

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

00971796 Bk 1791 Pg 0210
RUSSELL SHIRTS * WASHINGTON CO RECORDER
2005 SEP 16 11:47 AM FEE \$.00 BY SW
FOR: ST GEORGE CITY

TUSCAN HILLS DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (herein "Agreement") is entered into this ____ day of _____, 2005, by and between Haskell Homes, Inc., a Utah corporation, and/or assigns (herein "Developers") for the land to be included in or affected by the project located on Plantations Drive, and the City of St. George, a municipal corporation and political subdivision of the State of Utah (herein "City").

RECITALS

WHEREAS, Developer has approximately 109.77 acres of real property located within the City limits of the City of St. George, Utah as described in Exhibit "A" (the "Property"), on which it proposes the development of a Planned Development to be known as Tuscan Hills (herein the "Project"); and

WHEREAS, Developer is willing to enter into this binding development agreement; and

WHEREAS, Developer is willing to design and develop the Project in a manner that is in harmony with the objectives of the City's General Plan and long-range development objectives and which addresses the more specific planning issues set forth in this Agreement and is willing to abide by the terms of this Agreement; and

WHEREAS, The City, acting pursuant to its authority under UTAH CODE ANNOTATED § 10-9-101, 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 Project, and, in the exercise of its legislative discretion, has elected to approve this Agreement.

AGREEMENT

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

1. **Affected Property.** The legal description of the Property contained within the Project boundaries is attached as Exhibit "A". No additional property may be added to this description for the purposes of this Agreement except by written amendment to this Agreement

executed and approved by Developer and the City.

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2. **Reserved Legislative Powers.** Nothing in this Agreement shall limit the future exercise of the police power by the 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 adoption and exercise of such power shall not restrict Developer's vested rights to develop the Project as provided herein. This Agreement is not intended to and does not bind the St. George City Council in the independent exercise of its legislative discretion with respect to such zoning regulations.

3. **Compliance with City Design and Construction Standards.** 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 the City necessary for development of the Project, including the payment of fees and compliance with the City's design and construction standards.

4. **Compliance with PD.** Developer acknowledges and agrees that nothing in this Agreement shall be deemed to relieve it from the obligation to comply with the planned development as presented and approved by the St. George City Council.

5. **Design Conditions.** The specific design standards, as set forth in the PD text, the Developer's presentation to the St. George Planning Commission and St. George City Council, the Developer's application, as approved by the St. George City Council, are subject to review pursuant to the permitted use process required for the Project and may be modified based on that permitted use process. In addition, the overall Project concept is a high quality, upscale mixed-use development. The type and number of units to be developed and constructed in the Project shall be substantially as follows:

- a. 116 single family homes with lots widths ranging from 80 to 60 feet;
- b. 30 Village Units;
- c. 86 Duplex Units; and
- d. 160 4-plex Units.

The type and number of units are based on a density consistent with the General Plan and the PD approval. Developer, with approval of City staff, may modify the type of units to be constructed without increasing the total number of units in the Project, any such modification being deemed non-substantial pursuant to City Code provisions.

6. **Street Design.** The Developer and City have agreed to the following with regard to the street design, betterments (upsizing), and construction:

- a. Developer may construct and install partial cul-de-sacs (knuckles) with a landscaped island, within the development, so long as (i) the paved area is a minimum of twenty-nine feet (29') on public streets and twenty-five feet (25') on private streets, and (ii) the landscaping adjacent to the through streets within the landscaped island does not obstruct line of sight (ground-cover being a maximum of three feet high and tree foliage being a minimum of eight feet high within the 10 foot frontage) and conforms to City standards;
- b. Developer shall dedicate a minimum of forty-five feet (45') for Plantations Drive, and shall grant a drainage and utility easement of fifteen feet (15') along Plantations Drive;
- c. Developer shall improve Plantations Drive by installing curb, gutter, sidewalk, and shall asphalt a minimum of twenty eight feet (28') of asphalt consistent with City standards;
- d. Developer shall improve the frontage along Dixie Drive by installing a deceleration/turn lane on Dixie Drive to the north of the Plantations Drive/Dixie Drive intersection; shall remove and reinstall asphalt to the centerline of Dixie Drive along the frontage along Dixie Drive and adjacent to the deceleration/turn lane; and shall install curb, gutter, and sidewalk to the south of the Plantations Drive/Dixie Drive intersection. The improved width, including the turn lane, shall be thirty-two and a half feet (32.5'), and shall consist of a seven foot (7') left turn lane, a twelve foot (12') travel lane, a twelve foot (12') right turn lane, and a one and a half foot (1.5') shoulder;
- e. Developer hereby agrees and commits to sell to the owner of the real property located on the north side of Plantations Drive any additional property owned by the Developer on the north side of Plantations Drive, which is required for development by said owner, at a price not to exceed the appraised value of such additional property at the time said owner is prepared to purchase such additional property;
- f. Developer shall enter into a written agreement with the adjacent landowner to the south, or complete the transaction prior to the execution of this Agreement, to trade properties as required for the alignment of Plantations Drive; and
- g. It is the City's intention to install landscaped medians within the right-of-way of Plantations Drive. The Developer shall allow for the median development in his street design and shall stub water and power lines into the median areas in locations as directed by the City Engineering Department.

7. **Detention Basin.** The Developer shall either install the detention basin as required

by the City engineering staff or provide City engineering staff with sufficient data and computations that the drainage does not exceed current flows of pre-developed conditions and provide detention for the westerly portion of the development in the common area of the later phases of development.

8. **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 Property, shall encumber the same, and shall be binding on and inure the benefit of all successors and assigns of Developer in the ownership or development of any portion of the Property.

9. **Assignment.** Neither this Agreement nor any of the provisions, terms or conditions hereof can be assigned to any other party, individual or entity without assigning also the responsibilities arising hereunder. This restriction on assignment is not intended to prohibit or impede the sale by Developer.

10. **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 nor any rights or benefits to third parties, except as expressly provided herein.

11. **Integration.** This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and integrates all prior conversations, discussions or understandings of whatever kind or nature any may only be modified by a subsequent writing duly executed and approved by the parties hereto.

12. **Notices.** Any notices, requests, or demands required or desired to be given hereunder shall be in writing and should be delivered personally to the party for who intended or mailed by certified mail, return receipt requested, postage prepaid to the parties as follows:

If to Developer:

Haskell Homes, Inc.
Attn: Guy M. Haskell, President
96 North 500 West, Suite 150
Bountiful, Utah 84010

If to City:

City of St. George
Attn: City Engineer/Community Development Dir.
175 East 200 North
St. George, UT 84770

Notice by mailing shall be deemed given three (3) days after mailed, as set forth above. Any party may change its address by giving written notice to the other party in accordance with the provision of this section.


13. **Resolution.** This Agreement constitutes the resolution of all issues addressed herein including claims by the Developer for delays, takings or exactions; provided that nothing herein shall preclude, prohibit or limit Developer's right to request or pursue reimbursement in accordance with St. George City code, Title 9, Chapter 2.

14. **Law.** Any dispute regarding this Agreement shall be heard and settled under the laws of the State of Utah.

15. **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.

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

CITY OF ST. GEORGE:

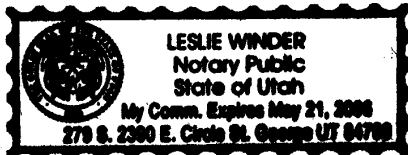
 est:
Daniel D. McArthur
 Daniel D. McArthur, Mayor
Gay Cragun
 Gay Cragun, City Recorder

HASKELL HOMES, INC.:

Guy M. Haskell
 Guy M. Haskell, President

STATE OF UTAH)
)
 COUNTY OF WASHINGTON)
)

The foregoing instrument was acknowledged before me this 6th day of May, in the year 2005, by Guy M. Haskell, President of Haskell Homes, Inc.



Leslie Winder
 Notary Public