### **RESOLUTION R2015 - 43**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, APPROVING THE FIRST AMENDMENT OF THE WARD DEVELOPMENT AGREEMENT AFFECTING PROPERTY GENERALLY LOCATED AT 11500 SOUTH 950 WEST IN SOUTH JORDAN.

WHEREAS, the Ward Development Agreement, which affects property owned by the Ward family located at approximately 11500 South 950 West, was previously approved and signed by the City Council and the Mayor of the City of South Jordan, respectively; and

WHEREAS, the Ward family proposes amending the Ward Development Agreement to allow homes with basements to be built under certain conditions; and

WHEREAS, in accordance with law, the City Council held a public meeting to consider the proposed amendment; and

WHEREAS, the City Council has determined that to promote the orderly growth of the City, to preserve property values, and to promote the public health, safety, and general welfare of City residents, the Ward Development Agreement should be amended as proposed in Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH:

<u>SECTION 1</u>. Approval and Authorization. The City Council hereby approves and authorizes the Mayor to sign the First Amendment to the Ward Development Agreement, which is attached hereto as Exhibit A.

<u>SECTION 2</u>. Severability. If any section, clause or portion of this Resolution is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

**SECTION 3.** Effective Date. This Resolution shall become effective immediately upon passage.

[SIGNATURE PAGE FOLLOWS]

12079538
06/26/2015 12:30 PM \$0.00
Book - 10337 P9 - 7375-7382
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
SOUTH JORDAN
1600 W TOWNE CENTER DR
SOUTH JORDAN UT 84095-8265
BY: TRP, DEPUTY - MA 8 P.

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# 

	YES NO ABSTAIN	ABSENT
Mark Seethaler Chuck Newton Donald Shelton Steve Barnes Christopher Rogers	<u>X</u>	<u>X</u>
Mayor: David L. Alvord	Attest: City Recorder	USS
Approved as to form:	South Jordan	
Office of the City Attorney	CORPORATE State of Utols	

### Exhibit A

. . .

First Amendment to the Ward Development Agreement

Please return to: South Jordan City Recorder 1600 West Towne Center Drive South Jordan, UT 84095

## FIRST AMENDMENT TO THE WARD DEVELOPMENT AGREEMENT

The City of South Jordan, a Utah municipal Corporation (the "City"), and the owners of property generally located at 11500 South 950 West (the "Developer"), enter into this First Amendment to the Ward Development Agreement (this "First Amendment") this //6 day of \_\_\_\_\_\_\_\_\_\_, 2015 ("Effective Date").

### RECITALS

WHEREAS, the Developer and the City originally entered into the Ward Development Agreement dated June 18, 2013, and recorded with the Salt Lake County Recorder's Officer as entry 11790086, book 10205, page 4507-4556 (the "Agreement") (attached as Exhibit A); and

WHEREAS, the Developer desires to amend certain provisions of the Agreement.

#### **AGREEMENT**

**NOW THEREFORE**, the parties hereby agree as follows:

- A. Paragraph D.11. of the Agreement is amended to read:
  - 11. Basements may be permitted on lots fronting Riverfront Parkway if approved by the City Engineer and the Building Official. Such approval may be based on a geotechnical soils study that shall be provided by the Developer that is signed and stamped by a licensed professional engineer and includes, among other information, water table measurements. Based on his or her review of the geotechnical soils study, the City Engineer and the Building Official may also condition his or her approval of a basement on the Developer's implementation of reasonable construction requirements designed to mitigate potential flooding and other unsafe conditions. Such implementation of reasonable construction requirements shall be at the sole cost of the Developer

First Amendment to Ward Development Agreement
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- B. This First Amendment and the Agreement, together with the exhibits attached thereto, documents referenced therein and all regulatory approvals given by the City contain the entire agreement of the parties with respect to the subject matter hereof and supersede any prior promises, representations, warranties, inducements or understandings between the parties which are not contained in such agreements, regulatory approvals and related conditions.
- C. Except as amended by this First Amendment, all other terms of the Agreement shall remain in full force and effect, unaltered and unchanged by this First Amendment. Whether or not specifically amended by this First Amendment, all of the terms and provisions of the Agreement are hereby amended to the extent necessary to give effect to the purpose and intent of this First Amendment.

[SIGNATURES PAGES FOLLOW]

IN WITNESS WHERI Effective Date.	EOF, the parties	have execu	ted this First Amendment a	s of the
"CITY"				
CITY OF SOUTH JORDAN,	a Utah municipa	al corporation	on	
By: David L. Alvord, Mayor			APPROVED AS TO FORD	M:
State of Utah	)		0.	
County of Salt Lake	:ss )			
behalf of said municipal corpor  "DEVELOPER"	ANNA M. WE ANNA M. WE Commission No. Commission Ex OCTOBER 4, 2 STATE OF UT	57 658435   pires   2016	Notary Public My Commission Expires: Residing at:	<u>USF</u>
By: Michael L Ward				
State of Utah	) :ss			
County of Salt Lake	)			
The foregoing instrument was a by Michael L. Ward.	cknowledged be	efore me this	s day of	, 2015,
			Notary Public My Commission Expires: Residing at:	

"CITY"		
CITY OF SOUTH JORDA	N, a Utah municipal c	corporation
By: David L. Alvord, Mayor		APPROVED AS TO FORM:
		Attorney for the City
State of Utah	) :ss	
County of Salt Lake	)	
by David L. Alvord, the Ma behalf of said Municipal Cor		Notary Public My Commission Expires: Residing at:
State of Utah	Wazl ) :ss	
County of Salt Lake	)	
Alicia D	s acknowledged befor  Notary Public  non Constance Phipps  mmission #877929  Commission Expires August 19, 2018	Notary Public My Commission Expires: August 19, 2015, Residing at: Moub, Utan

First Amendment to Ward Development Agreement Page 3 of 4

By: David F. Ward
State of Utah )
County of Salt Lake )
The foregoing instrument was acknowledged before me this 11 day of June, 2015, by David F. Ward, trustee of David F. Ward trust, Jeffery D. ward trust Sharph ward trust, Jeannie ward trust k, on behalf of said trusts.  Michael L. ward trust
CORINNE COWDELL Notary Public State of Utah Comm No. 664677 My Comm. Expires Mar 27, 2017  CORINNE COWDELL Notary Public My Commission Expires: 6517207  Residing at: Salt Lake County
By:and !. Ward Janel B. Ward
State of Utah )
County of Salt Lake )
The foregoing instrument was acknowledged before me this
CORINNE COWDELL Notary Public

CORINNE COWDELL

Notary Public

State of Utah

Comm No. 664677

My Comm. Expires Mar 27, 2017

My Commission Expires: 8/27/17
Residing at: Saltlake County