

When Recorded Please Return To:

SOUTH JORDAN CITY
11175 South Redwood Road
South Jordan, Utah 84095

7782879
12/19/2000 10:45 AM NO FEE
Book - B409 Pg - 299-307
NANCY WORKMAN
RECODER, SALT LAKE COUNTY, UTAH

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made and entered into as of the 4 day of August, 1998, by and between South Jordan City, a Utah municipal corporation, hereinafter referred to as the "City", and B.G. South Jordan Assoc. c/o Kem C. Gardner, a Utah Limited Partnership, hereinafter referred to as the "Developer". *Rec'd by: SLH*

RECITALS:

- A. The Developer has heretofore made application to the City for approval of Developer's project as a residential subdivision.
- B. Developer's project shall be known as "Country Crossing 3, 4 and 5", (the "Subdivision"), which shall consist of 212 lots and is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof.
- C. The purpose of this Agreement is to reduce to writing the respective agreements and understandings of the parties regarding the development of the Subdivision and to set forth certain requirements for development of the Subdivision in conformance with the ordinances, rules and regulations of the City governing development of the Subdivision within the City.
- D. The City has received a proposal from the Developer to voluntarily dedicate certain property and make improvements to allow for the extension and construction of certain public improvements and facilities within and adjacent to the Subdivision. The parties desire to incorporate the terms of Developer's proposal as part of this Development Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Description of Subdivision:

- a. Subdivision Size and Location. The Subdivision shall be developed as a residential subdivision consisting of 212 lots. The Subdivision is located in the City within those boundaries more specifically described in Exhibit "A" attached hereto and by this reference made a part hereof. The area to be developed for the Subdivision extends from approximately 4300 West 11400 South to 4300 West 11800 South. The Subdivision consists of 81.3 acres more or less.
- b. Compliance with General Plan. The Subdivision will be developed by the Developer in accordance with the City's General Plan. Among other things, the General Plan provides for Low Density residential development.

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c. Zoning. The Subdivision property is presently zoned as R-2.5 according to the Zoning Map of the City and shall be developed in accordance with the conditions and requirements of that zone.

2. Development Requirements. The following requirements shall apply to the Subdivision:

a. Development Requirements. Developer intends to develop the Subdivision in various phases. The Concept Plan for Phases 3, 4 and 5 of the Subdivision has been approved by the City in accordance with existing City ordinances, rules and regulations. The Subdivision shall be developed in phases from and after the date of this Development Agreement. Phasing of the Subdivision shall take into account and be accomplished in order to insure continuity and orderly development of the Subdivision, coordination in connection with the installation of infrastructure improvements, future utility and street capacity needs, availability of access to all portions of the Subdivision, adequacy of utilities and related considerations. The phasing of the Subdivision shall be determined by the Developer subject to approval of the City.

b. Compliance with City Ordinances and Development Requirements. The Subdivision shall be developed in accordance with the ordinances and development requirements of the City governing residential subdivisions. All required plats, drawings and other supporting documents for the Subdivision, and each phase thereof, shall be prepared and submitted to the City for its review and approval.

c. Preliminary Plat. The Developer has prepared and submitted a preliminary plat for the Subdivision to the City for its review and approval. The Developer shall pay any applicable fees to the City in connection with the review and approval of the preliminary plat. Developer's preliminary plat has been approved by the City subject to certain conditions precedent and shall be effective for the period provided in the City's Ordinances.

d. Required Changes. If any revisions or corrections of plats or plans already approved by the City shall be required by any other governmental entity having jurisdiction or lending institution involved in financing, the Developer and the City shall cooperate where appropriate to obtain or develop reasonable, mutually acceptable alternative plans or plats. Developer shall have the sole duty and responsibility to obtain approvals from any other governmental entities having jurisdiction with respect to the Subdivision as needed.

e. Final Plats. The Developer shall prepare and submit to the City the Developer's application for final plat approval for each phase, within the time limits provided for in the City's Ordinances. The final plat for each phase of the Subdivision shall be reviewed by the City Planning Staff, Planning Commission and City Council as provided by the Ordinances of the City. The Developer shall pay any required fees due and owing in connection with approval of the final plat for each phase of the Subdivision. The City shall determine if the final plat complies with all applicable requirements. In addition, the Developer shall submit to the City specific construction plans and specifications for all development improvements that are to be installed on-site and off-site, together with any other documents required by the

City such as restrictive covenants, articles of incorporation for homeowner's associations and like matters. Development improvements shall include those required by the ordinances and construction standards of the City and this Agreement. Following approval of the final plat and obtaining of the required signatures thereon, the final plat shall be recorded by the City in the office of the Salt Lake County Recorder. The Developer shall provide security satisfactory to the City to ensure the construction and installation of the public improvements as required by the ordinances of the City and this agreement.

- f. City's Right of Review. Subject to the terms of this Agreement, the City has the right to approve or disapprove the final plat for each phase of the Subdivision together with any proposed changes therein. The City shall review Developer's application for final plat approval and related documents in accordance with the established procedures of the City governing such reviews. Review shall be conducted for the purpose of determining whether plats and other documents submitted by the Developer comply with the requirements of the City and the terms of this Agreement. In the event any final plat or other documents are not approved by the City, the City shall set forth the reasons for disapproval to the Developer. Upon receipt of disapproval, the Developer shall revise its applications, plats and supporting documents, or portions thereof, to be consistent with the requirements of the City and the previous plans and drawings and shall resubmit such revised applications, plats and supporting documents to the City for approval. All plats approved by the City shall comply in all respects with all applicable zoning and development ordinances of the City as well as the City's General Plan.
- g. Dedication or Donation. Developer has proposed to voluntarily dedicate and donate to the City all proposed subdivision streets and adjacent collector or arterial streets. The City shall have the right to require Developer to install specific improvements as determined by the City. Developer is making the dedication and donation of land and improvements as provided herein voluntarily as a contribution to the City and hereby waives and releases any claims for compensation therefor from the City. Prior to receiving final plat approval for each phase of the Subdivision, Developer agrees to dedicate, transfer and donate to the City all required easements for the purpose of constructing, installing, operating and maintaining public utilities and improvements of every nature and kind as determined by the City and affected public utility agencies. The Developer agrees to dedicate and donate a 5 acre parcel in Phase 3 of the Subdivision for a public park in accordance with Section 12.36.050G of the Zoning Ordinance. The Developer is not required to improve this park except for a 6' chain link fence along the north and west boundaries of said park for which the City will reimburse the Developer upon installation.

h. Special Provisions.

1. The Developer agrees to the following regarding canal bridge structures and associated road improvements.
 - a. Widen north side (one half of 80' design width) of 11800 South during Phase 3 development.
 - b. Construct connection between Phase 3 and Phase 2 during Phase 3 development.
 - c. Contribute 50% of the cost of the connection between Phase 3 and the LDS Church property when the adjacent property develops.
 - d. Contribute 50% of the cost between Phase 5 and the LDS Church property on the south side (one half of 80' design width) of 11400 South when the adjacent property develops.
2. The Developer agrees to construct a 6' chain link fence along the west and east boundaries of the subdivision with each phase of development.
3. The Developer agrees to install a 6' chain link fence along the north and west boundaries of the future City park with development of Phase 3. The City will reimburse the Developer upon installation of said fence. The Developer may upgrade the park fence material at his own expense.
3. Construction Standards and Requirements. All construction shall be conducted and completed in accordance with the ordinances and development standards of the City and the terms of this Agreement. All required public improvements for the Subdivision shall be constructed in accordance with the City's construction standards and shall be dedicated to the City. Prior to commencing any construction or development of any building, structures or other work or improvements within the Subdivision, the Developer shall secure any and all permits which may be required by the City or any other governmental entity having jurisdiction over the work. The Developer shall construct, or cause to be constructed, all improvements for the Subdivision in conformity with all applicable federal, state and/or local laws, rules and regulations.
4. Payment of Fees. The Developer shall pay all required fees to the City in a timely manner pertaining to the Subdivision or any phase thereof except park impact fees which shall be levied against individual lot owners at the time building permits are issued.
5. City Obligations. Subject to Developer complying with all of the City's ordinances, rules, regulations and the provisions of this Agreement the City agrees to:
 - a. Provide a culinary water supply for the Subdivision.
 - b. Maintain public improvements dedicated to the City following satisfactory completion thereof by Developer and acceptance of the same by the City. Provide standard municipal services to the Subdivision including garbage removal, snow removal, police and fire protection subject to the payment of all fees and charges charged or levied therefor by the City.

- c. Reimburse the Developer in the amount of the cost of the 6' chain link park fence installed with Phase 3 development as stipulated in Section 2.i.3. above.
- d. Install improvements in the 5 acre park in Phase 3 of the Subdivision as revenues from park impact fees become available, any excess park impact fees shall be the property of South Jordan City and shall be used for recreational purposes.
- e. Levy park impact fees against individual lot owners at the time building permits are issued.

6. **Right of Access.** Representatives of the City shall have the reasonable right of access to the Subdivision and any portions thereof during the period of construction to inspect or observe the Subdivision and any work thereon.

7. **Assignment.** The Developer shall not assign this Agreement or any rights or interest herein without the prior written consent of the City.

8. **Notices.** Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below.

To the Developer:

B.G. South Jordan Associates
127 South 500 East, Suite 100
Salt Lake City, Utah 84102
Attn: Richard Moffat

To the City:

South Jordan City of South Jordan
Attn: City Administrator
11175 South Redwood Road
South Jordan, Utah 84095

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

9. **Default.** In the event any party fails to perform its obligations hereunder or to comply with the terms hereof, within thirty (30) days after giving written notice of default the non defaulting party may, as its election, have the following remedies;

- a. All rights and remedies available at law and in equity, including injunctive relief, specific performance and/or damages.
- b. The right to withhold all further approvals, licenses, permits or other rights associated with any project or development described in this agreement until such default has been cured.

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c. The rights and remedies set forth herein shall be cumulative.

10. **Attorney's Fees.** In the event of any lawsuit between the parties hereto arising out of or related to this Agreement, or any of the documents provided for herein, the prevailing party or parties shall be entitled in addition to the remedies and damages, if any, awarded in such proceeding, to recover their costs and a reasonable attorney's fee.

11. **Integration.** This Agreement, together with the Exhibits hereto, integrates all of the terms and conditions pertaining to the subject matter hereof and supersedes all prior negotiations, representations, promises, inducements or previous agreements between the parties, whether oral or written with respect to the subject matter hereof. Any amendments hereto must be in writing and signed by the respective parties hereto.

12. **Headings.** The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

13. **Binding Effect.** This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, representatives, officers, agents, employees, members, successors and assigns (if any assignments are allowed as provided herein).

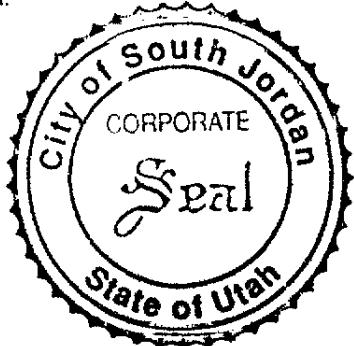
14. **No Third Party Rights.** The obligations of Developer set forth herein shall not create any rights in and/or obligations to any persons or parties other than the City. The City alone shall be entitled to enforce or waive any provisions of this Agreement.

15. **Further Documentation.** This Agreement is entered into by both parties with the recognition and anticipation that subsequent agreements implementing and carrying out the provisions of this Agreement may be necessary. The parties agree to negotiate in good faith with respect to all such future agreements. The City agrees to cooperate with the Developer as may be reasonable and appropriate to enable Developer to obtain available tax benefits related to this Agreement. The City does not warrant or represent that Developer will receive any tax benefits in connection with the Subdivision.

16. **Termination.** Notwithstanding anything in this Development Agreement to the contrary, it is agreed by the parties hereto that in the event the Subdivision, including all phases thereof, is not completed within three (3) years from date of this Agreement, or in the event the Developer does not comply with the General Plan, development Ordinances of the City and the provisions of this Development Agreement, the City shall have the right, but not the obligation at the sole discretion of the City to terminate this Agreement and/or to not approve any additional phases for the Subdivision.

Any termination may be effected by the City by giving written notice of intent to terminate to the Developer at the address of the Developer set forth herein. Whereupon the Developer shall have sixty (60) days during which the Developer shall be given an opportunity to correct any alleged deficiencies and to take appropriate steps to complete the Subdivision. In the event Developer fails to satisfy the concerns of the City with regard to such matters, the City shall be released from any further obligations under this Agreement and the same shall be terminated.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their respective duly authorized representatives as of the day and year first hereinabove written.



"CITY"
SOUTH JORDAN CITY

By: Dixie H. McCallie
Mayor

ATTEST:

Charlene Behunin
City Recorder

"DEVELOPER"

By: John D. Andrew
Its: Manager

ATTEST:

EXHIBIT "A"

LEGAL DESCRIPTION

COUNTRY CROSSING NO. 3

BEGINNING AT A POINT ON THE WESTERLY LINE OF THE PROVO RESERVOIR CANAL, SAID POINT BEING N89°49'26" W, 1783.545 FEET FROM THE SOUTHEAST CORNER OF SECTION 19, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE ALONG SAID WESTERLY LINE OF PROVO RESERVOIR CANAL THE FOLLOWING TEN (10) COURSES: N11°17'00"E, 23.83 FEET; THENCE 231.27 FEET ALONG THE ARC OF A 416.70 FOOT RADIUS CURVE TO THE RIGHT (CHORD BEARS N26°56'56"E, 228.32 FEET); THENCE 183.66 FEET ALONG THE ARC OF A 312.47 FOOT RADIUS CURVE TO THE LEFT (CHORD BEARS N22°17'21"E, 181.03 FEET); THENCE N5°27'00"E, 300.00 FEET; THENCE 204.38 FEET ALONG THE ARC OF A 330.16 FOOT RADIUS CURVE TO THE RIGHT (CHORD BEARS N23°11'05"E, 201.14 FEET); THENCE 184.01 FEET ALONG THE ARC OF A 374.50 FOOT RADIUS CURVE TO THE LEFT (CHORD BEARS N26°50'35"E, 182.16 FEET); THENCE N12°46'00"E, 555.00 FEET; THENCE N27°37'00"E, 500.00 FEET; THENCE N31°43'46"E, 368.47 FEET; THENCE N36°00'40"E, 383.21 FEET; THENCE LEAVING SAID WESTERLY LINE OF THE PROVO RESERVOIR CANAL AND RUNNING N89°53'49" W, 1997.60 FEET; THENCE S0°04'39" W, 2649.11 FEET; THENCE S89°49'26"E, 860.95 FEET TO THE POINT OF BEGINNING.

CONTAINS: 81.3010 ACRES
212 LOTS

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ADDENDUM "A"

Item 1-c of the Special Provisions: "Contribute 50% of the cost of the connection between Phase 3 and the LDS Church property when the adjacent property develops" has been deleted from the Development Agreement with the consent of both the "developer" and the "CITY".

CITY
SOUTH JORDAN CITY

By Rudy H. Hargrove

ATTEST

Rudy D. Horne

"DEVELOPER"

By John C. Anderson

ITS Manager
11-20-00

8K8409 PG 0307