhibit attached to and referred to in this Agreement is hereby incorporated by reference as though set forth in full where referred to herein.

c. Attorneys Fees. In the event of any action or suit by a party against the other party for any reason of any breach of any of the covenants, conditions, agreements, provisions on the part of the other party arising out of this Agreement, the prevailing party in such action or suit shall be entitled to have and recover from the other party all costs and expenses incurred therein, including reasonable attorney's fees.

d. Governing Law. It is mutually understood and agreed that this Agreement shall be governed by the laws of the state of Utah, both as to interpretation and performance. Any action at law, suit in equity, or other judicial proceeding for the enforcement of this Agreement or any provision thereof shall be instituted only in courts of the State of Utah.

e. Remedies for Breach. In addition to any other remedies allowed under law or equity, the parties shall specifically be entitled to specific performance of the terms and conditions under this Agreement.

f. Successors and Assigns of the Parties. This Agreement shall be binding upon the parties and their successors and assigns, and where the term “Developer”, “Party” or “Parties” is used in this Agreement it shall mean and include the successors and assigns of Developer. In addition, Developer may assign the rights to develop part of the Property to a third party pursuant to the terms of this Agreement, provided that such third party agrees to be bound by the terms of this Agreement.

g. Headings. The paragraph headings of this Agreement are for the purposes of performance only and shall not limit or define the provisions of this Agreement or any of said provisions.

h. Severability or Partial Validity. If any term, covenant, paragraph, or condition of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each such remaining term, covenant, or condition of this Agreement shall be valid and enforceable to the full extent permitted by law.

i. Warranty of Authority. Each party signing or executing this Agreement warrants that they have full authority to sign this Agreement and by signing said Agreement do bind the parties thereto.

j. Warranty Inspections. The Developer agrees to reimburse the City or pay directly to the City’s engineer any cost associated with the pre-final and final warranty inspections that are required before the City accepts the subdivision improvements.

WITNESS WHEREOF, the Developer and Clearfield City have executed this Agreement effective as of the date first above written.

CLEARFIELD CITY CORPORATION

A municipal corporation



By: Donald W. Wood
Donald W. Wood, Mayor

ATTEST:

By: Nancy R. Dean
Nancy Dean, City Recorder

U.S. Development, Inc

By: Danny C. Bridenstine
Danny C. Bridenstine, President

Attest:

By: Danny C. Bridenstine
Secretary

State of Utah)
 §
County of Davis)

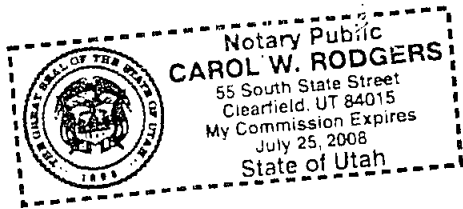
On this 8th day of May 2007, personally appeared before me, Danny C. Bridenstine proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to on the attached instrument, and acknowledged that he executed the same.

Mary Lyn Howard Notary Public
September 7, 2008 Commission Expires



STATE OF UTAH }
 }ss
COUNTY OF DAVIS }

On the 10th day of May, 2007 personally appeared before me, Donald W. Wood and Nancy R. Dean, who being by me duly sworn did say, that they are the Mayor and City Recorder of Clearfield City Corporation, and that the within and foregoing instrument was signed in behalf of said corporation by authority of the City Council and the said, Donald W. Wood and Nancy R. Dean, acknowledged to me that said corporation executed the same.



Carol W. Rodgers
NOTARY PUBLIC
Residing: *Davis County, UT*